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CONSOLIDATED SUPPLEMENT

TO THE

CODES AND GENERAL LAWS

OF THE

STATE OF CALIFORNIA

OF

1915

SHOWING THE CHANGES AFFECTING THE CODES AND THE
GENERAL LAWS FOR THE YEARS

1917 AND 1919

ALSO A

CHRONOLOGICAL TABLE SHOWING ALL SECTIONS OF THE
CODES AND ALL ACTS OF THE GENERAL LAWS
THAT HAVE BEEN AMENDED, REPEALED
OR ADDED SINCE 1915

BY

JAMES H. DEERING

SAN FRANCISCO
BANCROFT-WHITNEY COMPANY
1919

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1917, p. 586, Amd. of 1909, p. 87	297	1917, p. 824, Amd. of 1905, p. 327	1913
1917, p. 598, Amd. of 1909, p. 87	297	1917, p. 826, Amd. of 1905, p. 11	1611
1917, p. 622, Amd. of 1909, p. 87	297	1917, p. 828, Amd. of 1911, p. 437	1537
1917, p. 625	3348d	1917, p. 831	2143c
1917, p. 626	4219	1917, p. 880	4035e
1917, p. 645	3586j	1917, p. 905	1732 l
1917, p. 646	1782	1917, p. 906	1725f
1917, p. 650, Amd. of 1909, p. 663	1297	1917, p. 907, Amd. of 1913, p. 707	86
1917, p. 653	1340j	1917, p. 909	1275b
1917, p. 655, Amd. of 1911 (ex. sess.), p. 131	1624	1917, p. 915 (1), Amd. of 1913, p. 705	334
1917, p. 658	777	1917, p. 915 (2), Amd. of 1897, p. 254	1726
1917, p. 663, Amd. of 1915, p. 685	1297a	1917, p. 916, Amd. of 1911, p. 1357	3158a
1917, p. 671 Amd. of 1913, p. 868	2836a	1917, p. 918, Amd. of 1911, p. 607	428
1917, p. 673	1700	1917, p. 920, Amd. of 1907, p. 893	2830
1917, p. 686, Amd. of 1909, p. 302	1298	1917, p. 926	2875f
1917, p. 690, Amd. of 1907, p. 215	3812	1917, p. 932	3158e
1917, p. 695, Amd. of 1911, p. 391	1092	1917, p. 933	806
1917, p. 708	223	1917, p. 936	2984
1917, p. 717, Amd. of 1915, p. 575	4302	1917, p. 940, Amd. of 1911, p. 378	1340g
1917, p. 729	3586h	1917, p. 943, Amd. of 1897, p. 439	1667
1917, p. 746, Amd. of 1913, p. 1012	4340	1917, p. 956	2966m
1917, p. 749, Amd. of 1889, p. 198	3693	1917, p. 957	1670a
1917, p. 751, Amd. of 1897, p. 254	1726	1917, p. 966, Amd. of 1913, p. 130	2981b
1917, p. 771	2867b	1917, p. 969, Amd. of 1911, p. 831	2966c
1917, p. 774	1185	1917, p. 970, Amd. of 1913, p. 954	3937e
1917, p. 781	1732j	1917, p. 1002, Amd. of 1915, p. 1225	1770a
1917, p. 782, Amd. of 1885, p. 204	985	1917, p. 1022, Amd. of 1915, p. 1225	1770a
1917, p. 785, Amd. of 1911, p. 1320	313	1917, p. 1025	3608
1917, p. 788, Amd. of 1869-70, p. 148	1119	1917, p. 1047	1295d
1917, p. 789	988a	1917, p. 1068, Amd. of 1915, p. 1173	1732i
1917, p. 791	2840e	1917, p. 1166	1295e
1917, p. 800	2142a	1917, p. 1170, Amd. of 1911, p. 111 (ex. sess.)	1672k
1917, p. 801, Amd. of 1911, p. 1042	1025	1917, p. 1176	3586i

xxii CHRONOLOGICAL TABLE OF STATUTES ENACTED SINCE 1915.

Volume and Year of Statute.	No. of Act.	Volume and Year of Statute.	No. of Act.
1917, p. 1211, Amd. of 1915, p. 516	1923	1917, p. 1609, Amd. of 1913, p. 86	2840b
1917, p. 1218	2845a	1917, p. 1610 (1), Amd. of 1911, p. 80	1248a
1917, p. 1219 (1), Amd. of 1895, p. 247	2804	1917, p. 1610 (2), Amd. of 1907, p. 46	2736
1917, p. 1219 (2)	2956d	1917, p. 1611	1457v
1917, p. 1237	184a	1917, p. 1619	1991e
1917, p. 1275	1340 l	1917, p. 1623	1648
1917, p. 1279	2203	1917, p. 1634	356
1917, p. 1281	508	1917, p. 1635	326c
1917, p. 1282	2875h	1917, p. 1641, Amd. of 1907, p. 208	29
1917, p. 1299, Amd. of 1911, p. 1425	1449a	1917, p. 1644	2389 l
1917, p. 1314	1457s	1917, p. 1645	2936e
1917, p. 1321	755	1917, p. 1647, Amd. of 1913, p. 1086	4385
1917, p. 1325	1457t	1917, p. 1651, Amd. of 1911, p. 1320	313
1917, p. 1326	1457u	1917, p. 1653	2066
1917, p. 1329, Amd. of 1915, p. 115	2886	1917, p. 1654, Amd. of 1911, p. 959	473
1917, p. 1341, Amd. of 1913, p. 1379	1010	1917, p. 1661	1635b
1917, p. 1367	755a	1917, p. 1663, Amd. of 1883, p. 93	2348
1917, p. 1369, Amd. of 1907, p. 806	1465	1917, p. 1666, Amd. of 1883, p. 93	2348
1917, p. 1378	1672m	1917, p. 1668	3988
1917, p. 1387	3586 l	1917, p. 1669	3847
1917, p. 1391	863a	1917, p. 1673	3848
1917, p. 1396	826a	1917, p. 1686, Amd. of 1889, p. 455	1977
1917, p. 1398, Amd. of 1913, p. 626	1901	1917, p. 1699, Amd. of 1911, p. 1551	2509
1917, p. 1402	4067f	1917, p. 1708, Amd. of 1899, p. 241	3177
1917, p. 1408, Amd. of 1913, p. 815	4349a	1917, p. 1742, Amd. of 1895, p. 356	1083
1917, p. 1419	431	1917, p. 1752	85a
1917, p. 1421	431a	1917, p. 1791	444
1917, p. 1422	1530a	1917, p. 1811, Amd. of 1905, p. 867	3528
1917, p. 1461	431b	1917, p. 1814	332
1917, p. 1473	4098a	1917, p. 1824	3448
1917, p. 1514 (2)	1439b	1917, p. 1859, Amd. of 1909, p. 1175	2612
1917, p. 1514, (2) Amd. of 1913, p. 608	1589	1917, p. 1877	4067j
1917, p. 1517	2844e	1917, p. 1905, Amd. of 1913, p. 1549	3446
1917, p. 1518	2844f	1917, p. 1944, Amd. of 1911, p. 1699	3417
1917, p. 1519	1447a	1917, p. 1948, Amd. of 1911, p. 1551	2509
1917, p. 1520	2139b	1917, p. 1963, Amd. of 1911, p. 1551	2509
1917, p. 1521, Amd. of 1909, p. 551	1466		
1917, p. 1528, Amd. of 1883, p. 93	2348		
1917, p. 1562, Amd. of 1913, p. 793	4348b		
1917, p. 1566	3822		
1917, p. 1579	60		
1917, p. 1586, Amd. of 1915, p. 1404	2213b		

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Volume and Year of Statute.	No. of Act.	Volume and Year of Statute.	No. of Act.
1917, p. 1967, Amd. of 1913, p. 1519	3446	1919, p. 153, Amd. of 1909, p. 677	2389
1919, lxxxvii	1675	1919, p. 158, Amd. of 1883, p. 93	2348
1919, p. 4	3697	1919, p. 160, Amd. of 1895, p. 219	4043
1919, p. 5	3036	1919, p. 164, Amd. of 1907, p. 290	2065
1919, p. 7, Amd. of 1881, p. 26	1174	1919, p. 175, Amd. of 1909, p. 281	1766
1919, p. 18 (1)	1902	1919, p. 176, Amd. of 1907, p. 290	2065
1919, p. 18 (2)	2808	1919, p. 178	196b
1919, p. 19 (1) Amd. of 1911, p. 80	1248a	1919, p. 185, Amd. of 1909, p. 87	297
1919, p. 19 (2), Amd. of 1883, p. 93	2348	1919, p. 187, Amd. of 1895, p. 219	4043
1919, p. 23, Amd. of 1911, p. 80	1248a	1919, p. 188	348b
1919, p. 32 (1)	988c	1919, p. 191, Amd. of 1915, p. 397	2331b
1919, p. 32 (2)	1732p	1919, p. 231, Amd. of 1917, p. 673	1700
1913, p. 32 (3)	3798f	1919, p. 234, Amd. of 1905, p. 234	1216
1919, p. 37	1725r	1919, p. 235	3586p
1919, p. 39, Amd. of 1913, p. 1379	1010	1919, p. 237, Amd. of 1915, p. 1250	2885a
1919, p. 59	1340m	1919, p. 239, Rep. 1877-78, p. 752	3547
1919, p. 61, Amd. of 1911, p. 80	1248a	1919, p. 241, Amd. of 1907, p. 208	29
1919, p. 62	2960o	1919, p. 242	2508c
1919, p. 66	2966p	1919, p. 244, Amd. of 1913, p. 328	2141b
1919, p. 74	2885b	1919, p. 246	2799
1919, p. 81	2875j	1919, p. 252, Amd. of 1877-78, p. 263	3335
1919, p. 89	47d	1919, p. 254 (1)	3335a
1919, p. 92	1696b	1919, p. 254 (2)	3335b
1919, p. 99	826d	1919, p. 255, Rep. 1917, p. 1279. 2203	
1919, p. 101 (1), Amd. of 1889, p. 56	2735	1919, p. 258, Amd. of 1917, p. 285	1275a
1919, p. 101 (2)	355	1919, p. 262	1216a
1919, p. 102	1457w	1919, p. 264, Amd. of 1917, p. 1669	3847
1919, p. 118	2355e	1919, p. 265	1672o
1919, p. 119, Amd. of 1909, p. 663	1297	1919, p. 270	387b
1919, p. 122, Amd. of 1911, p. 122	1248a	1919, p. 273	2144h
1919, p. 123, Amd. of 1911, p. 80	1248a	1919, p. 275	3698
1919, p. 124 (1)	1725p	1919, p. 278, Amd. of 1909, p. 436	1250
1919, p. 124 (2)	1725o	1919, p. 279, Amd. of 1915, p. 508	3868
1919, p. 125	4315	1919, p. 281	4033a
1919, p. 133	3020a	1919, p. 282	1275c
1919, p. 135	976b		
1919, p. 136	1466b		
1919, p. 138	1467b		
1919, p. 144	389a		
1919, p. 145, Amd. of 1913, p. 247	2453		
1919, p. 148, Amd. of 1911, p. 391	1092		
1919, p. 151	2645a		

xxiv CHRONOLOGICAL TABLE OF STATUTES ENACTED SINCE 1915.

Volume and Year of Statute.	No. of Act.	Volume and Year of Statute.	No. of Act.
1919, p. 283, Amd. of 1911, p. 959	473	1919, p. 441, Amd. of 1895, p. 247	2804
1919, p. 294	2142b	1919, p. 442, Amd. of 1917, p. 729	3586h
1919, p. 297, Amd. of 1911, p. 959	473	1919, p. 444	3441
1919, p. 302, Amd. of 1913, p. 632	1608	1919, p. 445, Amd. of 1915, p. 575	4302
1919, p. 306, Amd. of 1915, p. 605	2859a	1919, p. 457, Amd. of 1917, p. 330	2331d
1919, p. 308, Amd. of 1915, p. 634	2859b	1919, p. 460	1275d
1919, p. 310	118	1919, p. 461, Amd. of 1895, p. 247	2804
1919, p. 311, Amd. of 1883, p. 93	2348	1919, p. 463	1340p
1919, p. 312	2644	1919, p. 464 (1)	196c
1919, p. 313, Amd. of 1917, p. 1218	2845a	1919, p. 464 (2), Amd. of 1889, p. 70	3927
1919, p. 314	4321	1919, p. 468	3598a
1919, p. 322	2845h	1919, p. 470	391j
1919, p. 323, Rep. of 1917, p. 88	1447	1919, p. 472, Amd. of 1897, p. 254	1726
1919, p. 324	2165	1919, p. 475, Amd. of 1915, p. 1225	1770a
1919, p. 326, Amd. of 1917, p. 803	47c	1919, p. 477	53
1919, p. 329	2067	1919, p. 480, Amd. of 1911, p. 730	3937
1919, p. 330, Amd. of 1883, p. 27	1828	1919, p. 481, Amd. of 1885, p. 147	3930
1919, p. 331	2372b	1919, p. 487	2895a
1919, p. 342, Amd. of 1911, p. 1391	1468a	1919, p. 488, Amd. of 1915, p. 115	2886
1919, p. 351, Amd. of 1911, p. 1425	1449a	1919, p. 498, Amd. of 1897, p. 75	2368
1919, p. 357	2956c	1919, p. 500, Amd. of 1913, p. 1423	2643
1919, p. 365	977a	1919, p. 511, Amd. of 1913, p. 1012	4340
1919, p. 380	2433d	1919, p. 514 (1)	4316
1919, p. 381, Amd. of 1913, p. 1379	1010	1919, p. 514 (2), Amd. of 1913, p. 338	2966k
1919, p. 388, Amd. of 1917, p. 653	1340j	1919, p. 516, Amd. of 1907, p. 806	1465
1919, p. 393, Amd. of 1905, p. 11	1611	1919, p. 521, Amd. of 1917, p. 1166	1295e
1919, p. 394, Amd. of 1911, p. 437	1537	1919, p. 522	1295f
1919, p. 398, Amd. of 1909, p. 437	4320	1919, p. 524, Amd. of 1877-78, p. 176	1071
1919, p. 403, Amd. of 1891, p. 223	3349	1919, p. 525, Amd. of 1909, p. 339	2806
1919, p. 406, Amd. of 1903, p. 388	3574	1919, p. 527	3936b
1919, p. 415	1611b	1919, p. 541	1924
1919, p. 427, Amd. of 1917, p. 1047	1295d	1919, p. 542	78f
1919, p. 437	1623a	1919, p. 546	2389m
1919, p. 440, Amd. of 1917, p. 1054	1295d	1919, p. 551	1207
		1919, p. 554, Amd. of 1911, p. 730	3937

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Volume and Year of Statute.	No. of Act.
1919, p. 558, Amd. of 1907, p. 806	1465
1919, p. 559	688
1919, p. 611, Amd. of 1917, p. 292	2143f
1919, p. 612	2389p
1919, p. 621	1633b
1919, p. 622, Amd. of 1909, p. 87	297
1919, p. 658	2966q
1919, p. 660 Amd. of 1897, p. 254	1726
1919, p. 670, Amd. of 1915, p. 99	2372a
1919, p. 671	1732m
1919, p. 712	2389n
1919, p. 713	988d
1919, p. 714, Amd. of 1897, p. 254	1726
1919, p. 723, Amd. of 1915, p. 1288	4386
1919, p. 725, Amd. of 1907, p. 290	2065
1919, p. 731	986a
1919, p. 733	988d
1919, p. 750	1440a
1919, p. 751	1732q
1919, p. 753	196d
1919, p. 755, Amd. of 1915, p. 1225	1770a
1919, p. 756	2554a
1919, p. 758, Amd. of 1915, p. 575	4302
1919, p. 759	316a
1919, p. 761, Amd. of 1883, p. 93	2348
1919, p. 776	1672n
1919, p. 777	1991f
1919, p. 778	1732n
1919, p. 780	1648b
1919, p. 782	2645
1919, p. 804	2875i
1919, p. 816, Amd. of 1913, p. 1049	4349
1919, p. 818	1171a
1919, p. 820, Amd. of 1881, p. 89	4263i
1919, p. 825	3586m
1919, p. 826	4368e
1919, p. 828	78g
1919, p. 829, Amd. of 1913, p. 905	4245a
1919, p. 830	1468f
1919, p. 832	2623a
1919, p. 838, Amd. of 1917, p. 1566	3822

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1919, p. 851	3818d
1919, p. 852, Amd. of 1915, p. 1530	2844e
1919, p. 856	3818e
1919, p. 910, Amd. of 1917, p. 831	2143c
1919, p. 926	515
1919, p. 928	2389o
1919, p. 941	1446a
1919, p. 942	3351
1919, p. 1004	1732o
1919, p. 1011	2476
1919, p. 1012	2477
1919, p. 1013	4067i
1919, p. 1046, Amd. of 1903, p. 376	3928
1919, p. 1047	3586n
1919, p. 1069	1457y
1919, p. 1087	1028
1919, p. 1088, Amd. of 1911, p. 1258	2534
1919, p. 1089, Amd. of 1913, p. 705	334
1919, p. 1091	3036b
1919, p. 1092	3036a
1919, p. 1122, Amd. of 1911 (ex. sess.), p. 117	3035
1919, p. 1138	2580
1919, p. 1139	4316a
1919, p. 1150	1074
1919, p. 1165, Amd. of 1915, p. 1404	2213b
1919, p. 1182	3823
1919, p. 1190	1457x
1919, p. 1191, Amd. of 1905, p. 234	1216
1919, p. 1193, Amd. of 1913, p. 1012	4340
1919, p. 1199	316b
1919, p. 1201	1340o
1919, p. 1203	1340n
1919, p. 1207, Amd. of 1913, p. 778	1732b
1919, p. 1208	3586o
1919, p. 1209	3036e
1919, p. 1221	1275e
1919, p. 1229	2747
1919, p. 1231 (1)	4296
1919, p. 1231 (2)	4263j
1919, p. 1234	2844g
1919, p. 1239	947
1919, p. 1240	1223
1919, p. 1252	61
1919, p. 1270, Amd. of 1917, p. 1170	1672k

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Volume and Year of Statute.	No. of Act.	Volume and Year of Statute.	No. of Act.
1919, p. 1275, Amd. of 1907, p. 124	2724	1919, p. 1356	576
1919, p. 1282	4414a	1919, p. 1359	2302
1919, p. 1285	1672p	1919, p. 1364, Amd. of 1911, p. 1551	2509
1919, p. 1290	1040	1919, p. 1377, Amd. of 1899, p. 241	3177
1919, p. 1295	1607a	1919, p. 1393, Amd. of 1907, p. 1007	3526
1919, p. 1296, Amd. of 1913, p. 722	2164	1919, p. 1398	3088a
1919, p. 1298, Amd. of 1915, p. 1225	1770a	1919, p. 1427, Amd. of 1911, (ex. sess.), p. 305	3039a
1919, p. 1299, Amd. of 1913, p. 722	2164	1919, p. 1430, Amd. of 1889, p. 455	1977
1919, p. 1310 (1), Amd. of 1907, p. 776.....	4018	1919, p. 1442, Amd. of 1899, p. 370	4265
1919, p. 1310 (2), Amd. of 1909, p. 893.....	4019	1919, p. 1448, Amd. of 1903, p. 647	4370
1919, p. 1310 (3), Amd. of 1895, p. 56.....	4017	1919, p. 1454, Amd. of 1913, p. 1652	3112
1919, p. 1311	217	1919, p. 1481, Amd. of 1917, p. 1752	85a
1919, p. 1334, Amd. of 1915, p. 80	897a	1919, p. 1485, Amd. of 1905, p. 940	3110
1919, p. 1336, Amd. of 1907, p. 808	1465	1919, p. 1515, Amd. of 1911, p. 1551	2509
1919, p. 1337, Amd. of 1913, p. 1035	606	1919, p. 1524, Amd. of 1889, p. 643	3145
1919, p. 1352, Amd. of 1891, p. 424	2116		

THE
CODE OF CIVIL PROCEDURE
OF THE
STATE OF CALIFORNIA.

AMENDMENTS OF 1917 AND 1919.

§ 52. Appellate jurisdiction of supreme court. The supreme court shall have appellate jurisdiction:

1. In all cases in equity, except such as arise in justices' courts.

2. In all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest or the value of the property in controversy, amounts to two thousand dollars.

3. In all such probate matters as may be provided by law.

4. In all cases, matters, and proceedings pending before a district court of appeal which shall be ordered by the supreme court to be transferred to itself for hearing and decision.

5. In all criminal cases where judgment of death has been rendered on questions of law alone. [Amendment approved April 15, 1919; Stats. 1919, p. 88.]

§ 52a. Appellate jurisdiction of appellate courts. The district courts of appeal shall have appellate jurisdiction:

1. In all cases at law upon appeal from the superior courts in which the demand, exclusive of interest or the value of the property in controversy, amounts to three hundred dollars and does not amount to two thousand dollars.

2. In all cases of forcible and unlawful entry and detainer (excepting such as arise in justices' courts), in proceedings in insolvency, and in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, prohibition, usurpation of office, contesting elections, and eminent domain, and in such other special proceedings as may be provided by law (excepting cases in which appellate jurisdiction is given to the supreme court).

3. In all criminal cases prosecuted by indictment or information in a court of record upon questions of law alone, excepting criminal cases where judgment of death has been rendered.

4. In all cases, matters, and proceedings pending before the supreme court which shall be ordered by the supreme court to be transferred to a district court of appeal for hearing and decision. [New section added April 15, 1919; Stats. 1919, p. 87.]

§ 67a. Judges in counties of first class. Appointment of two additional judges. Election. Salary. In counties of the first class there shall be twenty judges of the superior court, any one or more of whom may hold court, and there may be as many sessions of said court at the same time as there are judges thereof. The said judges shall choose from their own number a presiding judge, who may at any time be removed as presiding judge and another judge chosen in his place by a vote of any twelve of them. The presiding judge shall distribute the business of the court among the judges thereof, and prescribe the order of business and perform such other duties as the judges of the said court may by rule provide. The judgments, orders and proceedings of any session of the superior court held by any one or more of the judges of said court shall be equally as effective as if all the said judges of said court presided at such session. Within thirty days after this act goes into effect, the governor shall appoint two additional judges of the superior court in counties of the first class in addition to the eighteen superior court judges already provided by law in and for the said counties of the first class who shall hold office until the first Monday after the first day of January, 1919. At the next general election to be held in November, A. D. 1918, two additional judges of the superior court shall be elected in counties of the first class, who shall be successors of the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law. The salaries of said additional judges shall be the same in amount and be paid in the same manner and at the same time as the salaries of the other judges of the said counties of the first class now authorized by law. [Amendment approved May 5, 1917; Stats. 1917, p. 247.]

§ 86. Justices' clerk in counties of over four hundred thousand. Office hours. Salaries. The supervisors of such city and county shall appoint a justices' clerk on the written nomination and recommendation of said justices or majority of

them, who shall hold office during good behavior, and who shall receive a salary of three thousand six hundred dollars a year. Said justices' clerk shall take the constitutional oath of office and give bonds in the sum of ten thousand dollars for the faithful discharge of the duties of his office and in the same manner as is or may be required of officers of such city and county. A new or additional bond may be required by the supervisors of such city and county and in such amount as may be fixed by said supervisors whenever they may deem it necessary. The said clerk may appoint a chief deputy at a salary of two thousand four hundred dollars a year, a cashier at a salary of two thousand four hundred dollars a year, and three deputy clerks and one messenger each at a salary of one thousand nine hundred eighty dollars a year. Said justices' clerk and each of said appointees shall have authority to administer oaths, take and certify affidavits, and issue and sign writs, summons, and all other processes in any action, suit or proceedings in said justices' court, and generally to do all the acts specified in sections one hundred two and one hundred two *a* of this code.

They shall be at their respective offices for the dispatch of official business daily, except Sundays, holidays and Saturday afternoons, from the hour of nine o'clock A. M. to five o'clock P. M. The salaries of said justices' clerk and his appointees shall be paid out of the treasury of said city and county in the same manner as salaries of officers of such city and county are paid, and shall be in lieu of all fees collected by them. All persons who have been appointed to such positions and who have served a period of six months in their respective positions, and all persons who may be appointed to such positions shall, after they have served a period of six months in their respective positions, be entitled to all the benefits of the civil service laws of this state.

§ 2. Repealed. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. [Amendment approved May 27, 1919; Stats. 1919, p. 1242.]

This section was also amended in 1917 (Stats. 1917, p. 121).

The changes in 1919 from the amendment of 1917 consisted in increasing the salaries of the clerk, his cashier and his deputies.

§ 103. Justices' courts in townships. In counties. In cities of various classes. Jurisdiction. Qualifications. Salaries. Fees. There shall be at least one justice's court in each of the townships of the state, for which one justice of the peace must be elected by the qualified electors of the township, at

the general state election next preceding the expiration of the term of office of his predecessor. In any county where, in the opinion of the board of supervisors, the public convenience requires it, the said board may, by order, provide that two justices' courts may be established in any township, designating the same in such order; and in such case, one justice of the peace must be elected in the manner herein provided for each of said courts. In every city of the first and one-half class there must be five justices of the peace, and in every city of the second class there must be two justices of the peace, and in every city of the second and one-half class there must be one justice of the peace, and in every city of the third and fourth classes there must be one justice of the peace, to be elected in like manner by the electors of such cities or towns, respectively; and such justices of the peace of cities shall have the same jurisdiction, civil and criminal, as justices of the peace of townships and township justice's courts. Said justices of the peace of cities and justice's courts of cities shall also have jurisdiction of all proceedings for the violation of any ordinance of any city in which courts are established, both civil and criminal, and of all actions for the collection of any license required by any ordinance of any such city, and generally exercise all powers, duties and jurisdiction, civil and criminal, of police judges, judges of the police courts, recorder's court or mayor's courts, within such city. No person is eligible to the office of justice of the peace in any city of the first, first and one-half, second, second and one-half or third class, who has not been admitted to practice law in this state; and no justice of the peace shall be permitted to practice law before another justice of the peace in the city, town or county in which he resides, or to have a partner engaged in the practice of law in any justice's court in such city, town or county. Every city justice of the peace in any city of the first and one-half class shall receive a salary of four thousand two hundred dollars per annum, and every city justice of the peace in any city of the second class shall receive a salary of four thousand dollars per annum, and every city justice of the peace in any city of the second and one-half class shall receive a salary of three thousand dollars per annum, and every city justice of the peace in any city of the third class shall receive a salary of two thousand dollars per annum, and every city justice of the peace in any city of the fourth class shall receive a salary of one thousand five hundred dollars per annum; and each justice of the peace shall be provided by the city authorities, or by the board of supervisors in counties where the salary of the city justice of

the peace is paid by the county, with a suitable office in which to hold his court. The compensation of the justice of the peace of any city shall be paid by warrants drawn each month upon the salary fund, or if there be no salary fund, then upon the general fund of such city or county, as the case may be, such warrants to be audited and paid as salaries of any other city or county officials. All fees which are chargeable by law for services rendered by such city justice of the peace in cities aforesaid shall be by them respectively collected, and on the first Monday of each month every such city justice, or his clerk, shall make a report, under oath, to the city or county treasurer, as the case may be, of the amount of fees so by him collected and pay the amount so collected into the city or county treasury, as the case may be, to the credit of the general fund thereof. Said salaries shall be the sole compensation of said city justices. [Amendment approved May 27, 1919; Stats. 1919, p. 1357.]

This section also amended at the same session on May 10, 1919 (Stats. 1919, p. 467). The only differences between the two sections are that in the section as amended May 10th, at the end of the first paragraph there is the following sentence: "The board of supervisors may in similar manner, and for like cause abolish any such additional justices' courts heretofore or hereafter established by it." Also that the salary of justices in cities of the second class was three thousand six hundred dollars instead of four thousand dollars, and also that the section of May 10, 1919, contained a subdivision 2, providing that the act should take effect ninety-five days after the adjournment of the legislature.

§ 103b. Justices' clerks for counties of seventh class (San Diego County). [Added by Stats. 1915, p. 303. Repealed 1919; Stats. 1919, p. 343.]

§ 103c. Justices' clerks, counties of third class. Authority. Fees. Monthly report. In counties of the third class in townships having a population of more than seventy-five thousand there shall be one justice's clerk, and one deputy justice's clerk, who shall be appointed by the justice of the peace or justices, if more than one. Said clerk and deputy shall be appointed immediately on this act taking effect, and shall take the oath of office prescribed for county officers, and give a bond in the sum of five thousand dollars, conditioned for the faithful discharge of the duties of the office, which bond shall be approved and filed in the same manner as are bonds of county officers.

Such justice's clerk and deputy clerk shall be authorized to administer oaths, take and certify affidavits and shall be authorized to issue and sign writs, summons and all other

process in any action or proceeding in the justice's court of the township for which they are appointed or pending before any justice of the peace of said township in the name of the justice before whom the same is pending or out of whose court the same is issued, which shall be in substantially the following form:

_____,
Justice of the peace.

_____,
Clerk.

By _____,
Deputy clerk.

All legal papers of every kind in actions or proceedings in such justice's court shall be issued by the said justice's clerk in the manner and form hereinabove set out. The said justice's clerk shall issue, sign and certify to any and all papers, transcripts or records which are required to be issued, signed or certified by the said justice of the peace. All complaints, answers and other pleadings and papers required to be filed in said justice's court shall be filed with such justice's clerk who shall keep a permanent record of all such actions and proceedings in the justice's docket, now provided by law to be kept by the justice. The said clerk shall keep a record of the proceedings of said court and shall have the custody of all records and papers of the same.

All fees for the issuance of all process, or other fees, which are by law allowed for any official service of the justice of the peace shall be exacted and paid in advance into the hands of the justice's clerk, which, together with all fees, fines, forfeitures or penalties received in said justice's court shall be paid into the county treasury.

Said justice's clerk shall render each month to the county auditor and county treasurer, an exact account under oath of all fines, forfeitures, penalties and fees received by him or collected by said court. Said justice's clerk shall receive a salary of one thousand eight hundred dollars per year and said deputy clerk shall receive a salary of one thousand two hundred dollars per year, which shall be payable in like manner and out of the same funds and at like times as county officers are paid. The board of supervisors shall provide in a convenient locality a suitable office for the justice's clerk. The said justice's clerk shall be in attendance at his respective office in the discharge of official business daily from nine A. M. until five P. M. [New section added May 31, 1917; Stats. 1917, p. 1394.]

§ 103d. Counties of first class, justice's clerks. In any township in counties of the first class, where provision for the appointment of justice's clerks, their powers and compensation is not now provided for by law, the justice of the peace may appoint a clerk, who shall receive no pay or compensation whatever from the state, county or body politic, and for whose acts the said justice so appointing such clerk shall be liable upon his official bond.

Such justice's clerk shall be authorized to administer oaths, take and certify affidavits; to issue and sign writs, summons and all other process in any action or proceeding in the justice's court of the township for which they are appointed, or pending before any justice of the peace of said township, in the name of the justice before whom the same is pending or out of whose court the same is issued, which shall be substantially in the following form:

_____,
Justice of the Peace.

By _____,
Clerk.

All legal papers of every kind in actions or proceedings in such justice's court and all papers, transcripts or records which are required to be issued, signed or certified by said justice of the peace may be signed, issued or certified by said clerk, and all complaints, answers and other papers required to be filed in said justice's court may be filed with such justice's clerk, and such clerk shall be authorized and is empowered to make entry in the official docket and other books required to be kept by said justice of the peace, of the actions and proceedings in said court, and such clerk shall have all the powers of justice's clerks now or hereafter provided by law. [Amendment approved April 8, 1919; Stats. 1919, p. 35.]

§ 103e. Justices' clerks in cities of second class. Powers and duties. Clerk of police court. In every city or town of the second class each justice of the peace of said city shall have a clerk who shall be appointed by each justice of the peace and who shall hold office during the pleasure of said justice. Said clerks shall be appointed immediately upon this act taking effect and shall take the oath of office prescribed for county officers, and each one shall give a bond in the sum of one thousand dollars conditioned for the faithful discharge of the duties of the office, which bond shall be approved and filed in the same manner as are bonds of county officers. Each of said justice's clerks shall be authorized to administer

oaths take and certify affidavits and shall be authorized to issue, and sign writs, summons and all other processes in any action or proceeding in the justice's court of the city for which they are appointed or pending before any justice of the peace in said city in the name of the justice before whom the same is pending or out of whose court the same is issued which shall be in substantially the following form:

_____,
Justice of the Peace.
By _____,
Clerk.

All legal papers of every kind in actions or proceedings in the justice's court shall be issued by each of said clerks in the manner and form hereinabove set out. The said justices' clerks shall issue, sign or certify to any and all papers, transcripts or records which are required to be issued, signed or certified by the said justices of the peace. All complaints, answers, and all other pleadings and papers required to be filed in said justice's court shall be filed with either one of the clerks, of said court who shall keep a permanent record of all such actions and proceedings in the justice's docket, now provided by law to be kept by the justice. The said clerks shall keep a record of the proceedings of said court and shall have the custody of all records and papers of the same. All fees for the issuance of all processes, or other fees, which are by law allowed for any official service of the justice of the peace shall be exacted and paid in advance into the hands of the clerk of said justice's court, which, together with all fees, fines, forfeitures or penalties received in said justice's court shall be paid into the city treasury. Each of the said clerks shall render each month to the city council an exact and detailed account under oath, of all fines, forfeitures, penalties or fees received. Each justice's clerk shall also act as a clerk of the police court of said city and the compensation provided for the clerk of said police court shall be in full compensation for all services rendered as clerk of the justice's court. Each justice's clerk shall be in attendance at his office in the discharge of official business daily from nine A. M. until five P. M. [Amendment approved May 6, 1919; Stats. 1919, p. 321.]

§ 142. Changes in place of holding court. The judge or judges authorized to hold or preside at a court appointed to be held at a particular place in a city and county, county, city, or town, may, by an order filed with the city and county or

county clerk, and published as he or they may prescribe, direct that the court be held or continued at any other place in the city and county, county, city, or town than that appointed, when war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction or danger of the building appointed for holding the court may render it necessary; and may in the same manner revoke the order, and in his or their discretion, appoint another place in the same city and county, county, city, or town, for holding the court; and may also, in the same manner in his or their discretion, whenever such judge or judges deem it necessary or advisable, direct that the court be held or continued at any other place in the city and county, county, city or town, not less than one hundred twenty miles distant from the county seat. [Amendment approved May 13, 1919; Stats. 1919, p. 523.]

§ 170a. Judges disqualified for appellate tribunal. No justice, judge, or justice of the peace, before whom a cause or question may have been tried or heard, shall sit or act, in an appellate tribunal, on the trial or hearing of such cause or question. [New section added May 8, 1919; Stats. 1919, p. 454.]

§ 190. Jury defined. A jury is a body of persons temporarily selected from the citizens of a particular district and invested with power to present or indict a person for a public offense, or to try a question of fact. [Amendment approved May 29, 1917; Stats. 1917, p. 1282.]

§ 192. Grand jury defined. A grand jury is a body of persons, nineteen in number, returned in pursuance of law, from the citizens of a county, or a city and county, before a court of competent jurisdiction, and sworn to inquire of public offense committed or triable within the county or city and county. [Amendment approved May 29, 1917; Stats. 1917, p. 1282.]

§ 193. Trial jury. A trial jury is a body of persons returned from the citizens of a particular district before a court or officer of competent jurisdiction, and sworn to try and determine by verdict, a question of fact. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 194. Number on trial jury. A trial jury shall consist of twelve persons; provided, that in civil actions and cases of misdemeanor, it may consist of twelve or any number less than twelve, upon which the parties may agree in open court. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 195. Jury of inquest. A jury of inquest is a body of persons summoned from the citizens of a particular district before the sheriff, coroner, or other ministerial officers, to inquire of particular facts. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 200. Exemptions from jury service. A person is exempt from liability to act as a juror if he be:

1. A judicial, civil, or military officer of the United States, or of this state;

2. A person holding a county, city and county, city, town or township office;

3. An attorney at law, or the clerk, secretary, or stenographer of an attorney at law;

4. A minister of the gospel, or a priest of any denomination following his profession;

5. A teacher in a university, college, academy, or school;

6. A practicing physician, or practicing licensed dentist, or druggist, actually engaged in the business of dispensing medicines;

7. An officer, keeper or attendant of an almshouse, hospital, or other charitable institution;

8. Engaged in the performance of duty as officer or attendant of the state prison or of a county jail;

9. Employed on board of a vessel navigating the waters of this state;

10. An express agent, mail carrier, or a superintendent, employee, or operator of a telegraph or telephone company doing a general telegraph or telephone business in this state, or keeper of a public ferry or tollgate.

11. An active member of the national guard of California, or an active member of a paid fire department of any city and county, city, town or village in this state, or an exempt member of a duly authorized fire company;

12. A superintendent, engineer, fireman, brakeman, motorman, or conductor on a railroad; or,

13. A person drawn as a juror in any court of record in this state, upon a regular panel, who has served as such within a year, or a person drawn or summoned as a juror in any such court who has been discharged as a juror within a year as hereinafter provided; provided, however, that in counties having less than five thousand population the exemption provided by this subdivision shall not apply. [Amendment approved May 3, 1919; Stats. 1919, p. 287.]

§ 201. When juror excused. A juror shall not be excused court for slight or trivial causes, or for hardship, or for

inconvenience to said juror's business, but only when material injury or destruction to said juror's property or of property entrusted to said juror is threatened, or when said juror's health, or when the health or proper care of said juror's own family, or when the sickness or death of a member of said juror's family make it necessary for said juror to be excused. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 204. Jury lists. In the month of January in each year it shall be the duty of the superior court in each of the counties of this state to make an order designating the estimated number of grand jurors and also the number of trial jurors, that will, in the opinion of said court, be required for the transaction of the business of the court, and the trial of causes therein, during the ensuing year; and immediately after said order designating the estimated number of grand jurors shall be made, the court shall select and list the grand jurors required by said order to serve as grand jurors in said superior court during the ensuing year, or until new lists of jurors shall be provided, and said selections and listings shall be made of men and women suitable and competent to serve as jurors, as set forth and required in sections two hundred five and two hundred six of this code, which list of persons so selected shall at once be placed in the possession of the county clerk; and immediately after said order designating the estimated number of trial jurors shall be made, the board of supervisors shall select, as provided in sections two hundred five and two hundred six of this code, a list of men and women to serve as trial jurors in the superior court of said county during the ensuing year, or until a new list of jurors shall be provided.

In counties and cities and counties having a population of one hundred thousand inhabitants or over, such selection shall be made by a majority of the judges of the superior court. [Amendment approved May 27, 1917; Stats. 1917, p. 1283.]

§ 204a. Jury commissioner may be appointed. Salary. In any county or city and county in which, as provided by the preceding section, the selection of persons to serve as trial jurors is made by a majority of the judges of the superior court, a majority of the judges of such court, to assist the judges thereof in making selections of trial jurors and grand jurors, and whenever in their opinion the business of the court requires it, may, in their discretion, appoint a jury commissioner for such county or city and county, who shall receive a salary of three hundred dollars per month, not exceeding, however, one thousand five hundred dollars in any one fiscal

year, and shall hold office at the pleasure of a majority of the judges of such court. Said salary shall be audited, allowed and paid out of the general fund of such county or city and county. [New section added May 26, 1917; Stats. 1917, p. 1169.]

§ 204b. To furnish list of persons qualified for jurors. Annually, and pursuant to written rules or instructions adopted by a majority of the judges of such court, the jury commissioner shall furnish the judges of the court a list of persons qualified to serve as trial jurors or grand jurors during the ensuing year, or until a new list of jurors shall be required. A majority of the judges of the court may, from time to time, adopt such rules and instructions as may be necessary for the guidance of the jury commissioner, who shall at all times be under the supervision and control of the judges of the court. [New section added May 26, 1917; Stats. 1917, p. 1169.]

§ 204c. Duties. It shall be the duty of the jury commissioner diligently to inquire and inform himself in respect to the qualifications of persons resident in his county or city and county who may be liable under the provisions of the laws of this state to be summoned for jury duty. He may require any person to answer, under oath to be administered by him, all such questions as he may address to such person, touching his name, age, residence, occupation and qualifications as a juror, and also all questions as to similar matters concerning other persons of whose qualifications for jury duty he has knowledge. The commissioner shall have power to administer oaths. He shall be allowed his actual traveling expenses incurred in the performance of his duties while visiting the respective townships in the county, such traveling expenses to be audited, allowed and paid out of the general fund of the county. [New section added May 26, 1917; Stats. 1917, p. 1169.]

§ 204d. Jurors selected by majority of judges. Pursuant to the rules and instructions adopted by a majority of the judges of the court, the jury commissioner shall return to the judges the lists of persons recommended by him for jury duty. The judges of said superior court shall examine the jury lists so returned and from such lists a majority of said judges may select, to serve as trial jurors and grand jurors, respectively, in the superior court of said county or city and county during the ensuing year, or until a new list of jurors is required, such persons as, in their opinion, should be selected for such jury duties; provided, however, that the persons so

selected shall, in the opinion of the judges selecting the same, be persons suitable and competent to serve as jurors, as set forth and required in this code. The judges, however, shall not be bound to select any names from said lists, but may, if in their judgment the due administration of justice requires, make all or any selections from among the body of persons in the county or city and county suitable and competent to serve as jurors regardless of the lists returned by the jury commissioner. [New section added May 26, 1917; Stats. 1917, p. 1170.]

§ 204e. Secretary of superior judges as jury commissioner.

In any county or city and county where there is a secretary of the superior judges of such county or city and county, a majority of the superior judges may in their discretion require such secretary to perform the duties of jury commissioner in addition to his regular duties as secretary. In such case the salary of the secretary of the superior judges shall be three hundred fifty dollars a month. [New section added May 26, 1917; Stats. 1917, p. 1170.]

§ 226. Order for jurors to appear forthwith. Whenever jurors are not drawn or summoned to attend any court of record or session thereof, or a sufficient number of jurors fail to appear, such court may order a sufficient number to be forthwith drawn and summoned to attend the court, or it may, by an order entered in its minutes, direct the sheriff, or an elisor chosen by the court forthwith to summon so many good and lawful persons of the county, or city and county, to serve as jurors, as may be required, and in either case such jurors must be summoned in the manner provided in the preceding section. [Amendment approved May 27, 1917; Stats. 1917, p. 1284.]

§ 246. Excuses. Names deposited in box. At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned, and the court may then hear the excuses of jurors summoned; provided, that it may be left to the discretion of the court to accept an affidavit of excuse under section two hundred two of this code without a personal appearance in court of the juror summoned. The clerk shall then write the names of the jurors present and not excused upon separate slips or ballots of paper, and fold such slips so that the names are concealed, and there, in the presence of the court deposit the slips or ballots in a box, which must be kept sealed or locked until ordered by the court to be opened. [Amendment approved May 27, 1917; Stats. 1917, p. 1284.]

§ 276. Qualifications for admission as attorney and counselor. Every applicant for admission as an attorney and counselor must present to the district court of appeal of the appellate district in which he resides satisfactory testimonials of good moral character, together with satisfactory proof that for at least three years he has diligently and in good faith studied law in such manner, upon such subjects and under such conditions as the supreme court or the board of bar examiners shall have prescribed. Before being admitted he must produce a certificate showing that he has satisfactorily passed an examination conducted by the board of bar examiners.

Applicants must apply for admission to the district court of appeal of the appellate district in which they reside; provided, that a person may make application and be examined and admitted in another appellate district upon filing with his application a written statement showing good cause therefor, satisfactory to the court to which he applies, accompanied by the written consent of the presiding justice of the appellate district in which he resides. [Amendment approved May 18, 1919; Stats. 1919, p. 721.]

This section was also amended in 1917 (Stats. 1917, p. 906). As then amended it read as follows: "Every applicant for admission as an attorney and counselor must produce satisfactory testimonials of a good moral character, and satisfactory proof of having studied law for a period of at least two years, and undergo in open court a strict examination, a part of which must be in writing, as to his qualifications by the justices of one of the district courts of appeal. This section shall not take effect until January first, one thousand nine hundred eighteen."

§ 276a. Board of bar examiners. Fees. Bar examination fund. Salary of members of board. Persons ineligible on board. Term of office. The supreme court is empowered to appoint three competent attorneys to examine applicants for admission as attorneys and counselors at law. Such persons shall constitute the board of bar examiners. The said board shall hold examinations for admission to the bar of applicants who have regularly filed their applications and paid all necessary fees, upon such subjects, and at such times and places as the supreme court or said board may, by its rules or orders direct; provided, that said examinations shall be wholly or in part written examinations. The examinations may be conducted by two members of the board. Said board shall issue a certificate to each of said applicants who shall satisfactorily pass such examination and who shall satisfy said board as to his moral character. Nothing herein shall be construed as preventing the district courts of appeal from further examining any applicant where deemed proper.

In addition to any fee prescribed by law for certificate of admission of attorney or counselor, every applicant for examination shall pay to the clerk of the district court of appeal to which he presents his application, as a fee for such examination, the sum of fifteen dollars. Such fees must be paid into the state treasury to the credit of the bar examinations fund and accounted, settled and charged for, in the same manner as provided by law for other fees collected by said clerk. A bar examinations fund is hereby created for the salaries and expenses of said board of bar examiners, which fund is under the control of the supreme court. Upon the order of the supreme court the controller must without approval of any board, draw his warrant upon the treasurer for the amount specified, and in favor of the person designated in such warrant, which warrant must be paid out of such fund exclusively. Unused balances, if any, in such fund may be transferred to the general fund, from time to time, upon the order of the supreme court.

Each of the members of said board shall receive for his services annually a sum not to exceed one thousand dollars, to be fixed by the order of the supreme court, payable at such times as the supreme court may direct, together with necessary traveling and incidental expenses, including clerical assistance, all of which shall be paid exclusively out of the fees of applicants for examination as hereinbefore provided.

No person who is engaged in the teaching of law or who is connected with any law school, either in a teaching or an administrative capacity, shall during such employment be eligible as a member of said board or in any employment under said board.

The members of said board shall hold office during the pleasure of said supreme court, and all vacancies therein shall be filled by said court. [New section approved May 18, 1919; Stats. 1919, p. 721.]

§ 277. Certificate of admission. May practice in all courts. Upon presentation to it of the evidence required by section two hundred seventy-six, any district court of appeal shall admit the applicant as an attorney and counselor at law in all the courts of this state, and shall direct an order to be entered to that effect upon its records, and that a certificate of such admission be given to him by the clerk of the court, which certificate shall be his license. Every person admitted to practice by a district court of appeal, either upon examination or otherwise, may practice as an attorney in all of the courts of this state, including the supreme court; and every

person now entitled to practice in the supreme court of this state may practice as an attorney in any district court of appeal. [Amendment approved May 19, 1919; Stats. 1919, p. 722.]

§ 279. Attorneys of other states. Every citizen of the United States, or person resident of this state, who has, bona fide, declared his intention to become a citizen in the manner required by law, who has been admitted to practice law in the highest court of a sister state, or of a foreign country, where the common law of England constitutes the basis of jurisprudence, and who has been engaged in actual practice in such state or foreign country for a period of at least three years, may be admitted to practice in all the courts of this state, by any district court of appeal, upon the production of his license, and satisfactory evidence that his license has not been revoked and that he is of good moral character, and that he has been so engaged in actual practice in such state or foreign country for a period of at least three years; but the court shall before admitting any such person to practice require an investigation and report by the board of bar examiners as to his moral and other qualifications, unless the court shall otherwise direct in a particular case. [Amendment approved May 18, 1919; Stats. 1919, p. 723.]

§ 280a. Effect of diploma granted by Hastings College of the Law. [Repealed May 23, 1917; Stats. 1917, p. 880.]

§ 280b. Graduates of law schools admitted to practice. [Repealed May 23, 1917; Stats. 1917, p. 831.]

Under this section as it formerly read the graduates from the following institutions were admitted to practice without further examination: University of Southern California; Young Men's Christian Association; Law College of San Francisco; San Francisco Law School; University of California; Leland Stanford Junior University; University of Santa Clara, and Saint Ignatius University.

§ 299. Judgment in disbarment proceedings. Upon conviction, in cases arising under the first subdivision of section two hundred eighty-seven, the judgment of the court must be that the name of the party shall be stricken from the roll of attorneys and counselors of the court, and that he be precluded from practicing as such attorney or counselor in all the courts of this state; and upon conviction in cases under the other subdivisions of that section the judgment of the court may be according to the gravity of the offense charged; deprivation of the right to practice as attorney or counselor in the courts of this state permanently, or for a limited period.

Upon conviction and entry of judgment as hereinabove provided, such attorney shall be precluded from practicing as

attorney at law, attorney or agent of another in all justice courts, recorder's courts, police courts and all other courts and tribunals in the state of California; or to hold himself out to the public as an attorney at law, during the time he is by such judgment deprived of the right to practice as attorney or counselor. [Amendment approved May 3, 1919; Stats. 1919, p. 140.]

§ 337. Actions commenced within four years. Within four years. 1. An action upon any contract, obligation or liability found upon an instrument in writing.

2. An action to recover (1) upon a book account whether consisting of one or more entries; (2) upon an account stated; (3) a balance due upon a mutual, open and current account; provided, however, that where an account stated is based upon an account of one item, the time shall begin to run from the date of said item, and where an account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item. [Amendment approved May 10, 1917; Stats. 1917, p. 299.]

§ 339. Actions commenced within two years. Within two years. 1. An action upon a contract, obligation or liability not founded upon an instrument of writing, other than that mentioned in subdivision two of section three hundred thirty-seven of this code; or an action founded upon a contract, obligation or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty including the nonpayment of money collected upon an execution. But this subdivision does not apply to an action for an escape. [Amendment approved May 10, 1917; Stats. 1917, p. 299.]

§ 341. Actions to be commenced within six months. Within six months:

An action against an officer, or officer de facto:

1. To recover any goods, wares, merchandise, or other property, seized by any such officer in his official capacity as tax collector, or to recover the price or value of any goods, wares, merchandise, or other personal property so seized, or for dam-

ages for the seizure, detention, sale of, or injury to any goods, wares, merchandise, or other personal property seized, or for damages done to any person or property in making any such seizure.

2. To recover stock sold for a delinquent assessment, as provided in section three hundred forty-seven of the Civil Code.

3. To set aside or invalidate any action taken or performed by a majority of the trustees of any corporation heretofore or hereafter dissolved by operation of law, including the revivor of any such corporation. [Amendment approved May 11, 1917; Stats. 1917, p. 381.]

§ 348. No limitation to certain actions. Not applicable to banks, etc. To actions brought to recover money or other property deposited with any bank, banker, trust company, building and loan association, or savings and loan society there is no limitation.

This section shall not apply to banks, bankers, trust companies, building and loan associations, and savings and loan societies which have become insolvent and are in process of liquidation and in such cases the statute of limitations shall be deemed to have commenced to run from the beginning of the process of liquidation; provided, however, nothing herein contained shall be construed so as to relieve any stockholder of any banking corporation or trust company from stockholder's liability as shall, at any time, be provided by law. [Amendment approved June 1, 1917; Stats. 1917, p. 1573.]

§ 411. Service of summons. The summons must be served by delivering a copy thereof as follows:

1. If the suit is against a corporation formed under the laws of this state: to the president or other head of the corporation, vice-president, secretary, assistant secretary, cashier or managing agent thereof.

2. If suit as against a foreign corporation, or a nonresident joint stock company or association, doing business and having a managing or business agent, cashier or secretary within this state: to such agent, cashier or secretary.

3. If against a minor, under the age of fourteen years, residing within this state: to such minor, personally, and also to his father, mother, or guardian: or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed.

4. If against a person residing within this state who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed: to such person, and also to his guardian.

5. If against a county, city or town: to the president of the board of supervisors, president of the council or trustees, or other head of the legislative department thereof.

6. In all cases where a corporation has forfeited its charter or right to do interstate business in this state, the summons must be served by delivering a copy thereof to one of the persons who have become the trustees of the corporation and stockholders or members of the corporation.

7. In all other cases to the defendant personally. [Amendment approved April 9, 1919; Stats. 1919, p. 63.]

§ 412. Cases in which service of summons may be by publication. Certificate of residence. Where the person on whom service is to be made resides out of the state; or has departed from the state; or cannot, after due diligence, be found within the state; or conceals himself to avoid the service of summons; or is a corporation having no officer or other person upon whom summons may be served, who, after due diligence, can be found within the state, and the fact appears by affidavit to the satisfaction of the court, or a judge thereof; and it also appears by such affidavit, or by the verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, or that he is a necessary or proper party to the action; or when it appears by such affidavit, or by the complaint on file, that it is an action which relates to or the subject of which is real or personal property in this state, in which such person defendant or corporation defendant has or claims a lien or interest, actual or contingent, therein, or in which the relief demanded consists wholly or in part in excluding such person or corporation from any interest therein, such court or judge may make an order that the service be made by the publication of the summons; provided, that where service is sought to be made upon a person by publication upon the ground that he cannot, after due diligence, be found within the state, it must first appear to the court by the affidavit aforesaid that there has not been filed, on behalf of such person, either in the county in which such action was brought, or in the county in which such action is pending, the certificate of residence provided for by section one thousand one hundred sixty-three of the Civil Code; or that said certificate was so filed and that the defendant cannot be found at the place named in said certificate, which latter fact must be made to appear by the certificate of the sheriff of the county wherein said defendant claims residence in and by said certificate of residence, and which certificate of said sheriff must show that service of

said summons was attempted upon said defendant at the place named in said certificate of residence but that said defendant was not to be found thereat. [Amendment approved May 6, 1919; Stats. 1919, p. 293.]

The act amending section 412 also contained the following provision:
 "§ 2. An act entitled 'An act to amend section four hundred twelve of the Code of Civil Procedure, relating to publication of summons when defendant is absent from state, concealed, or is a foreign corporation having no agent, etc.,' approved April 23, 1913, is hereby repealed."

§ 416. When jurisdiction of action acquired. From the time of the service of the summons and of a copy of the complaint in a civil action, where service of a copy of the complaint is required, or of the completion of the publication when service by publication is ordered, the court is deemed to have acquired jurisdiction of the parties, and to have control of all the subsequent proceedings. In all cases where a corporation has forfeited its charter or right to do interstate business in this state, the persons who become the trustees of the corporation and stockholders or members of the corporation may be sued in the corporate name of such corporation in like manner as if no forfeiture had occurred and from the time of service of the summons and of a copy of the complaint in a civil action, upon one of said trustees, or of the completion of the publication when service by publication is ordered, the court is deemed to have acquired jurisdiction of all said trustees, and to have control of all the subsequent proceedings. The voluntary appearance of a defendant is equivalent to personal service of the summons and copy of the complaint upon him. [Amendment approved April 9, 1919; Stats. 1919, p. 65.]

§ 473. Pleading may be amended. Time for application. Action to recover personal property. The court may in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code; and may, also, upon such terms as may be just, relieve a party or his legal representative from a judgment, order, or other proceeding taken against

him through his mistake, inadvertence, surprise, or excusable neglect; provided, that application therefor be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken; and provided, further, that said application must be accompanied with a copy of the answer, or other pleading proposed to be filed therein, otherwise said application shall not be granted. When from any cause the summons in an action has not been personally served on the defendant, the court may allow, on such terms as may be just, such defendant or his legal representative, at any time within one year after the rendition of any judgment in such action, to answer to the merits of the original action. When, in an action to recover the possession of personal property, the person making any affidavit did not truly state the value of the property, and the officer taking the property, or the sureties on any bond or undertaking is sued for taking the same, the officer or sureties may in their answer set up the true value of the property, and that the person in whose behalf said affidavit was made was entitled to the possession of the same when said affidavit was made, or that the value in the affidavit stated was inserted by mistake, the court shall disregard the value as stated in the affidavit, and give judgment according to the right of possession of said property at the time the affidavit was made. [Amendment approved May 5, 1917; Stats. 1917, p. 242.]

§ 526. When injunction may be granted or may not. An injunction may be granted in the following cases:

1. When it appears by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;

2. When it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action;

3. When it appears, during the litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual;

4. When pecuniary compensation would not afford adequate relief;

5. Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief;

6. Where the restraint is necessary to prevent a multiplicity of judicial proceedings;

7. Where the obligation arises from a trust.

An injunction cannot be granted:

1. To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless such restraint is necessary to prevent a multiplicity of such proceedings;

2. To stay proceedings in a court of the United States;

3. To stay proceedings in another state upon a judgment of a court of that state;

4. To prevent the execution of a public statute by officers of the law for the public benefit;

5. To prevent the breach of a contract other than a contract in writing for the rendition or furnishing of personal service from one to another where the minimum compensation for such service is at the rate of not less than six thousand dollars per annum, and where the promised service is of a special, unique, unusual, extraordinary or intellectual character which gives it peculiar value the loss of which cannot be reasonably or adequately compensated in damages in an action at law, the performance of which would not be specifically enforced;

6. To prevent the exercise of a public or private office, in a lawful manner, by the person in possession;

7. To prevent a legislative act by a municipal corporation. [Amendment approved May 6, 1919; Stats. 1919, p. 325.]

§ 534. Actions concerning water rights. Defendant's answer. Plaintiff's reply. Appropriation and damages fixed. Appeal. No injunction, when. Jury trial. In any action brought by a riparian owner to enjoin the diversion of water appropriated or proposed to be appropriated, or the use thereof, against any person or persons appropriating or proposing to appropriate such waters, the defendant may set up in his answer that the water diverted or proposed to be diverted is for the irrigation of land or other public use, and, in such case, he shall also in such answer set forth the quantity of water desired to be taken and necessary to such irrigation of land or the public use, the nature of such use, the place where the same is used or proposed to be used, the duration and extent of the diversion or the proposed diversion, including the stages of the flow of the stream at and during the time in which the water is to be diverted, and that the same may be diverted without interfering with the actual and necessary beneficial uses of the plaintiff, and that such defendant

so answering desires that the court shall ascertain and fix the damages, if any, that will result to the plaintiff or to his riparian lands from the appropriation of the water so appropriated or intended to be appropriated by defendant.

The plaintiff may serve and file a reply to the defendant's answer stating plaintiff's rights to the water and the damage plaintiff will suffer by the defendant's taking of the water, and plaintiff may implead as parties to the action all persons necessary to a full determination of the rights of plaintiff to the water and the damages plaintiff will suffer by the proposed taking by defendant, and the court shall have jurisdiction to hear and determine all the rights to water of the plaintiff and other parties to the action, and said parties shall have a right to state and prove their rights, and shall be bound by the judgment rendered the same as though made parties plaintiff at the commencement of the action.

Upon the trial of the case the court shall receive and hear evidence on behalf of the respective parties, and if the court finds that the allegations of such answer are true as to the aforesaid matters, and that the appropriation and diversion of such waters is for irrigation of land or other public use and that, after allowing sufficient water for the actual and necessary beneficial uses of the plaintiff and other parties, there is water available to be beneficially appropriated by such defendant so answering, the court shall fix the time and manner and extent of such appropriation and the actual damages, if any, resulting to the plaintiff or other parties on account of the same, and in fixing such damages the court shall be guided by paragraph four of section one thousand two hundred forty-eight of this code, and if, upon the ascertainment and fixing of such damages the defendant, within the time allowed in section one thousand two hundred fifty-one of this code for the payment of damages in proceedings in eminent domain, shall pay into court the amount of damages fixed and the costs adjudged to be paid by such defendant, or give a good and sufficient bond to pay the same upon the final settlement of the case, the injunction prayed for by the plaintiff shall be denied to the extent of the amount the defendant is permitted to appropriate, as aforesaid, and the temporary injunction, if any has been granted, shall be vacated to the extent aforesaid; provided, that any of the parties may appeal from such judgment as in other cases; and provided, further, that if such judgment is in favor of the defendant and if he upon and pending such appeal shall keep on deposit with the clerk of said court the amount of such damages and costs, or the bond, if it be given, so awarded to be paid to the plaintiff or other

parties in the event such judgment shall be affirmed, no injunction against the appropriation of the amount the defendant is permitted to appropriate as aforesaid shall be granted or enforced pending such appeal, and, upon the acceptance by the plaintiff or other parties of such amount so awarded or upon the affirmation of such decision on appeal so that such judgment shall become final, the defendant shall have the right to divert and appropriate from such stream, against such plaintiff or other parties and his successors in interest, the quantity of water therein adjudged and allowed. Upon the filing of such answer as is herein provided for, the parties plaintiff or other parties and defendant shall be entitled to a jury trial upon the issues as to damages so raised, as provided in title seven, part three of this code, applying to actions in eminent domain. [New section added May 19, 1917; Stats. 1917, p. 744.]

§ 540. Writ of attachment. If more than one defendant. The writ must be directed to the sheriff of any county in which property of such defendant may be, and must require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against such defendant, the amount of which must be stated in conformity with the complaint, unless such defendant give him security by the undertaking of at least two sufficient sureties in an amount sufficient to satisfy such demand against such defendant, besides costs, or in an amount equal to the value of the property of such defendant which has been or is about to be attached; in which case to take such undertaking.

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the sheriff such undertaking, and the sheriff shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the sheriff thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant; provided, however, that such defendant, at the time of giving such undertaking to the sheriff, shall file with the sheriff, a statement, duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he

acquired title to such attached property; provided, further, that before said attachment shall be released, the undertaking required by this section must be approved by the judge of the court issuing same or if said writ of attachment is from another county, then by a judge of a court of similar jurisdiction in the county where the levy shall have been made.

Several writs may be issued at the same time to the sheriffs of different counties. [Amendment approved May 26, 1917; Stats. 1917, p. 938.]

§ 542a. Attachment liens on real property. Expiration. Extension. The lien of the attachment on real property attaches and becomes effective upon the filing of a copy of the writ, together with a description of the property attached, and a notice that it is attached are filed with the county recorder of the county wherein said real property is situate; provided, however, that in event that the sheriff does not complete the execution of said writ in the manner prescribed in section five hundred forty-two of this code within a period of fifteen days next following said filing in the recorder's office then said lien shall cease at the expiration of said period of fifteen days.

The attachment whether heretofore levied or hereafter to be levied shall be a lien upon all real property attached for a period of three years after the date of levy unless sooner released or discharged as provided in this chapter, by dismissal of the action or by entry and docketing of judgment in the action. At the expiration of three years the lien shall cease and any proceeding or proceedings against the property under the attachment shall be barred; provided, that upon motion of a party to the action, made not less than five nor more than sixty days before the expiration of said period of three years, the court in which the action is pending may extend the time of said lien for a period not exceeding two years from the date on which the original lien would expire, and the lien shall be extended for the period specified in the order upon the filing, before the expiration of the existing lien, of a certified copy of the order with the recorder of the county in which the real property attached is situated. The lien may be extended from time to time in the manner herein prescribed. [Amendment approved April 11, 1919; Stats. 1919, p. 64.]

§ 554. Proceedings to release attachments. Whenever any defendant has appeared in the action, such defendant may upon reasonable notice to the plaintiff, apply to the court in which the action is pending, or to the judge thereof, for an

order to discharge the attachment wholly, or in part; and upon the execution of the undertaking mentioned in the next section, an order may be made releasing from the operation of the attachment, any or all of the property of such defendant attached; and all of the property so released and all of the proceeds of the sales thereof, must be delivered to such defendant upon the justification of the sureties on the undertaking, if required by the plaintiff. Such justification must take place within five days after the notice of the filing of such undertaking. [Amendment approved May 26, 1917; Stats. 1917, p. 939.]

§ 555. Requirements by court for release from attachment. Before making such order, the court or judge must require an undertaking on behalf of such defendant, by at least two sureties, residents and freeholders, or householders in the state to the effect that in case the plaintiff recovers judgment in the action against the defendant, by whom, or in whose behalf such undertaking shall be given, such defendant will, on demand, redeliver the attached property so released to the proper officer, to be applied to the payment of any judgment in such action against said defendant, or in default thereof, that such defendant and sureties will, on demand, pay to the plaintiff the full value of the property released not exceeding the amount of such judgment against such defendant. The court or judge making such order may fix the sum for which the undertaking must be executed, and if necessary in fixing such sum to know the value of the property released, the same may be appraised by one or more disinterested persons, to be appointed for that purpose. The sureties may be required to justify before the court or judge and the property attached cannot be released from the attachment without their justification if the same is required. [Amendment approved May 26, 1917; Stats. 1917, p. 939.]

§ 564. Appointment of receivers. A receiver may be appointed by the court in which an action is pending, or by the judge thereof.

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured;

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to discharge the mortgage debt;

3. After judgment, to carry the judgment into effect;

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply his property in satisfaction of the judgment;

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights;

6. In an action of unlawful detainer, in those cases in which the superior court has exclusive original jurisdiction;

7. In all other cases where receivers have heretofore been appointed by the usages of courts of equity. [Amendment approved May 3, 1919; Stats. 1919, p. 251.]

§ 570. Notice of unclaimed funds in receiver's hands. A receiver having any funds in his hands belonging to a person whose whereabouts are unknown to him, shall, before receiving his discharge as such receiver, publish a notice, in one or more newspapers published in the county, at least once a week for four consecutive weeks, setting forth the name of the owner of any unclaimed funds, the last known place of residence or postoffice address of such owner and the amount of such unclaimed funds. Any funds remaining in his hands unclaimed for thirty days after the date of the last publication of such notice, shall be reported to the court, and upon order of the court, all such funds must be paid into the state treasury accompanied with a copy of the order, which must set forth the facts required in the notice herein provided. Such funds shall be paid out by the state treasurer to the owner thereof or his order in such manner and upon such terms as are now or may hereafter be provided by law.

All costs and expenses connected with such advertising shall be paid out of the funds the whereabouts of whose owners are unknown. [Amendment approved April 25, 1917; Stats. 1917, p. 203.]

§ 581. Dismissals of action and entry of nonsuit. An action may be dismissed, or a judgment of nonsuit entered, in the following cases:

1. By the plaintiff, by written request to the clerk, filed with the papers in the case, at any time before the trial, upon payment of his costs; provided, a counterclaim has not been set up, or affirmative relief sought by the cross-complaint or answer of the defendant. If a provisional remedy has been allowed, the undertaking must thereupon be delivered by the clerk to the defendant, who may have his action thereon;

2. By either party, upon the written consent of the other;

3. By the court, when either party fails to appear on the trial, and the other party appears and asks for the dismissal;

4. By the court, when, upon the trial and before the final submission of the case, the plaintiff abandons it;

5. By the court, upon motion of the defendant, when upon the trial the plaintiff fails to prove a sufficient case for the jury.

But no dismissal mentioned in subdivisions one and two hereof shall be entered unless upon written consent of his attorney of record, or if said consent is not obtained, upon order of the court, after notice to the attorney.

The dismissals mentioned in said subdivisions one and two hereof, when written consent of the attorney of record of the party requesting the dismissals are filed, may be made by entry in the clerk's register.

The dismissals mentioned in subdivisions three, four, and five of this section must be made by orders of the court entered upon the minutes thereof, and are effective for all purposes when so entered; but the clerk of the court must note such orders in his register of actions in the case. [Amendment approved April 8, 1919; Stats. 1919, p. 116.]

§ 601. Peremptory challenges, civil cases. Either party may challenge the jurors, but where there are several parties on either side, they must join in the challenge before it can be made. The challenges are to individual jurors, and are either peremptory or for cause. Each party is entitled to four peremptory challenges. If no peremptory challenges are taken until the panel is full, they must be taken by the parties alternately, commencing with the plaintiff, and each party shall be entitled to have the panel full before exercising any peremptory challenge. [Amendment approved April 21, 1919; Stats. 1919, p. 131.]

§ 651. Exceptions after judgment. Exceptions to any decision made after judgment may be presented to the judge at the time of such decision, and be settled or noted, as provided in section six hundred forty-nine, or a bill thereof may be

presented and settled afterward, as provided in section six hundred fifty, and within like periods after written notice of entry of the order, upon appeal from which such decision is reviewable. [Amendment approved May 6, 1919; Stats. 1919, p. 288.]

§ 657. When new trial may be granted. The former verdict or other decision may be vacated and a new trial granted, on the application of the party aggrieved, for any of the following causes, materially affecting the substantial rights of such party:

1. Irregularity in the proceedings of the court, jury, or adverse party, or any order of the court or abuse of discretion by which either party was prevented from having a fair trial;

2. Misconduct of the jury; and whenever any one or more of the jurors have been induced to assent to any general or special verdict, or to a finding on any question submitted to them by the court, by a resort to the determination of chance, such misconduct may be proved by the affidavit of any one of the jurors;

3. Accident or surprise, which ordinary prudence could not have guarded against;

4. Newly discovered evidence, material for the party making the application, which he could not, with reasonable diligence, have discovered and produced at the trial;

5. Excessive damages, appearing to have been given under the influence of passion or prejudice;

6. Insufficiency of the evidence to justify the verdict or other decision, or that it is against law;

7. Error in law, occurring at the trial and excepted to by the party making the application.

When a new trial is granted upon the ground of the insufficiency of the evidence to sustain the verdict, the order shall so specify; otherwise, on appeal from such order, it will be presumed that the order was not based upon that ground. [Amendment approved May 3, 1919; Stats. 1919, p. 141.]

§ 660. Time of hearing motion for new trial. New trial hearing has precedence. The motion for a new trial must be heard at the earliest practicable time after the filing of affidavits and counteraffidavits, in case the motion is made on affidavits, in other cases after the filing of the notice. On such hearing reference may be had in all cases to the pleadings and orders of the court on file, and when the motion is made on the minutes, reference may also be had to any depositions and documentary evidence offered at the trial and to the re-

port of the proceedings on the trial taken by the phonographic reporter, or to any certified transcript of such report, or if there be no such report or certified transcript, to such proceedings occurring at the trial as are within the recollection of the judge; when the proceedings at the trial have been phonographically reported, but the reporter's notes have not been transcribed, the reporter must, upon request of the court, or either party, attend the hearing of the motion, and shall read his notes, or such parts thereof as the court, or either party, may require. The hearing and disposition of the motion for a new trial shall have precedence over all other matters except criminal cases, probate matters and cases actually on trial, and it shall be the duty of the court to determine the same at the earliest possible moment. The power of the court to pass on motion for new trial shall expire within three months after the verdict of the jury or service on the moving party of notice of the entry of the judgment. If such motion is not determined within said three months, the effect shall be a denial of the motion without further order of the court. [Amendment approved May 5, 1917; Stats. 1917, p. 240.]

§ 671. Judgment liens. Continues five years. Immediately after filing the judgment-roll, the clerk must make the proper entries of the judgment under appropriate heads, in the docket kept by him, noting thereon the hour and minute of the day of such entry; and from the time the judgment is docketed it becomes a lien upon all the real property of the judgment debtor not exempt from execution in the county, owned by him at the time, or which he may afterward acquire, until the lien ceases. The lien continues for five years unless the enforcement of the judgment be stayed on appeal by the execution of a sufficient undertaking as provided in this code, in which case the lien of the judgment and any lien by virtue of an attachment that has been issued and levied in the action ceases. [Amendment approved April 19, 1917; Stats. 1917, p. 141.]

§ 671a. Filing judgments of United States courts. Transcripts of judgments and copies of judgments rendered in the district or other courts of the United States within the state of California, when certified by the clerk of said courts under the seal thereof, may be filed and recorded in the office of the county clerk of any county in this state, and when so filed the clerk shall immediately enter the same in the judgment docket in the same manner as judgments rendered in the superior court are entered and such transcripts of judgments and copies

of judgments, when so certified, may be filed for record in the office of any county recorder of this state and when so filed for record the county recorder shall record and index the same in the same manner as transcripts of judgments and copies of judgments of the courts of this state are recorded and indexed; and from such recording the judgment becomes a lien upon all the real property of the judgment debtor not exempt from execution in such county, owned by him at the time, or which he may afterward, and before the lien expires, acquire. [New section approved April 19, 1917; Stats. 1917, p. 142.]

§ 710a. Payment of claim of contractor on public work. In the event the judgment debtor named in any transcript of judgment filed under the provisions of section seven hundred ten of this code, approved March 21, 1903, be a contractor upon any public work, the cost of which is to be paid out of any public moneys voted, appropriated or otherwise set apart for the purpose of paying therefor, only so much of the contract price shall be deemed owing to the contractor, within the meaning of said section, as may remain payable to him under the terms of his contract, upon the completion thereof, after the sums severally due and to become due to all persons who perform labor upon such work or who bestow skill or other necessary services, or furnish materials, appliances, teams or power used or consumed in the performance of such work, have been ascertained and paid. The controller, auditor, or other public disbursing officer whose duty it is to make payments under the provisions of such contract shall not draw his warrant in favor of the court from the docket of which the transcript was taken until said contract is completed and the payments above specified are made, and then only for the excess, if any, of the contract price over the aggregate of the sums so paid. [New section approved May 10, 1919; Stats. 1919, p. 451.]

§ 752. Who may bring actions for partition. When several cotenants own real property as joint tenants, or tenants in common, in which one or more of them have an estate of inheritance, or for life or lives, or for years, an action may be brought by one or more of such persons for a partition thereof according to the respective rights of the persons interested therein, and for a sale of such property, or a part thereof, if it appears that a partition cannot be made without great prejudice to the owners. [Amendment approved May 6, 1919; Stats. 1919, p. 319.] •

§ 752a. Action for partition of personal property. When several persons are co-owners of any personal property, an action may be brought by any one or more such co-owners for a partition thereof; or in case partition cannot be had without great prejudice to the owners, for the sale thereof, and partition of the proceeds according to the respective interests of the parties. In all such actions the provisions of this chapter shall govern wherever applicable. Real and personal property may be partitioned in the same action. [New section added April 15, 1919; Stats. 1919, p. 73.]

§ 850. Notice of hearing in justices' courts. Docket entries. When all the parties served with process shall have appeared, or some of them have appeared, and the remaining defendants have made default, the justice must fix the day for the trial of said cause, whether the issue is one of law or fact, and give notice thereof to the parties to the action who have appeared, but in case any of the parties are represented by an attorney, then to such attorney; provided, however, that where a party has appeared in person, such party shall leave with the justice or justice's clerk, and the same shall be entered upon the register in the action, an address where service of the notice of hearing of such matter may be made; provided, further, that such notice shall be personally served on said person if he can be found at said address, but in case said person cannot, after due diligence, be found at said address and such fact appears by affidavit to the satisfaction of the court or a judge thereof, then the service of such notice may be by registered mail and in the manner hereinafter provided for service of notice by mail. Such notice shall be in writing, signed by the justice, and substantially in the following form, filling blanks according to the facts:

In the justice court, — township (or city, or city and county),
county, or city and county of —, State of California.
— plaintiff, vs. — defendant.

To — plaintiff, or — attorney for plaintiff, and to defendant, or — attorney for defendant.

You and each of you will please take notice that the undersigned justice of the peace before whom the above-entitled cause is pending, has set for hearing the demurrer of —, filed in said cause (or has set the said cause for trial, as the case may be), before me at my office in said township (or city, or city and county), at — o'clock — M., on the — day of —, 19—.

Dated this — day of —, 19—.

(Signed) — —,
Justice of the peace.

Said notice shall be served by mail or personally. When served by mail the justice of the peace shall deposit copies thereof in a sealed envelope in the postoffice at least ten days before the trial or hearing addressed to each of the persons on whom it is to be served at their place of residence and the postage prepaid thereon; provided, that such notice shall be served by mail only when the person on whom service is to be made resides out of the county in which said justice's court is situated, or is absent therefrom or has appeared in person. When personally served said notice shall be served at least five days before the trial or hearing on the persons on whom it is to be served by any person competent and qualified to serve a summons in a justice's court, and when personally served it shall be served, returned and filed in like manner as a summons. When a party has appeared by attorney the notice may be served in the manner prescribed by subdivision one of section one thousand eleven of this code. The justice shall enter on his docket the date of trial or hearing; and when such notice shall have been served by mail the justice shall enter on his docket the date of mailing such notice of trial or hearing and such entry shall be prima facie evidence of the fact of such service. The parties are entitled to one hour in which to appear after the time fixed in said notice, but are not bound to remain longer than that time unless both parties have appeared and the justice being present is engaged in the trial of another cause. [Amendment approved April 24, 1917; Stats. 1917, p. 190.]

§ 857a. When affirmative judgment may be rendered to defendant. Affirmative judgment may be rendered for the defendant on his cross-complaint whenever the defendant proves that he is entitled to more than the plaintiff has proven or whenever the plaintiff fails to prove that he is entitled to any judgment. [New section added May 18, 1919; Stats. 1919, p. 727.]

§ 868. Attachment by sheriff or constable. Keeper. If more than one defendant. Service out of county. The writ may be directed to the sheriff or any constable of the county in which such justice court is situate and must require him to attach and safely keep all of the property of the defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy the plaintiff's demand against the defendant, the amount of which must be stated in conformity with the complaint, unless the defendant, whose property has been or is about to be attached, give him security

by the undertaking of two sufficient sureties, in an amount sufficient to satisfy such demand against such defendant besides costs; in which case to take such undertaking; provided, however, that whenever a levy shall be made upon personal property, other than money, belonging to a going concern, then the sheriff must, if the defendant consents, place a keeper in charge of said attached property at plaintiff's expense for at least two days or more, and said keeper's fees must be prepaid by the attaching creditor. After the expiration of said two days, the sheriff shall take said property into his immediate custody, unless other disposition is made by the court or parties.

In the event that the action is against more than one defendant, any defendant whose property has been or is about to be attached in such action may give the sheriff such undertaking, and the sheriff shall take the same, and such undertaking shall not subject such defendant to or be answerable for any demand against any other defendant, nor shall the sheriff thereby be prevented from attaching or be obliged to release from attachment, any property of any other defendant; provided, however, that such defendant, at the time of giving such undertaking to the sheriff, shall file with the sheriff a statement duly verified under oath, wherein such defendant shall aver and declare that the other defendant or defendants in the action in which said undertaking was given has or have not any interest or claim of any nature whatsoever in or to said property. Such statement must further contain the character of such defendant's title and the manner in which he acquired title to such attached property.

Several writs may be issued at the same time to the sheriffs or constables of different counties; provided, that where a writ of attachment issued by a justice of the peace is to be served out of the county in which it was issued, the writ of attachment shall have attached to it a certificate under seal by the county clerk of such county, to the effect that the person issuing the same was an acting justice of the peace of said county at the date of the writ. [Amendment approved May 26, 1917; Stats. 1917, p. 939.]

§ 883. Waiving jury trial. A jury may be waived—

1. By consent of parties, entered in the docket;
2. By a failure of either party to demand a jury within two days after service upon him of notice of trial of an issue of fact, as provided in section eight hundred fifty;
3. By the failure of either party to appear at the time fixed for the trial of an issue of fact. [Amendment approved May 25, 1919; Stats. 1919, p. 1013.]

§ 890a. Entry of judgment of dismissal. Judgment of dismissal must be entered whenever the plaintiff fails to bring the action to trial within two years after the case is brought to an issue of law or fact, except where the parties have stipulated in writing that the time may be extended; provided, however, that in any action pending when this act takes effect, a judgment of dismissal shall not be entered under the direction hereof sooner than January 22, 1920. [New section added May 3, 1919; Stats. 1919, p. 137.]

§ 899. Docketing of judgments. From the time of docketing in the county clerk's office execution may be issued thereon by the county clerk to the sheriff of any county of the state, other than the county in which the judgment was rendered in the same manner and with like effect as if issued upon a judgment of the superior court. Upon the return of the execution, the county clerk shall cause the same to be filed with the justice of the peace who issued the abstract of judgment. [Amendment approved May 3, 1919; Stats. 1919, p. 239.]

§ 900a. Correction of clerical mistakes in judgment. The justice shall have power upon motion of the injured party and notice to the adverse party to correct any clerical mistakes in his judgment as entered, so as to conform to the judgment ordered. Said justice shall have power to set aside any void judgment upon motion of either party to the action after notice to the adverse party, and thereupon said action shall be treated as if no judgment had been entered. [New section added May 18, 1919; Stats. 1919, p. 730.]

§ 953. Certification of copies and undertakings. The copies provided for in the last three sections must be certified to be correct by the clerk or the attorneys, and must be accompanied with a certificate of the clerk or attorneys that an undertaking on appeal, in due form, has been properly filed, or a stipulation of the parties waiving an undertaking. If it appear that there is any paper or record in the custody of the clerk of the trial court which was before the trial court but which is not included in the record on appeal, and an examination of such paper or record will assist in a determination of the appeal on its merits, the court in which the appeal is pending may, on motion of either party, or on its own motion, require the production of a certified copy of such paper or record, and the same shall thereupon be deemed a part of the record on appeal. [Amendment approved May 6, 1919; Stats. 1919, p. 290.]

§ 953c. Clerk to transmit prepared record on appeal. Omissions from record may be filed as supplement. Where, on appeals taken from judgments, orders or decrees of the superior court to the supreme court or district courts of appeal the appellant elects to avail himself of the provisions of the three preceding sections, it shall be the duty of the clerk of the court from which the appeal is taken, within ten days after the preparation of the record, to transmit to the clerk of the court to which the appeal is taken, the record prepared in accordance with the provisions of the two preceding sections. Said records shall be filed with the clerk of the court to which the appeal is taken and no transcript thereof need be printed. In filing briefs on said appeal the parties must, however, print in their briefs, or in a supplement appended thereto, such portions of the record as they desire to call to the attention of the court.

No appeal shall be dismissed nor shall any appeal be decided adversely to any party for failure to print in his brief the portion of the record or any part thereof in support of his points, but in such case the court hearing the appeal shall direct such party to print and serve on the adverse party and file with it a supplement to his brief in which shall be set forth in full that portion of the record relied on by such party and not printed in any former brief. The court shall fix the time within which such supplement shall be served and filed and shall permit or require such additional portions of the record to be printed, served and filed as may be desirable for the full presentation of the points at issue. [Amendment approved May 3, 1919; Stats. 1919, p. 261.]

§ 958. Certification of judgments on appeal. When judgment is rendered upon the appeal, it must be certified by the clerk of the appellate court to the clerk with whom the judgment-roll is filed, or the order appealed from is entered. In cases of appeal from the judgment, the clerk with whom the roll is filed must attach the certificate to the judgment-roll, and enter a minute of the judgment of the appellate court on the docket, against the original entry. In cases of appeal from an order, the clerk must enter at length in the records of the court the certificate received, and minute against the entry of the order appealed from, a reference to the certificate, with a brief statement that such order has been affirmed, reversed, or modified, by the appellate court on appeal. [Amendment approved May 6, 1919; Stats. 1919, p. 290.]

§ 963. Cases in which an appeal may be taken. An appeal may be taken from a superior court in the following cases:

1. From a final judgment entered in an action, or special proceeding, commenced in a superior court, or brought into a superior court from another court;

2. From an order granting a new trial in an action or proceeding tried by a jury where such trial by jury is a matter of right, or granting or dissolving an injunction, or refusing to grant or dissolve an injunction, or appointing a receiver, or dissolving or refusing to dissolve an attachment, or changing or refusing to change a place of trial, from any special order made after final judgment, from any interlocutory judgment, order, or decree, hereafter made or entered in actions to redeem real or personal property from a mortgage thereof, or lien thereon, determining such right to redeem and directing an accounting; and from such interlocutory judgment in actions for partition as determines the rights and interests of the respective parties and directs partition to be made, and interlocutory decrees of divorce.

3. From a judgment or order granting or refusing to grant, revoking or refusing to revoke, letters testamentary, or of administration, or of guardianship; or admitting or refusing to admit a will to probate, or against or in favor of the validity of a will, or revoking or refusing to revoke the probate thereof; or against or in favor of setting apart property, or making an allowance for a widow or child; or against or in favor of directing the partition, sale or conveyance of real property, or settling an account of an executor, administrator or guardian, or refusing, allowing or directing the distribution or partition of an estate, or any part thereof, or the payment of a debt, claim, or legacy, or distributive share; or confirming or refusing to confirm a report of an appraiser or appraisers setting apart a homestead; from an order, judgment or decree fixing inheritance tax or determining that no inheritance tax is due. [Amendment approved May 17, 1917; Stats. 1917, p. 624.]

§ 982. Papers returned on dismissal of appeal. Upon dismissal of the appeal the clerk of the superior court shall return all the papers to the court from which the appeal was taken, and the justice of said court shall have jurisdiction the same as if no appeal had been taken. [New section approved May 3, 1919; Stats. 1919, p. 179.]

§ 1005. Notice of motion, when to be given. When a written notice of a motion is necessary, it must be given, if the court is held in the county in which at least one of the attorneys of the party notified has his office, five days before the time appointed for the hearing; otherwise, ten days. When

the notice is served by mail, the number of days before the hearing must be increased one day for every twenty-five miles of distance between the place of deposit and the place of service; such increase, however, not to exceed in all thirty days; but in all cases the court, or a judge thereof, may prescribe a shorter time. [Amendment approved May 6, 1919; Stats. 1919, p. 289.]

§ 1011. Notices and papers, when and how served. The service may be personal, by delivery to the party or attorney on whom the service is required to be made, or it may be as follows:

1. If upon an attorney, it may be made during his absence from his office, by leaving the notice or other papers with his clerk therein, or with a person having charge thereof; or when there is no person in the office, by leaving them between the hours of nine in the morning and five in the afternoon, in a conspicuous place in the office; or, if it is not open so as to admit of such service, then by leaving them at the attorney's residence, with some person of not less than eighteen years of age, if his residence is in the same county with his office; and if his residence is not known, or is not in the same county with his office, or being in the same county it is not open, or there is not found thereat any person of not less than eighteen years of age, then by putting the same, inclosed in a sealed envelope, into the postoffice directed to such attorney at his office, if known; otherwise to his residence, if known; and if neither his office nor his residence is known, then by delivering the same to the clerk of the court for the attorney;

2. If upon a party, it may be made by leaving the notice or other paper at his residence, between the hours of eight in the morning and six in the evening, with some person of not less than eighteen years of age; if at the time of attempted service between the said hours no such person can be found at his residence, the same may be served by mail; and, if his residence is not known, then by delivering the same to the clerk of the court for such party. [Amendment approved May 6, 1919; Stats. 1919, p. 289.]

§ 1027. Costs on appeal. The prevailing party on appeal shall be entitled to his costs excepting when judgment is modified, and in that event the matter of costs is within the discretion of the appellate court. The party entitled to costs, or to whom costs are awarded, may recover all amounts actually paid out by him in connection with said appeal, and the preparation of the record for the appeal, including the costs of

printing briefs; provided, however, that no amount shall be allowed as costs of printing briefs in excess of one hundred dollars to any one party. The appellate court may reduce costs in case of the insertion of unnecessary matter in the record. [Amendment approved April 15, 1919; Stats. 1919, p. 73.]

§ 1034. Costs on appeal. Whenever costs are awarded to a party by an appellate court, if he claims such costs, he must, within thirty days after the remittitur is filed with the clerk below, deliver to such clerk and serve upon the adverse party a memorandum of his costs, verified as prescribed by the preceding section. The party dissatisfied with the costs claimed may move to have the same taxed in the same manner and within a like time after notice of filing of the bill of costs, as prescribed by the preceding section. After such costs have been taxed, or the time for taxing the same has expired, execution may issue therefor as upon a judgment. [Amendment approved May 6, 1919; Stats. 1919, p. 291.]

§ 1102. Writ of prohibition defined. The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board, or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person. [Amendment approved May 6, 1919; Stats. 1919, p. 291.]

§ 1110a. Appeal from writ of mandate ordering delivery of water. If an appeal be taken from an order or judgment directing the issuance of a writ of mandate commanding a party to deliver water, for irrigation purposes, such appeal shall not stay the operation of the order, judgment or writ as to the delivery of such water, but such water must until the final determination of said appeal be delivered as commanded by said writ; provided, that if any expense is necessary to be incurred by the defendant in connecting the water supply with the land to be irrigated, said defendant shall not be obliged to furnish water unless the plaintiff shall provide a bond in such sum as the court may fix, conditioned that in the event of the judgment being reversed, plaintiff will pay defendant the amount of the expense so incurred not exceeding the amount of said bond. [New section added May 18, 1919; Stats. 1919, p. 754.]

§ 1184. Notice to owner of labor performed and materials furnished. Any of the persons mentioned in the preceding

section, except the contractor, may at any time prior to the expiration of the period within which claims of lien must be filed for record, as prescribed by the provisions of section one thousand one hundred eighty-seven of this code, give to the owner a notice that they have performed labor or furnished materials, or both, to the contractor or other person acting by the authority of the owner, or that they have agreed to do so, stating in general terms the kind of labor and materials and the name of the person to or for whom the same was done or furnished, or both, and the amount in value, as near as may be, of that already done or furnished, or both, and of the whole agreed to be done or furnished, or both, and any of said persons who shall on the written demand of the owner refuse to give such notice shall thereby deprive himself of the right to claim a lien under this chapter. Such notice must be verified by the claimant, or by some person acting in his behalf, and may be given by delivering the same to said owner personally, or by leaving it at his residence or place of business with some person in charge, or by delivering it to his architect, if any; provided, however, that in all cases in which said work is being done under a contract with the state, or with any public board, commission, or officer thereof, or with any political subdivision thereof, such notice must be filed, within said time, in the office of the controller, auditor or other public disbursing officer whose duty it is to make payments under the provisions of such contract. No such notice shall be invalid by reason of any defect in form, provided it is sufficient to inform the owner of the substantial matters herein provided for. Upon such notice being given it shall be lawful for the owner to withhold, and in the case of property which, for reasons of public policy or otherwise, is not subject to liens in this chapter provided for, the owner or person who contracted with the contractor, shall withhold from his contractor sufficient money due or that may become due to such contractor to answer such claim and any lien that may be filed therefor including the reasonable cost of any litigation thereunder. [Amendment approved May 10, 1919; Stats. 1919, p. 452.]

§ 1184a. Time of commencing action. No action to enforce the payment of any such claim shall be commenced against the owner, nor against the state or any public board, commission, or officer thereof, nor against any political subdivision of the state or the disbursing officer thereof whose duty it is to make payments under provisions of such contract, prior to the expiration of the period within which claims of

lien must be filed for record, as prescribed by section one thousand one hundred eighty-seven of this code, nor shall any such suit be commenced later than ninety days following the expiration of such period. Any number of persons who have given such notices may join in the same action and when separate actions are commenced the court first acquiring jurisdiction may consolidate them. Upon the demand of the owner the court shall require all claimants to the moneys withheld by the owner in response to such notices to be impleaded in said action, to the end that the respective rights of all parties may be adjudicated and settled therein. [New section added May 10, 1919; Stats. 1919, p. 453.]

§ 1184b. Pro rata distribution when moneys insufficient. In the event the moneys so withheld by the owner shall be insufficient to pay in full the valid demands of all the persons by whom such notices were given, the same shall be distributed among such persons in the same ratio that their respective claims bear to the aggregate of such valid demands. Such pro rata distribution of said moneys shall be made among the persons entitled to share therein, without regard to the order of priority in which their respective notices may have been given or their respective actions, if any, commenced. [New section approved May 10, 1919; Stats. 1919, p. 453.]

§ 1184c. Right to recover deficit. False claims. Nothing contained in the three preceding sections shall be construed to impair in any manner the right of any person by whom such notice has been given to recover from the contractor and the surety or sureties upon his bond any deficit that may remain unpaid after such pro rata distribution, in an action commenced under the provisions of an act entitled "An act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon state, municipal, or other public work," approved March 27, 1897, and the acts amendatory thereof and supplemental thereto; provided, that any person who shall willfully give a false notice of his claim to the owner or who shall willfully include in his claim work or materials not performed upon or furnished for the property described in such notice shall forfeit all right to participate in the distribution of such moneys. [New section approved May 10, 1919; Stats. 1919, p. 454.]

§ 1187. Claim of lien filed in recorder's office. Owner may file record of completion with recorder. Every original contractor, claiming the benefit of this chapter, within sixty days

after the completion of his contract, and every person save the original contractor claiming the benefit of this chapter, at any time after he has ceased to perform labor or furnish material, or both, for any work of improvement mentioned in this chapter, and until thirty days after the completion of such work of improvement, may file for record with the county recorder of the county or city and county in which such property or some part thereof is situated a claim of lien containing a statement of his demand after deducting all just credits and offsets, the name of the owner or reputed owner, if known, a general statement of the kind of work done or materials furnished by him, or both, the name of the person by whom he was employed or to whom he furnished the materials, and a description of the property sought to be charged with the lien sufficient for identification; which claim of lien must be verified by oath of claimant or some other person. Any trivial imperfection in the said work, or in the completion of any contract by any lien claimant, or in the construction of any building, improvement or structure, or of the alteration, addition to, or repair thereof, shall not be deemed such a lack of completion as to prevent the filing of any lien; and in all cases, any of the following shall be deemed equivalent to a completion for all the purposes of this chapter; the occupation or use of a building, improvement or structure, by the owner, or his representative, accompanied by cessation from labor thereon; or the acceptance by the owner, or said agent, of said building, improvement or structure; or cessation from labor for thirty days upon any contract or upon any building, improvement or structure, or the alteration, addition to, or repair thereof; the filing of the notice hereinafter provided for.

The owner shall within ten days after the completion of any contract or improvement provided for in this chapter, or within ten days after there has been a cessation from labor thereon for a period of thirty days, file for record in the office of the county recorder of the county where the property is situated, a notice setting forth the date when the same was completed, or on which cessation from labor occurred, together with his name and the nature of his title, and a description of the property sufficient for identification, which notice shall be verified by himself or some other person on his behalf. The fee for recording the same shall be one dollar. In case such notice be not so filed, then all persons claiming the benefit of this chapter shall have ninety days after the completion of said improvement within which to file their claims of lien. [Amendment approved May 3, 1919; Stats. 1919, p. 190.]

§ 1238. Right of eminent domain. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

1. **Uses of United States.** Fortifications, magazines, arsenals, navy yards, navy and army stations, lighthouses, range and beacon lights, coast surveys, and all other public uses authorized by the government of the United States.

2. **Uses of state.** Public buildings and grounds for the use of the state, or any state institution, and all other public uses authorized by the legislature of the state.

3. **Public utilities, counties, cities, etc.** Any public utility, and public buildings and grounds, for the use of any county, incorporated city, or city and county, village, town or school districts, ponds, lakes, canals, aqueducts, reservoirs, tunnels, flumes, ditches or pipes, lands, water system plants, buildings, rights of any nature in water, and any other character of property necessary for conducting or storing or distributing water for the use of any county, incorporated city, or city and county, village or town or municipal water district, or the inhabitants thereof, or any state institution, or necessary for the proper development and control of such use of said water, either at the time of the taking of said property, or for the future proper development and control thereof, or for draining any county, incorporated city, or city and county, village or town; raising the banks of streams, removing obstructions therefrom, and widening and deepening or straightening their channels; roads, highways, boulevards, streets and alleys; public mooring places for water craft; public parks, including parks and other places covered by water, and all other public uses for the benefit of any county, incorporated city, or city and county, village or town, or the inhabitants thereof, which may be authorized by the legislature; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.

4. **Wharves, ferries, bridges, etc.** Wharves, docks, piers, warehouses, chutes, booms, ferries, bridges, tollroads, byroads, plank and turnpike roads; paths and roads either on the surface, elevated, or depressed, for the use of bicycles, tricycles, motorcycles and other horseless vehicles, steam, electric, and horse railroads, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation, public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on

streams not navigable, and water, water rights, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation of lands furnished with water by corporations supplying water to the lands of the stockholders thereof only, and lands with all wells and water therein adjacent to the lands of any municipality or of any corporation, or person supplying water to the public or to any neighborhood or community for domestic use or irrigation.

5. Roads, flumes, etc., for mines. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise for the flow, deposit or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.

6. Byroads. Byroads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

7. Telegraph. Telegraph and telephone lines, systems and plants.

8. Sewerage. Sewerage of any incorporated city, city and county, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any buildings belonging to the state, or to any college or university, also the connection of private residences and other buildings, through other property, with the mains of an established sewer system in any such city, city and county, town or village.

9. Roads. Roads for transportation by traction engines or road locomotives.

10. Pipe-lines. Oil pipe-lines.

11. Lumbering. Railroads, roads and flumes for quarrying, logging or lumbering purposes.

12. Canals, reservoirs, dams, etc. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes and outlets natural or otherwise for supplying, storing, and discharging water for the operation of machinery for the purpose of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills, and factories with electric power; and also for the applying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also for furnishing electricity for lighting,

heating or power purposes to individuals or corporations; together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

13. Power lines. Electric power lines, electric heat lines, electric light lines, electric light, heat and power lines, and works or plants, lands, buildings or rights of any character in water, or any other character of property necessary for the generation, transmission or distribution of electricity for the purpose of furnishing or supplying electric light, heat or power to any county, city and county or incorporated city or town, or the inhabitants thereof, or necessary for the proper development and control of such use of such electricity, either at the time of the taking of said property, or for the future proper development and control thereof.

14. Cemeteries. Cemeteries for the burial of the dead, and enlarging and adding to the same and the grounds thereof.

15. Public records. The plants, or any part thereof or any record therein of all persons, firms or corporations heretofore, now or hereafter engaged in the business of searching public records, or publishing public records or insuring or guaranteeing titles to real property, including all copies of, and all abstracts or memoranda taken from, public records, which are owned by, or in the possession of such persons, firms or corporations, or which are used by them in their respective businesses; provided, however, that the right of eminent domain in behalf of the public uses mentioned in this subdivision may be exercised only for the purposes of restoring or replacing, in whole or in part, public records, or the substance of public records, of any city, city and county, county or other municipality, which records have been, or may hereafter be, lost or destroyed by conflagration or other public calamity; and provided further, that such right shall be exercised only by the city, city and county, county or municipality, whose records, or part of whose records, have been, or may be, so lost or destroyed.

16. Fairs. Expositions or fairs in aid of which the granting of public moneys or other things of value has been authorized by the constitution.

17. Gasworks, etc. Works or plants for supplying gas, heat, refrigeration or power to any county, city and county, or incorporated city or town, or the inhabitants thereof, together with lands, buildings, and all other improvements in or upon

which to erect, install, place, maintain, use or operate machinery, appliances, works and plants for the purpose of generating, transmitting and distributing the same and rights of any nature in water, or property of any character necessary for the purpose of generating, transmitting and distributing the same, or necessary for the proper development and control of such use of such gas, heat, refrigeration, or power, either at the time of the taking of said property, or for the future proper development and control thereof.

18. Trees along highways. Standing trees and ground necessary for the support and maintenance thereof, along the course of any highway, within a maximum distance of three hundred feet on each side of the center thereof; and ground for the culture and growth of trees along the course of any highway, within a maximum distance of three hundred feet on each side of the center thereof. [Amendment approved April 5, 1917; Stats. 1917, p. 59.]

§ 1269. Action on behalf of state. Description of property. Order to appear. If proceedings for administration have been instituted. State treasurer to hold property. At any time after two years after the death of any decedent, leaving property to which the state is entitled by reason of its having escheated to the state, the attorney general shall commence a proceeding on behalf of the state in the superior court for Sacramento county to have it adjudged that the state is so entitled. Such action shall be commenced by filing a petition, which shall be treated as the information elsewhere referred to in this title. There shall be set forth in such petition a description of the property, the name of the person last possessed thereof, the name of the person, if any, claiming such property, or any portion thereof, and the facts and circumstances by virtue of which it is claimed the property has escheated. Upon the filing of such petition, the court must make an order requiring all persons interested in the estate to appear and show cause, if any they have, within sixty days from the date of the order, why such estate should not vest in the state. Such order must be published at least once a week for four successive weeks in a newspaper published in said county of Sacramento, the last publication to be at least ten days prior to the date set for the hearing. Upon the completion of the publication of such order the court shall have full and complete jurisdiction over the state, the property, and the person of everyone having or claiming any interest in the said property, and shall have full and complete jurisdiction to hear and determine the issues therein, and render the appropriate

judgment thereon. If proceedings for the administration of such estate have been instituted, a copy of such order must be filed with the papers in such estate in the office of the county clerk where such proceedings were had. If proceedings for the administration of any estate of any such decedent have been instituted and none of the persons entitled to succeed thereto have appeared and made claim to such property, or any portion thereof, before the decree of final distribution therein is made, or before the commencement of such proceeding by the attorney general, or if the court shall find that such persons as have appeared are not entitled to the property of such estate, or of any portion thereof, the court shall, upon final settlement of the proceedings for the administration of such estate, after the payment of all debts and expenses of administration, distribute all moneys and other property remaining to the state of California. The property so distributed shall be held by the state treasurer for a period of five years from the date of the decree making such distribution within which time the same may be claimed in the manner in this title hereafter provided, but a nonresident foreigner claiming succession in any case must appear and claim within five years from the death of the decedent, and any person who does not appear and claim as herein required shall be forever barred, and such property, or so much thereof as is not so claimed, shall vest absolutely in the state. In any proceeding brought by the attorney general under this title any two or more parties and any two or more causes of action may be joined in the same proceeding and in the same petition without being separately stated, and it shall be sufficient to allege in the petition that the decedent left no heirs to take the estate and the failure of heirs to appear and set up their claims in any such proceeding, or in any proceedings for the administration of such estate, shall be sufficient proof upon which to base the judgment in any such proceeding or such decree of distribution. Where proceedings for the administration of any estate have not been commenced within six months from the death of any decedent the attorney general may direct the public administrator to commence the same forthwith. [Amendment approved May 5, 1917; Stats. 1917, p. 253.]

§ 1272a. Petition showing claim to estate deposited with state treasurer. Claim for less than \$300. When the estate, or any portion thereof, of any decedent has been deposited with the state treasurer under the provisions of this code, any person entitled to succeed and not a party or privy to any proceeding had under any of the foregoing sections of this

title, and who has not appeared in the proceedings for the administration of such estate, may, within five years after the date of the decree of final distribution, unless otherwise barred, file a petition in the superior court for Sacramento county against the state of California showing his claim or right to the property, or the proceeds thereof, or to any portion thereof. Said petition shall be verified, and, among other things, must state the facts required to be stated in a petition filed under section one thousand two hundred and seventy-two of this code, and upon the filing thereof the same proceedings shall be had as are therein required. Whenever the amount claimed by any such person is less than three hundred dollars any such claimant may, in lieu of filing such petition, present his claim to the state board of control, showing the same facts required to be stated in such petition and said board may, upon recommendation of the attorney general, allow and order paid such claim, provided that no such claim shall be so allowed or paid until at least five years after the death of the decedent and then, only, in the event that no other claim is made to such property. When payment has been made under this title to any claimant no suit shall thereafter be maintained by any other claimant against the state, or any officer thereof, for or on account of such property. [New section added May 5, 1917; Stats. 1917, p. 254.]

§ 1274. Sale of escheated property by board of control. The state board of control is hereby authorized to sell, on behalf of and in the name of the state of California, at any time and in any manner it may deem advisable, personal property heretofore or hereafter distributed to the state of California pursuant to the provisions of section one thousand two hundred sixty-nine of the Code of Civil Procedure, and the proceeds of such a sale shall be delivered to and held by the state treasurer. Any real property so distributed to the state may be sold by the board of control, at public auction, to the highest bidder, for cash, after notice thereof by publication, as hereinafter provided, in a newspaper published in the county in which such real property is situate, or, in an adjoining county if there be no newspaper published in such county. Such notice shall be published once a week for at least three weeks immediately preceding the date of such sale, and shall be sufficient for all the purposes of such sale if said real property be described therein in general terms. The board of control may, in its discretion, reject any and all bids. [New section approved May 3, 1919; Stats. 1919, p. 189.]

§ 1274a. Deposit of unclaimed property. Proceeding to vest title in state. All money or other property distributed in the administration of an estate of a decedent and heretofore or hereafter deposited with a county treasurer to the credit of the distributee, must be forthwith delivered into the state treasury by the county treasurer upon the expiration of one year from the date of such deposit.

Money or other property so deposited in the state treasury, if not claimed by the person or persons entitled thereto within five years from the date of such deposit, shall become the property of the state of California by escheat, and the attorney general shall commence a proceeding on behalf of the state in the superior court for Sacramento county, in accordance with this title, to have it adjudged that the title to such property has vested in the state. [Amendment approved May 10, 1919; Stats. 1919, p. 451.]

§ 1304. Notification of time for probate of will. Copies of the notice of the time appointed for the probate of the will must be addressed to the heirs of the testator and the devisees and legatees named in the will, resident in the state, at their places of residence, if known to the petitioner, and deposited in the postoffice, with the postage thereon prepaid, at least ten days before the hearing. If their places of residence be not known, the copies of notice may be addressed to them, and deposited in the postoffice at the county seat of the county where the proceedings are pending. A copy of the same notice must in like manner be mailed to the person named as executor, if he be not the petitioner; also, to any person named as coexecutor not petitioning, if their places of residence be known. Proof of mailing the copies of the notice must be made at the hearing. Personal service of copies of the notice at least ten days before the day of hearing is equivalent to mailing. [Amendment approved May 3, 1919; Stats. 1919, p. 139.]

§ 1323. Probate of foreign will. When a copy of the will, and the order or decree admitting same to probate, duly authenticated, shall be produced by the executor, or by any other person interested in the will, with a petition for letters, the same must be filed, and the clerk of the court must appoint a time for the hearing; notice whereof must be given as hereinbefore provided for an original petition for the probate of a will. [Amendment approved May 3, 1919; Stats. 1919, p. 165.]

§ 1345. Probate of nuncupative will. The superior court must not receive or entertain a petition for the probate of a

nuncupative will until the lapse of ten days from the death of the testator, nor must such petition at any time be acted on until the testamentary words are, or their substance is, reduced to writing and filed with the petition, nor until the surviving husband or wife (if any), and all other persons resident in the state interested in the estate are notified as hereinbefore provided. [Amendment approved May 3, 1919; Stats. 1919, p. 165.]

§ 1349. Issue of letters. If no objection is made as provided in section one thousand three hundred fifty-one, the court admitting a will to probate, after the same is proved and allowed, must issue letters thereon to the persons named therein as executors who are competent to discharge the trust, unless they or either of them have renounced their right to letters. [Amendment approved May 3, 1919; Stats. 1919, p. 165.]

§ 1365. Order of persons entitled to administer. Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, the relatives of the deceased being entitled to administer only when they are entitled to succeed to his estate or some portion thereof; and they are, respectively, entitled thereto in the following order:

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father and mother.
4. The brothers and sisters.
5. The grandchildren.
6. The next of kin entitled to share in the distribution of the estate.
7. The public administrator.
8. The creditors.
9. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate. This section shall apply to the relatives of the previously deceased spouse of decedent when entitled to succeed to some portion of the estate under subdivision eight of section one thousand three hundred eighty-six of the Civil Code. [Amendment approved April 15, 1919; Stats. 1919, p. 80.]

§ 1380. Request for special notice of proceedings. At any time after the issuance of letters testamentary or of adminis-

tration upon the estate of any decedent, any person interested in said estate (including the state controller), whether as heir, devisee, legatee or creditor, or the attorney for any such person may serve upon the executor or administrator (or upon the attorney for the executor or administrator) and file with the clerk of the court wherein administration of such estate is pending, a written request, stating that he desires special notice of any or all of the following mentioned matters, steps or proceedings in the administration of said estate, to wit:

- (1) Filing of petitions for sales, leases or mortgages of any property of the estate.
- (2) Filing of accounts.
- (3) Filing of petitions for distribution.
- (4) Filing of petitions for partition of any property of the estate.

Such request shall state the postoffice address of the person making same, and thereafter a brief notice of the filing of any of such petitions or accounts, except petitions for sale of perishable property or other personal property which will incur expense or loss by keeping, shall be addressed to such person making such request, or his attorney, at his stated postoffice address, and deposited in the United States postoffice with the postage thereon prepaid, within two days after the filing of such petition or account; or personal service of such notices may be made on the person making such request or his attorney, within said two days and such personal service shall be equivalent to such deposit in the postoffice, and proof of mailing or of personal service must be filed with the clerk before the hearing of such petition or account. If upon the hearing it shall appear to the satisfaction of the court that the said notice has been regularly given, the court shall so find in its order or judgment and such judgment shall be final and conclusive upon all persons. [Amendment approved May 3, 1919; Stats. 1919, p. 166.]

This section was also amended in 1917 (Stats. 1917, p. 276). The amendment of 1917 read as follows:

§ 1380. At any time after the issuance of letters testamentary or of administration upon the estate of any decedent, any person interested in said estate (including the state controller), whether as heir, devisee, or legatee, or the attorney for such heir, devisee, or legatee, may serve upon the executor or administrator (or upon the attorney for the executor or administrator) and file with the clerk of the court wherein administration of such estate is pending, a written request, stating that he desires special notice of any or all of the following mentioned matters, steps or proceedings in the administration of said estate, to wit:

1. Filing of petitions for sales, leases or mortgages of any property of the estate.
2. Filing of accounts.
3. Filing of petitions for distribution.

4. Filing of petitions for partition of any property of the estate.

Such request shall state the postoffice address of such heir, devisee, or legatee, state controller, or his attorney, and thereafter a brief notice of the filing of any of such petitions or accounts, except petitions for sale of perishable property or other personal property, which will incur expense or loss by keeping, shall be addressed to such heir, devisee, or legatee, state controller, or his attorney, at his stated postoffice address, and deposited in the United States postoffice with the postage thereon prepaid, within two days after the filing of such petition or account; or personal service of such notices may be made on such heir, devisee, or legatee, state controller, or his attorney, within said two days and such personal service shall be equivalent to such deposit in the postoffice, and proof of mailing or of personal service must be filed with the clerk before the hearing of such petition or account. If upon the hearing it shall appear to the satisfaction of the court that the said notice has been regularly given, the court shall so find in its order or judgment and such judgment shall be final and conclusive upon all persons. [Amendment approved May 5, 1917; Stats. 1917, p. 276.]

§ 1415. Duties of special administrators. The special administrator must collect and preserve for the executor or administrator, all the goods, chattels, debts, and effects of the decedent, all incomes, rents, issues and profits, claims and demands of the estate; must take the charge and management of, enter upon, and preserve from damage, waste and injury, the real estate, and for any such and all necessary purposes may commence and maintain or defend suits and other legal proceedings as an administrator; he may sell such perishable property as the court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but in no case is he liable to an action by any creditor on a claim against the decedent. The special administrator may commence and maintain all proceedings, do all acts, and apply for and obtain all orders and decrees, authorized and provided for, in or by article five of chapter seven of title eleven of part third of this code, in the same manner and with like effect as an executor or administrator. [Amendment approved April 15, 1919; Stats. 1919, p. 71.]

This section was also amended in 1917 (Stats. 1917, p. S1). The amendment of 1917 read as follows:

§ 1415. The special administrator must collect and preserve for the executor or administrator, all the goods, chattels, debts, and effects of the decedent, all incomes, rents, issues and profits, claims, and demands of the estate; must take the charge and management of, enter upon, and preserve from damage, waste and injury, the real estate, and for any such and all necessary purposes may commence and maintain or defend suits and other legal proceedings as an administrator; he may sell such perishable property as the court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but in no case is he liable to an action by any creditor on a claim against the decedent. The special administrator may commence and maintain all proceedings, do all acts, and apply for

and obtain all orders and decrees, authorized or provided for, in or by article five of chapter seven of title eleven of this code, in the same manner and with like effect as an executor or administrator.

§ 1418. Payment of secured debts by special administrators. If it shall appear by the verified petition of any special administrator, or other person interested in any estate in the charge of any special administrator, that any of the property of said estate is subject to any mortgage, lien or deed of trust, to secure the payment of money, and that any amount so secured, either principal or interest, is past due and unpaid; that the holder of the security threatens or is about to enforce or foreclose the same and that the said property exceeds in value the amount of the entire obligation thereon, and an order is asked directing or permitting said special administrator to pay all or any part of the amount so secured, the court or a judge thereof shall fix a time for the hearing of said petition and shall direct notice of not less than ten days to be given by posting in three public places and by personal service on all parties who have appeared or their attorneys. At the time so appointed, if the allegations of such petition shall be proven to the satisfaction of the court and it shall appear to be for the best interests of said estate, the court may order the special administrator to pay interest or other portions or the whole of the secured debt, and, in its discretion, may direct the special administrator to take proceedings under article five of chapter seven of title eleven of this code to secure funds for such purpose. Any such order for payment of interest may also direct that interest not yet accrued be paid as it becomes due and such order shall remain in effect and cover such future interest until and unless thereafter for good cause set aside or modified by the court upon similar petition and notice to that hereinabove provided. [New section added April 6, 1917; Stats. 1917, p. 82.]

§ 1444. Appraisers of estates of deceased persons. To make the appraisement, the court, or a judge thereof, must appoint three disinterested persons, one of whom must be one of the inheritance tax appraisers provided for by law (any two of whom may act, provided that one of them be the inheritance tax appraiser); provided, that the court may, in its discretion, appoint said inheritance tax appraiser as sole appraiser to appraise said estate. Each of said appraisers is entitled to receive, from each estate he appraises, as compensation for his services, not to exceed five dollars per day (together with his actual and necessary expenses), to be allowed

by the court or judge. The appraisers or appraiser must, with the inventory, file a verified account of their or his services and disbursements. If any part of the estate is in any other county than that in which letters issued, an appraiser or appraisers thereof may in the same manner as above provided, be appointed, either by the court or judge having the jurisdiction of the estate, or by the court or judge of such other county, on request of the court or judge having jurisdiction. No clerk or deputy, nor any person related by consanguinity or affinity to or connected by marriage with, or being a partner or employee of the judge of the court, shall be appointed or shall be competent to act as appraiser in any estate, or matter or proceeding pending before said judge or in said court. [Amendment approved May 10, 1917; Stats. 1917, p. 329.]

§ 1455. Who may collect balances due deceased or insane annuitants from teachers' retirement salary fund. Claim payable by salary fund board on receipt of affidavit. The surviving husband or wife, or the guardian of the estate of any insane or incompetent husband or wife, of any deceased person who had been the recipient of an annuity from the public school teachers' retirement salary fund, or if no husband or wife is living, then the children or the guardian of the estates of any minor or insane or incompetent children of said deceased, or, if no children are living, then the father or mother or the guardian of the estate of any insane or incompetent father or mother of such decedent, and if neither the father nor mother is living, then the brothers and sisters or the guardian of the estates of any minor or insane or incompetent brothers and sisters of such decedent, may, without procuring letters of administration, collect from the public school teachers' retirement salary fund, in the state treasury, any balance of retirement salary accrued to the credit of said deceased annuitant remaining unpaid at the time of death. The public school teachers' retirement salary fund board, upon receiving an affidavit stating that said annuitant is dead, and that affiant is the surviving husband or wife or the guardian of the estate of an insane or incompetent husband or wife, as the case may be, of said decedent, or stating that decedent left no husband or wife, and that affiant is the child, or that affiants are the children, or the guardians of the estates of the minor, insane or incompetent children, as the case may be, of said decedent, or stating that decedent left neither husband, wife nor children, and that affiant is the father or mother, or the guardian of the estate of the insane or incompetent father or mother, as the case may be, of said decedent, or stating that the decedent left neither husband,

wife, children, father nor mother, and that the affiants are the brothers and sisters, or the guardians of the estates of the minor, insane or incompetent brothers and sisters, as the case may be, of said decedent, shall, at the next quarterly meeting of said board, when claims for retirement salaries are certified, include and certify a claim in favor of said affiant or affiants for the balance due said decedent, and the controller shall draw his warrant in favor of the affiant or affiants in the same manner as warrants are drawn for the payment of retirement salaries, and the indorsement of such affiant or affiants upon such warrant is sufficient acquittance therefor. [New section added April 6, 1917; Stats. 1917, p: 78.]

§ 1469. Administration of estates not exceeding \$1,500 in value. If a deceased person leave a widow or minor child or minor children and upon the return of the inventory of the estate of such deceased person it shall appear to the court or a judge thereof by the verified petition of the personal representative of such deceased person or of his widow or of the guardian of his minor children or of any of them that the net value of the whole estate of said deceased over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of one thousand five hundred dollars, the court, or a judge thereof, shall, by order, require all persons interested to appear on a day fixed to show cause why the whole of said estate should not be assigned for the use and support of the family of the deceased. Notice thereof shall be given and proceedings had in the same manner as provided in section one thousand four hundred sixty-five a of this code. If upon the hearing, the court finds that the net value of the estate over and above all liens or encumbrances of record at the date of the death of said deceased does not exceed the sum of one thousand five hundred dollars, it shall, by decree for that purpose, assign to the widow of the deceased, if there be a widow, or if there be no widow, then to the minor children of the deceased, if there be minor children, the whole of the estate, subject to whatever mortgages, liens, or encumbrances there may be upon said estate at the time of the death of said deceased, after the payment of the expenses of the last illness of the deceased, funeral charges, and expenses of administration, and the title thereof shall vest absolutely in such widow, if there is a widow, or if there is no widow, in the minor children or child, subject to whatever mortgages, liens or encumbrances there may be upon said estate at the time of the death of the deceased, and there must be no further proceedings in the administration,

unless further estate be discovered. [Amendment approved April 25, 1917; Stats. 1917, p. 195.]

§ 1475. Setting off of recorded homestead. If the homestead selected and recorded prior to the death of the decedent be returned in the inventory appraised at not exceeding five thousand dollars in value, or was previously appraised as provided in the Civil Code, and such appraised value did not exceed that sum, the superior court must, by order, set it off to the persons in whom title is vested by the preceding section. If there be subsisting liens or encumbrances on the homestead, the claims secured thereby must be presented and allowed as other claims against the estate. If the funds of the estate be adequate to pay all claims against the estate, the claims so secured must be paid out of such funds. If the funds of the estate be not sufficient for that purpose, the claims so secured shall be paid proportionately with other claims allowed, and the liens or encumbrances on the homestead shall only be enforced against the homestead for any deficiency remaining after such payment; provided, that it shall be the duty of any executor or administrator, within sixty days after the first publication of notice to creditors, to notify in writing the record holder of any such lien or encumbrance upon real property subject to a declaration of homestead of the death of the testator or intestate, and unless so notified, the rights of the holder of such lien or encumbrance shall not be affected by his failure to present such claim as hereinabove required. [Amendment approved May 21, 1917; Stats. 1917, p. 783.]

§ 1490. Notice to creditors of decedents' estates. Every executor or administrator must, immediately after his letters are issued, cause to be published in some newspaper of the county, if there be one, if not, then in such newspaper as may be designated by the judge or court, a notice to the creditors of the decedent, requiring all persons having claims against said decedent to file them, with the necessary vouchers, in the office of the clerk of the court from which the letters were issued, or to exhibit them, with the necessary vouchers, to the executor or administrator, at the place of his residence or business to be specified in the notice; provided, said residence or place of business shall be in the county in which said proceeding is had. Such notice must be published not less than once a week for four weeks. In case such executor or administrator resigns, or is removed, before the time expressed in the notice, his successor must give notice only for the unex-

pired time allowed for such filing or presentation. [Amendment approved May 3, 1919; Stats. 1919, p. 166.]

§ 1498. Rejection of claim against estates. When a claim is rejected either by the executor or administrator, or a judge of the superior court, written notice of such rejection shall be given by the executor or administrator to the holder of such claim or to the person filing or presenting the same, and the holder must bring suit in the proper court against the executor or administrator within three months after the date of service of such notice if the claim be then due or within two months after it becomes due, otherwise the claim shall be forever barred. If the residence of the claimant is not known, and the same shall be made to appear to the satisfaction of the court, the court shall by its order require the notice to be served on the claimant by filing with the clerk. [Amendment approved May 3, 1919; Stats. 1919, p. 186.]

§ 1516. Estate chargeable with debts. No priority. All of the property of a decedent shall be chargeable with the payment of the debts of the deceased, the expenses of administration, and the allowance to the family, except as otherwise provided in this code and in the Civil Code. And the said property, personal and real, may be sold in the manner prescribed in this chapter. There shall be no priority as between personal and real property for the above purposes. [Amendment approved May 25, 1919; Stats. 1919, p. 1177.]

§ 1517. No sales valid, except by order of superior court. The executor or administrator may sell any property of the estate of a decedent without order of court, and at either public or private sale, as the executor or administrator may determine; but no sale of such property is valid unless the same be under oath reported to and confirmed by the court, and the title to the property does not pass until such sale be so confirmed by the court. [Amendment approved May 25, 1919; Stats. 1919, p. 1178.]

§ 1522. Perishable and depreciating property to be sold. At any time after receiving letters, the executor, administrator, or special administrator may sell perishable and other personal property likely to depreciate in value, or which will incur loss or expense by being kept, and so much other personal property as may be necessary to pay the allowance made to the family of the decedent. The executor, administrator, or special administrator is responsible for the property, unless, after making a sworn return, and on a proper showing, the

court shall approve the sale. [Amendment approved May 25, 1919; Stats. 1919, p. 1178.]

§ 1523. Order to sell personal property. If claims against the estate have been allowed, and a sale of property is necessary for their payment, or for the expenses of administration, or for the payment of legacies, the executor or administrator may sell so much of the personal property as may be necessary therefor. He may also make a sale from time to time, so long as any personal property remains in his hands, and sale thereof is necessary. If it appear for the best interests of the estate, he may, at any time after filing the inventory, in like manner, and after giving notice by publication for two weeks in a newspaper of general circulation, printed and published in the county, sell the whole of the personal property belonging to the estate, whether necessary to pay debts or not; provided, that the court may, by order, shorten the time of notice to like publication for one week. [Amendment approved May 25, 1919; Stats. 1919, p. 1178.]

§ 1525. Order of sales. In making orders and sales for the payment of debts or family allowance, such articles as are not necessary for the support and subsistence of the family of the decedent, or are not specially bequeathed, must be first sold. [Amendment approved May 25, 1919; Stats. 1919, p. 1178.]

§ 1536. When executor or administrator may sell property. When a sale of property of the estate is necessary to pay the allowance of the family, or the debts outstanding against the decedent, or the debts, expenses, or charges of administration, or legacies; or when it is for the advantage, benefit, and best interests of the estate, and those interested therein, that the real estate, or some part thereof, be sold, the executor or administrator may sell any real as well as personal property of the estate. [Amendment approved May 25, 1919; Stats. 1919, p. 1179.]

§ 1537. Verified petition for sale, what to contain and to what it may refer. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1538. Order to persons interested to appear. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1539. Service of orders to show cause. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1540. Hearing after proof of service. Presentation of claims. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1542. To sell real estate or any part, when. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1543. Order of sale, when to be made. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1544. What order of sale must contain. May be at public or private sale. [Repealed 1919; Stats. 1919, p. 1177.]

§ 1545. Interested persons may apply for order of sale. If the executor or administrator neglects or refuses to sell the property of the estate when it is necessary or when it is for the advantage, benefit and best interests of the estate and those interested therein, that the real estate or some portion thereof be sold, any person interested may make application to the court, that the executor or administrator be required to sell, and notice of such application must be given to the executor or administrator before the hearing. [Amendment approved May 25, 1919; Stats. 1919, p. 1179.]

§ 1547. Posting of public auction sale notice. When a sale is to be made at public auction, notice of the time and place of sale must be posted in three of the most public places in the county in which the land is situated, and published in a newspaper, if there be one printed in the same county, but if none, then in such paper as the court may direct, for two weeks successively next before the sale; provided, however, that when it appears from the inventory and appraisalment that the value of the whole estate does not exceed five hundred dollars the court, or a judge thereof, may in his discretion dispense with the publication in a newspaper and order notices be posted. The lands and tenements to be sold must be described with common certainty in the notice. [Amendment approved May 25, 1919; Stats. 1919, p. 1179.]

§ 1549. Private sale of real estate. Bids. Time of notice may be shortened when. When a sale of real estate is to be made at private sale, notice of the same must be posted up in three of the most public places in the county in which the land is situated, and published in a newspaper, if there be one printed in the same county, if none, then in such paper as the court or judge may direct, for two weeks successively next before the day on or after which the sale is to be made, in which the lands and tenements to be sold must be described with common certainty. The notice must state a day on or after which the sale will be made, and a place where offers or bids will be received. The day last referred to must be at

least fifteen days from the first publication of notice; and the sale must not be made before that day, but must be made within six months thereafter. The bids or offers must be in writing and may be left at the place designated in the notice, or delivered to the executor or administrator personally, or may be filed in the office of the clerk of the court to which the return of sale must be made, at any time after the first publication of the notice and before the making of the sale. If it be shown that it will be for the best interests of the estate the court or judge may, by an order, shorten the time of notice, which shall not, however, be less than one week, and may provide that the sale may be made on or after a day less than fifteen but not less than eight days from the first publication of the notice in which case the notice of sale and the sale may be made to correspond with such order; provided, however, that when it appears from the inventory and appraisement that the value of the whole estate does not exceed five hundred dollars the court, or a judge thereof, may in his discretion dispense with the publication in a newspaper and order notices be posted. The lands and tenements to be sold must be described with common certainty in the notice. [Amendment approved May 25, 1919; Stats. 1919, p. 1179.]

§ 1552. Return of execution. Notice of hearing of return. May vacate sale and order new one. The executor or administrator, after making any sale of real estate, must make a return of his proceedings to the court, which must be filed in the office of the clerk at any time subsequent to the sale. A hearing upon the return of the proceedings may be asked for in the return or by petition subsequently, and thereupon the clerk must fix the day for the hearing, of which notice of at least ten days must be given by the clerk, by notices posted in three public places in the county or by publication in a newspaper, and must briefly indicate the land sold, and must refer to the return for further particulars. Upon the hearing the court must examine into the necessity for the sale, or the advantage, benefit and interest of the estate in having the sale made, and must examine the return and witnesses in relation to the sale, and if good reason does not exist for such sale, or if the proceedings for the sale were unfair or the sum bid disproportionate to the value and it appears that a sum exceeding such bid at least ten per cent exclusive of the expenses of a new sale may be obtained, the court may vacate the sale and direct another to be had, of which notice must be given and the sale in all respects conducted as if no previous sale had taken place. If an offer of ten per cent more in amount

than that named in the return be made to the court in writing, by a responsible person, it is in the discretion of the court to accept such offer and confirm the sale to such person or to order a new sale. [Amendment approved May 25, 1919; Stats. 1919, p. 1179.]

§ 1554. Order of confirmation of sale. Resale. If it appears to the court that there is reason for a sale upon the grounds set forth in section one thousand five hundred thirty-six of this code and that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, and that a greater sum, as above specified, cannot be obtained, or if the increased bid mentioned in section one thousand five hundred fifty-two be made and accepted by the court, the court must make an order confirming the sale, and directing conveyances to be executed. The sale, from that time, is confirmed and valid, and a certified copy of the order confirming it and directing conveyances to be executed must be recorded in the office of the recorder of the county in which the land sold is situated. If, after the confirmation, the purchaser neglects or refuses to comply with the terms of the sale, the court may, on motion of the executor or administrator, and after notice to the purchaser, order a resale to be made of the property. If the amount realized on such resale does not cover the bid and the expenses of the previous sale, such purchaser is liable for the deficiency to the estate. [Amendment approved May 25, 1919; Stats. 1919, p. 1180.]

§ 1555. Conveyances. Conveyances must thereupon be executed to the purchaser by the executor or administrator, and they must refer to the orders of the court confirming the sale of the property of the estate, and directing conveyances thereof to be executed, and to the record of the order of confirmation in the office of the county recorder, either by the date of such recording, or by the date, volume, and page of the record, and such reference shall have the same effect as if the orders were at large inserted in the conveyance. Conveyances so made convey all the right, title, interest, and estate of the decedent, in the premises, at the time of his death; if prior to the sale, by operation of law or otherwise, the estate has acquired any right, title, or interest in the premises, other than or in addition to that of the decedent at the time of his death, such right, title, or interest also passes by such conveyances. [Amendment approved May 25, 1919; Stats. 1919, p. 1181.]

§ 1559. Commissions for sales of real estate. Any executor or administrator may enter into a contract with any bona fide real estate agent to secure a purchaser for any real property belonging to an estate, which contract shall provide for payment to such agent out of the proceeds of sale to any purchaser secured by him of a commission, the amount of which must be fixed and allowed by the court upon confirmation of the sale. If a sale to a purchaser obtained by such agent is returned to the court for confirmation and said sale be confirmed to such purchaser, such contract shall be binding and valid as against the estate for the amount so fixed and allowed by the court.

By the execution of any such contract no personal liability shall attach to the executor or administrator, and no liability of any kind shall be incurred by the estate unless an actual sale is made and confirmed. [Amendment approved May 25, 1919; Stats. 1919, p. 1181.]

§ 1565. Sale of contracts for purchase of lands. If a decedent, at the time of his death, was possessed of a contract for the purchase of lands, his interest in such land and under such contract may be sold by his executor or administrator, in the same manner as if he had died seized of such land, and the same proceedings may be had for that purpose as are prescribed in this chapter for the sale of lands of which he died seized, except as hereinafter provided. [Amendment approved May 25, 1919; Stats. 1919, p. 1177.]

§ 1570. Holder of lien or mortgage may purchase lands. At any sale of lands upon which there is a mortgage or lien, the holder thereof may become the purchaser, and his receipt for the amount due him from the proceeds of the sale is a payment pro tanto. If the amount for which he purchased the property is insufficient to defray the expenses and discharge his mortgage or lien, he must pay the court, or the clerk thereof an amount sufficient to pay such expenses. [Amendment approved May 25, 1919; Stats. 1919, p. 1177.]

§ 1598. Petition for executor to make conveyance. On the presentation of a verified petition by the executor or administrator, or by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court, or a judge thereof, must appoint a time and place for hearing the petition, and must order notice thereof to be served on the executor or administrator personally when he is not the petitioner, and published at least once a week for four successive weeks

before such hearing, in such newspaper in this state as the court may designate; provided, however, that if such contract was of record at the date of the death of the person executing such contract, notice of such hearing shall be served on the executor or administrator personally, when he is not the petitioner, and posted in three public places in the county where the court is held for at least ten days prior to the date of hearing. [Amendment approved April 15, 1919; Stats. 1919, p. 72.]

§ 1663. Partial distribution of estates of deceased persons.
Costs. Where the time for filing or presenting claims has expired, and all claims that have been allowed have been paid, or are secured by a mortgage upon real estate sufficient to pay them, and the estate is not in a condition to be finally closed and distributed, the executor or administrator, or co-executor or coadministrator, may present his petition to the court for ratable payment of the legacies, or ratable distribution of the estate to all the heirs, legatees, devisees, or their assignees, grantees or successors in interest. Notice of such application must be given to all persons interested in the estate, in the same manner that notice is required to be given of the settlement of the account of an executor or administrator. Any person interested in the estate may appear at the time named and resist the application. If, at the hearing, it appears that the allegations in the petition of said executor, administrator, coexecutor, or coadministrator, are true, and the court is satisfied that no injury can result to the estate by granting the petition, the court must make an order directing the executor or executors, administrator or administrators, as the case may be, to deliver to the heirs, legatees, devisees, or to their assigns, grantees or successors in interest, the whole portion of the estate to which they may be entitled, or only a part thereof, designating it.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of the proceedings under this section must be paid by the estate, excepting that in case a partition is necessary, the costs of such partition must be apportioned amongst the parties interested in such partition. [New section added May 17, 1917; Stats. 1917, p. 575.]

§ 1714. Motion for new trial in probate proceedings. The provisions of part two of this code, relative to new trials and appeals, except in so far as they are inconsistent with the

provisions of this title, apply to the proceedings mentioned in this title; provided, that hereafter a motion for a new trial in probate proceedings can be made only in cases of contests of wills, either before or after probate, in proceedings under section one thousand six hundred sixty-four of this code and in those cases where the issues of fact, of which a new trial is sought, were tried by a jury or were of such character as to entitle the parties to have them tried by a jury whether or not they were so tried. [Amendment approved April 13, 1917; Stats. 1917, p. 117.]

§ 1723. Persons dying who owned life estate or homesteads. Interested persons may petition. Decree of court. Inheritance tax. If any person has died or shall hereafter die who at the time of his death was the owner of a life estate which terminates by reason of the death of such person; or if such person at the time of his death was one of two or more persons holding land in joint tenancy, which land by reason of his death vests absolutely in the surviving joint tenant or tenants; or if such person at the time of his death was the spouse of a person owning land upon which either spouse had declared a homestead, the homestead interest of which deceased person absolutely terminated by reason of his death; any person interested in the land, or in the title thereto, in which such estate or interest was held, may file in the superior court of the county in which the land or any part thereof is situated, his verified petition setting forth such facts, and thereupon and after such notice by publication or otherwise as the court may order; provided, that notice shall be given in each county where any part of said land is situated in the same manner as in the county where said petition is filed, the court shall hear such petition and the evidence offered in support thereof, and if upon such hearing it shall appear that such estate or interest so terminated or vested, the court shall make a decree to that effect, and thereupon a certified copy of such decree shall be recorded in the office of the county recorder of each county in which any part of said land is situated, and thereafter shall have the same effect as a decree of final distribution so recorded; provided, that if such estate or interest was a joint tenancy, any inheritance tax which is due and payable by reason of the death of such deceased person, must be fully paid before such decree is made; and the amount of said inheritance tax shall be fixed, and said tax shall be paid, in the same manner as in the case of an administration upon the estate of a decedent. [Amendment approved May 31, 1917; Stats. 1917, p. 1397.]

§ 1726a. Burial expenses of deceased persons. Whenever a public administrator takes possession of the estate of a deceased person, as provided in section one thousand seven hundred and twenty-six of this code, and the method of the defrayal of the expense of the burial of said deceased is not otherwise provided for by law, or by the rules, agreement or death benefits of any order or lodge to which the deceased may at the time of his death belong, or with which he may have been affiliated, the public administrator may, in order to defray the proper expenses of the burial of the body of the deceased, and the expenses of the last illness apply to a judge of the superior court of the county in which said public administrator is acting for an order permitting the public administrator to summarily sell any personal property belonging to the deceased, and to withdraw any money that the deceased may have on deposit with any bank, and to collect any indebtedness or claim that may be owing to or due the deceased. If upon such application it appears to the court by competent evidence, that the total value of the estate of the deceased is less than one hundred dollars the judge shall make an order granting the application and there shall be no administration upon the estate of the deceased unless additional estate be found or discovered. No notice of the application need be given and no fee shall be charged by the clerk of the court or the public administrator or his attorney for the filing of said application, or for any duty or service of the clerk or public administrator or his attorney connected therewith. Upon the sale of the personal property of the deceased, or the collection of any money, claim or indebtedness by the public administrator under said order the public administrator shall use the same for the expenses of the burial of the deceased, and the expenses of the last illness. The public administrator shall file with the clerk of the court a statement showing the property of the deceased that came into his hands and the disposition of the property of the deceased, and shall file with the clerk vouchers showing what disposition was made of the said property or of the proceeds thereof. [Amendment approved April 15, 1919; Stats. 1919, p. 100.]

§ 1764a. Appointment as guardian. In awarding letters of guardianship of the person and estate, or person or estate, of an insane or incompetent person, the court shall appoint as guardian such person as may have been designated pursuant to section two hundred forty-two of the Civil Code, in which cases such persons shall be appointed unless good cause to the

contrary be shown. [New section added May 17, 1917; Stats. 1917, p. 644.]

§ 1768. Payment of ward's debts by guardian. Every guardian appointed under the provisions of this chapter, whether for a minor or any other person, must pay all just debts due from the ward out of his personal estate and the income of his real estate, if sufficient; if not, then out of his real estate upon obtaining an order for the sale or mortgage thereof, and disposing of the same in the manner provided in article four of this chapter. [Amendment approved May 3, 1919; Stats. 1919, p. 155.]

The act amending section 1768 also contained the following provision repealing the prior section 1768:

§ 2. Act, Stats. 1907, p. 981, repealed. An act entitled "An act to amend section one thousand seven hundred sixty-eight of the Code of Civil Procedure," approved March 23, 1907, printed as chapter five hundred twenty-six, Statutes of 1907, is hereby repealed.

There were two sections 1768 enacted at the session of 1907. See Stats. 1907, pp. 944 and 981. It was the section as found at page 981 that was repealed by the above statute.

§ 1810b. Attorney's fees against minor fixed by court. Judgment not in excess of five hundred dollars. All contracts for attorney's fees made by or for the benefit of minors shall be void, and whenever a judgment shall be recovered by or on behalf of a minor, the attorney's fees chargeable against said minor shall be fixed by the court in which said judgment is rendered; and if said judgment is for money, and there is no general guardian of said minor, one shall be appointed by the court, and the entire amount of the judgment shall be paid to and shall be cared for by such general guardian, under the control of the court; provided, that where a minor has brought an action by a guardian ad litem and has recovered a money judgment not in excess of five hundred dollars, exclusive of costs, and the guardian ad litem is a parent or blood relative of said minor, then, with the approval of the court that rendered the judgment the whole amount of said judgment may be paid directly to such guardian ad litem without any bond being required therefor. The court in any of the cases provided for herein may direct the amount fixed as attorney's fees to be paid directly to the attorney, and the balance to be paid to such guardian ad litem of said minor, or to the general guardian of said minor if a general guardian has been appointed or is required by the court. [Amendment approved May 16, 1919; Stats. 1919, p. 556.]

§ 1810c. Parent's right to compromise claim of minor. Where a minor shall have a disputed claim for money against

a third person, the father, and if the father be dead or has deserted or abandoned the minor, then the mother of said minor, shall have the right to compromise such claim, but before the compromise shall be valid or of any effect the same shall be approved by the superior court of the county where the minor resides, upon a verified petition in writing, regularly filed with said court. If the court approves such compromise, the said superior court may direct the money paid to the father or mother of such minor, with or without the filing of any bond, or it may require a general guardian or guardian ad litem to be duly appointed and the money to be paid to such guardian or guardian ad litem with or without a bond as in the discretion of the court seems to the best interests of said minor. The clerk of the superior court shall not charge any fee for filing said petition for leave to compromise or for placing the same upon the calendar to be heard by the court. [New section approved May 16, 1919; Stats. 1919, p. 557.]

§ 1881. Cases in which witnesses may not be examined. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:

1. **Husband and wife.** A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other; or in an action brought by husband or wife against another person for the alienation of the affections of either husband or wife or in an action for damages against another person for adultery committed by either husband or wife.

2. **Attorney and client.** An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment; nor can an attorney's secretary, stenographer, or clerk be examined, without the consent of his employer, concerning any fact the knowledge of which has been acquired in such capacity.

3. **Confessor and confessant.** A clergyman or priest cannot, without the consent of the person making the confession, be

examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

4. Physician and patient. A licensed physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient, which was necessary to enable him to prescribe or act for the patient; provided, however, that after the death of the patient, the executor of his will, or the administrator of his estate, or the surviving spouse of the deceased, or, if there be no surviving spouse, the children, of the deceased personally, or, if minors, by their guardian, may give such consent, in any action or proceeding brought to recover damages on account of the death of the patient; provided, further, that where any person brings an action to recover damages for personal injuries, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said person and whose testimony is material in said action shall testify; and provided, further, that the bringing of an action, to recover for the death of a patient, by the executor of his will, or by the administrator of his estate, or by the surviving spouse of the deceased, or if there be no surviving spouse, by the children personally, or, if minors, by their guardian, shall constitute a consent by such executor, administrator, surviving spouse, or children or guardian, to the testimony of any physician who attended said deceased.

5. Public officer. A public officer cannot be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure. [Amendment approved May 26, 1917; Stats. 1917, p. 954.]

§ 2024. Deposition of witnesses out of state, how taken. The deposition of a witness out of this state may be taken upon a commission issued from the court under the seal of the court, upon an order of the court, or a judge or a justice thereof, on the application of either party, upon five days' previous notice to the other. If the court is a justices' court, the commission must have attached to it a certificate of the clerk of the superior court of the county in which such justices' court is held, under the seal of such superior court, to the effect that the person issuing the same was an acting justice of the peace at the date of the commission. If issued to any place within the United States, it may be directed to a person agreed upon by the parties, or if they do not agree,

to any notary public, judge or justice of the peace or commissioner selected by the court or judge or justice issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States, or judge of a court of record in such country, or to any person agreed upon by the parties. [Amendment approved May 5, 1917; Stats. 1917, p. 280.]

§ 2055. Examination of adverse party. A party to the record of any civil action or proceeding or a person for whose immediate benefit such action or proceeding is prosecuted or defended, or the directors, officers, superintendent or managing agent of any corporation which is a party to the record, may be examined by the adverse party as if under cross-examination, subject to the rules applicable to the examination of other witnesses. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebutted by the party calling him for such examination by other evidence. Such witness, when so called, may be examined by his own counsel, but only as to the matters testified to on such examination. [New section added April 5, 1917; Stats. 1917, p. 58.]

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to any notary public, judge or justice of the peace or commissioner selected by the court or judge or justice issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States, or judge of a court of record in such country, or to any person agreed upon by the parties. [Amendment approved May 5, 1917; Stats. 1917, p. 280.]

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THE
CIVIL CODE
OF THE
STATE OF CALIFORNIA.

AMENDMENTS OF 1917 AND 1919.

§ 51. All persons have equal personal rights. All citizens within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of inns, restaurants, hotels, eating-houses, barber-shops, bathhouses, theaters, skating-rinks, public conveyances, and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law, and applicable alike to all citizens. [Amendment approved May 5, 1919; Stats. 1919, p. 309.]

§ 52. Damages for violation of personal rights. Whoever denies to any citizen, except for reasons applicable alike to every race or color, the full accommodations, advantages, facilities, and privileges enumerated in section fifty-one of this code, or who aids, or incites, such denial, or whoever makes any discrimination, distinction or restriction on account of color or race, or except for good cause, applicable alike to citizens of every color or race whatsoever, in respect to the admission of any citizen to, or his treatment in, any inn, hotel, restaurant, eating-house, barber-shop, bathhouse, theater, skating-rink, public conveyance, or other public place of amusement or accommodation, whether such place is licensed or not, or whoever aids or incites such discrimination, distinction or restriction, for each and every such offense is liable in damages in an amount not less than one hundred dollars, which may be recovered in an action at law brought for that purpose. [Amendment approved May 5, 1919; Stats. 1919, p. 309.]

§ 73. Authentication of marriages. The person solemnizing a marriage must make, sign and indorse upon or attach to the license a certificate showing:

1. The fact, time and place of solemnization; and
2. The names and places of residence of one or more witnesses to the ceremony.
3. A statement of the official position of the person solemnizing the marriage, or of the denomination of which said person is a priest or minister. [Amendment approved May 3, 1919; Stats. 1919, p. 156.]

§ 137. Action for permanent support of wife. When an action for divorce is pending, the court may, in its discretion, require the husband to pay as alimony any money necessary to enable the wife to support herself and her children, or to prosecute or defend the action. When the husband willfully deserts the wife or when the husband willfully fails to provide for the wife or when the wife has any cause of action for divorce as provided in section ninety-two of this code, she may, without applying for divorce, maintain in the superior court an action against him for permanent support and maintenance of herself or of herself and children. During the pendency of such action the court may, in its discretion, require the husband to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the wife permanent support and maintenance of herself, or of herself and children, in any such action, shall make the same disposition of the community property and of the homestead, if any, as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court. [Amendment approved April 5, 1917; Stats. 1917, p. 35.]

§ 164. What is community property. All other property acquired after marriage by either husband or wife, or both, including real property situated in this state, and personal property wherever situated, acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while domiciled in this state, is community property; but wherever any property is conveyed to a married woman by an instrument in writing, the presumption is that the title is thereby vested in her as her separate property. And in case the conveyance is to such married woman and to her husband, or to her and any other person, the presumption is that the

married woman takes the part conveyed to her, as tenant in common, unless a different intention is expressed in the instrument, and the presumption in this section mentioned is conclusive in favor of a purchaser or encumbrancer in good faith and for a valuable consideration. And in cases where married women have conveyed, or shall hereafter convey, real property which they acquired prior to May nineteenth, one thousand eight hundred eighty-nine, the husband, or their heirs or assigns, of such married women, shall be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property, as follows: As to conveyances heretofore made, from and after one year from the date of the taking effect of this act; and as to conveyances hereafter made, from and after one year from the filing for record in the recorder's office of such conveyances, respectively. [Amendment approved May 23, 1917; Stats. 1917, p. 827.]

§ 172. Management of community personal property. The husband has the management and control of the community personal property, with like absolute power of disposition, other than testamentary, as he has of his separate estate; provided, however, that he cannot make a gift of such community personal property, or dispose of the same without a valuable consideration, or sell, convey, or encumber the furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the wife or minor children that is community, without the written consent of the wife. [Amendment approved May 23, 1917; Stats. 1917, p. 829.]

§ 172a. Management of community real property. The husband has the management and control of the community real property, but the wife must join with him in executing any instrument by which such community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered; provided, however, that the sole lease, contract, mortgage or deed of the husband, holding the record title to community real property, to a lessee, purchaser or encumbrancer, in good faith without knowledge of the marriage relation shall be presumed to be valid; but no action to avoid such instrument shall be commenced after the expiration of one year from the filing for record of such instrument in the recorder's office in the county in which the land is situate. [New section added May 23, 1917; Stats. 1917, p. 829.]

§ 172b. Permit to sell, etc., community property if husband or wife insane. Where real property is held as community property, and either the husband or wife has been adjudged insane, the husband or wife not insane may petition the superior court of the county in which such community real property is situated for an order permitting the husband or wife, not insane, to sell and convey, mortgage or lease, such community real property to raise moneys to provide for the support and care either of the sane or insane spouse, or of their minor children, and also to raise moneys for the payment of the necessary taxes, interest and other charges incurred and required to be paid for the protection and preservation of the community estate. Such petition must be subscribed and sworn to by the applicant, setting forth the name and age of the insane husband or wife; a description of the premises constituting the community real property petitioned to be sold, mortgaged, or leased; the value of same; the county in which it is situated; and such facts, in addition to the insanity of the husband or wife, relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition. [New section added May 27, 1919; Stats. 1919, p. 1284.]

§ 172c. Notice of application for permit. Notice of the application for such order must be given by publication of the same, in a newspaper published in the county in which such community real property is situated, if there is a newspaper published therein, once each week for three successive weeks, prior to the hearing of such application, and a copy of such notice must also be personally served upon the nearest relative of such insane husband or wife, resident in this state, at least three weeks prior to such application; and in case there is no such relative known to the applicant, a copy of such notice must be so served upon the public administrator of the county in which such community real property is situated; and in such case it is the duty of such public administrator to appear and represent the interests of such insane person. For all such services rendered by the public administrator he must be allowed a reasonable fee, to be fixed by the court, and the same must be taxed as costs against the person making application for the order herein provided for. [New section added May 27, 1919; Stats. 1919, p. 1284.]

§ 172d. Validity of sale, etc. If it appears to the court that such husband or wife has been adjudged insane, the court may make an order permitting the husband or wife, not insane,

to sell and convey, or mortgage or lease such community real property, and thereafter any sale, conveyance, mortgage or lease, made in pursuance of such order is as valid and effectual as if the property affected thereby was the absolute property of the person making such sale, conveyance, mortgage or lease. If a sale is ordered it must be reported to and confirmed by the court. [New section added May 27, 1919; Stats. 1919, p. 1285.]

§ 224. Consent to adoption of children. Father or mother deprived of control of child. Father or mother declared insane. Deserted child. Child relinquished for purpose of adoption. Child in orphan asylum. A legitimate child cannot be adopted without the consent of its parents if living, nor an illegitimate child without the consent of its mother if living, except that consent is not necessary in the following cases, to wit:

1. From a father or mother if deprived of civil rights.
2. From a father or mother adjudged guilty of adultery or cruelty and for either cause divorced.

3. From a father or mother who has been judicially deprived of the custody and control of such child on the ground of abandonment, cruelty, neglect or habitual intemperance, either by order of the juvenile court declaring said child to be free from the custody and control of its parents as provided in the juvenile court law of the state of California, approved June 5, 1915, and any act or acts superseding or amending same, or by order of the juvenile court of the county, where such child was left in the care and custody of another by its parent or parents, without any provisions for its support, for the period of one year, determining such child to be an abandoned child as defined in said juvenile court law; provided, however, that said juvenile court shall never make such order of abandonment without first giving notice of said abandonment proceeding by personal service of citation or other court process on the parent or parents or person having the custody of such child residing within the state, if their residence is known, and also such other or further notice to said parent or parents or person having the custody of such child, or other person or persons as the court may require, or by order of any other court of competent jurisdiction.

4. From a father or mother who has been declared either feeble-minded or insane by the state commission in lunacy or by three competent persons appointed by said commission; provided, that if so declared insane, said father or mother shall have subsequently been determined to be incurably insane by the superior court of the county where he or she resides.

From a father or mother of any child deserted by its parents without provision for their identification:

From a father or mother of any child relinquished by its parent or parents for the purpose of adoption expressed in writing signed and acknowledged by such parent or parents before an officer authorized to take acknowledgments, or signed by such parent or parents before two subscribing witnesses and acknowledged by such parent or parents before the secretary of any organization or society engaged in the work of placing dependent or deserted children into homes in this state, which organization or society has obtained a permit therefor, duly executed in writing, from the state board of charities and corrections, and when a copy of this relinquishment shall have been filed with the state board of charities and corrections prior to the commencement of any adoption proceedings affecting such child.

Any child, the consent of whose parents is not necessary for its adoption within the meaning of this section maintained by or in the custody of any orphan asylum within this state, any charitable organization or society receiving state aid or receiving commitments from the juvenile court, may be adopted with the consent of the president of such orphan asylum, charitable organization or society, or with the consent of such officer as may be authorized by the directors or managers of such asylum, organization or society to consent to adoption in such cases. Any orphan child for whose support no provision has been made by any person for a period of one year, but who has been maintained during said year, by or in the custody of any orphan asylum within this state, any charitable organization or society receiving state aid or receiving commitments from the juvenile court may be adopted with the consent of the president of such orphan asylum, charitable organization or society or with the consent of such officer as may be authorized by the directors or managers of such asylum, organization or society to consent to adoption in such cases. [Amendment approved May 19, 1917; Stats. 1917, p. 770.]

§ 242. Appointment by will or deed of guardian. A guardian of the person or estate, or of both, of an insane or incompetent person may be appointed by will or deed, to take effect upon the death of the person appointing:

1. If the insane or incompetent person be unmarried, or be a person whose marriage has been annulled or dissolved by death or divorce, by the father, with the written consent of the mother, or by either parent if the other be dead or incapable of consent.

2. If the insane or incompetent person be married and a person whose marriage has not been annulled or dissolved by divorce, then by the spouse. [New section added May 17, 1917; Stats. 1917, p. 645.]

§ 290a. Certificate of approval of superintendent of banks. Before any corporation, authorized in its articles of incorporation to conduct the business of acting as executor, administrator, guardian of estates, assignee, receiver, depository, or trustee under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, or to engage in the business of banking, or of receiving the money of others on deposit, may file with the secretary of state a certified copy of its articles of incorporation, or of a certificate of extension of its term of existence, or of a certificate increasing or decreasing the number of its directors, or of a certificate increasing or decreasing its capital stock, or of its amended articles of incorporation, or of its articles of incorporation and consolidation, there must be attached thereto the certificate of approval of the superintendent of banks; provided, that this section shall not apply to any corporation authorized to engage in the business of receiving and holding in escrow money or its equivalent, pending investment in real estate or securities for or on account of its principal, or to act as trustee under deeds of trust given solely for the purpose of securing obligations for the repayment of money other than corporation bonds, nor shall such corporations be subject to the supervision of the superintendent of banks. [Amendment approved May 17, 1917; Stats. 1917, p. 621.]

§ 309. Limitations on directors of corporations. Liability. Pending rights not affected. Sec. 1. Unless they shall have been first permitted or authorized so to do by the commissioner of corporations, directors of corporations must not make dividends except from the surplus profits arising from the business thereof; nor must they create any debts beyond their subscribed capital stock; nor must they divide, withdraw, or pay to the stockholders, or any of them, any part of the capital stock, except as hereinafter provided, nor reduce or increase the capital stock, except as provided in section three hundred fifty-nine of this code. For a violation of the provisions of this section, the directors under whose administration the same may have happened (except those who may have caused their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen) are, in their individual or private capacity, jointly

and severally liable to the corporation, and to the creditors thereof, to the full amount of the capital stock so divided, withdrawn, paid out, or reduced or debt contracted. Nothing herein prohibits a division and distribution of the capital stock of any corporation which remains after the payment of all its debts, upon its dissolution, or the expiration of its term of existence.

Sec. 2. No right, cause of action, or liability now existing or any action or proceeding now pending, shall be affected by this act and such right, cause of action or liability may be enforced and such action or proceeding may be prosecuted in the same manner and with the same effect as if this act had not been passed; excepting only the liability of a director of a corporation heretofore incurred shall not exist in any case where all of the debts and liabilities of the corporation to creditors having been paid, the capital stock divided, withdrawn, or paid out constituted all of the capital stock of the corporation and the same was paid out, withdrawn, or divided with the consent of all of the stockholders to or among themselves. [Amendment approved May 18, 1917; Stats. 1917, p. 657.]

§ 321a. Change of principal place of business. Procedure. Every corporation that has been or may be created under the general laws of this state may change its principal place of business from one place to another in the same county, or from one city or county to another city or county within this state. Before such change is made, the consent in writing, of the holders of two-thirds of the capital stock of the corporation must be obtained and filed in its office; or if the corporation has no capital stock, then the consent in writing of two-thirds of the members thereof, must be obtained and filed in its office. When such consent is obtained and filed, notice of the intended removal or change must be published, at least once a week, for three successive weeks, in some newspaper published in the county, wherein said principal place of business is situated, if there is one published therein; if not, in a newspaper of an adjoining county, giving the name of the county or city where it is situated and that to which it is intended to remove it. Whenever any such change is made, a copy of the resolution or action of the board of directors authorizing the same together with a copy of an affidavit of the publication above required, all duly certified by the president and secretary of the corporation with the corporate seal affixed shall be filed in each office where the original articles of incorporation are, or any copy thereof is required to be filed. This section shall

not be construed to require such consent, notice or publication in the case of any such removal from one location to another in the same city, town or village. [Amendment approved May 5, 1917; Stats. 1917, p. 252.]

§ 321c. Voting trust agreements in marketing corporations. Nothing contained in this article shall prevent the execution of valid pooling or voting trust agreements by the stockholders of a corporation organized for the purpose of marketing agricultural products, and the principal business of which is the preparation for and the marketing of such products, the majority of the stock of which is owned by producers of such products; and it shall be lawful for any number of the owners of the capital stock of such corporation, in order to prevent the capital stock thereof from being controlled by interests hostile to such producers and to secure safe and prudent management of the corporation in the interests of the whole number of its stockholders, to enter into agreements with each other by which, for a definite period of time stated therein, the capital stock of such corporation owned by them shall be voted as the owners of a majority of the stock represented by such agreement shall direct from time to time, or to enter into agreements by which the stock to which they shall be entitled shall be issued to trustees selected from among the signers to be held and voted by such trustees for the period specified in and in accordance with the terms of said agreement, and the mutual promises of the several signers of any such agreement shall be sufficient consideration for the making thereof. [New section approved April 21, 1919; Stats. 1919, p. 123.]

§ 322. Liability of stockholders in corporations. Stockholders of corporations shall be liable for the payment of corporate debts and liabilities as follows:

1. **Corporations not limited.** Each stockholder of a corporation, other than a corporation hereafter organized under the laws of this state which shall adopt and use as the last word of its corporate name the word "Limited," or its abbreviation, "Ltd.," is individually and personally liable for such proportion of all its debts and liabilities contracted or incurred during the time he was a stockholder as the amount of stock or shares owned by him at the time the debt or liability was incurred bears to the whole of the subscribed capital stock or shares of the corporation; and such liability is not released by any subsequent transfer of stock. If any stockholder pays his proportion of any debt due from the corporation, incurred while he was such stock-

holder, he is relieved from any further personal liability for such debt; and if an action has been brought against him upon such debt, it must be dismissed as to him upon his paying the costs or such proportion thereof as may be properly chargeable against him.

2. Corporation without capital stock. In a corporation having no capital stock, each member is individually and personally liable for an equal share of its debts and liabilities.

3. "Limited" corporation. In a corporation hereafter organized under the laws of this state, having a capital stock, and which shall adopt and use as the last word of its corporate name, the word "Limited," or its abbreviation, "Ltd.," if its subscribed and issued shares have not been fully paid, in money paid, labor done, or property actually received by the corporation, and the capital paid in shall be insufficient to satisfy its debts and obligations, each stockholder shall be liable to the creditors of the corporation for an amount equal to that not paid up on the shares held by him, or such proportion of that sum as shall be required to satisfy such debts and obligations; provided, that no judgment upon such liability shall be satisfied out of the property of such stockholder until judgment upon the debt or obligation upon which such liability is founded shall have been first entered against the corporation, and an execution thereon shall have been returned unsatisfied in whole or in part; and the enforcement of any judgment against the stockholder, and of any execution levied thereunder, shall be stayed until such return shall have been made. Any stockholder in such corporation who shall pay any debt or obligation for which he is made liable by the provisions of this subdivision of this section, may recover the amount so paid in an action against the corporation, in which action only the property of the corporation shall be taken in satisfaction of any judgment obtained therein, and not the property of any stockholder. Any amount so paid by such stockholder, and not repaid to him by the corporation or recovered in such action, shall be considered as having been paid on his shares.

4. Foreign corporation. Joint or several actions by creditor. Application of "stockholder" and "member." Trust funds. The liability of each stockholder of a corporation formed under the laws of any other state or territory of the United States, or of any foreign country, and doing business within this state, is the same as the liability of a stockholder of a corporation created under the constitution and laws of this state.

Any creditor of a corporation may commence joint or several actions against any of its stockholders or members for the amount or proportion of his claim payable by each; and in such action the court must ascertain the amount or the proportion of the claim or debt for which each defendant is liable, and a several judgment must be rendered against each, in conformity therewith. The terms "stockholder" and "member," as used in this section, applies not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock or of a membership, although the same appears on the books in the name of another; and also to every person who has advanced the installments or purchase money of stock or a membership in the name of a minor, so long as the latter remains a minor; and also to every guardian, or other trustee, who voluntarily invests any trust funds in the stock or membership. Trust funds in the hands of a guardian, or trustee, are not liable under the provisions of this section by reason of any such investment; nor must the person for whose benefit the investment is made be responsible in respect to the stock until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment continues until that period. Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, except in the cases above mentioned, so as to charge him with any proportion of the debts or liabilities of the corporation; but the pledgor, or person or estate represented, is to be deemed the stockholder, as respects such liability.

The act amending § 322 of the Civil Code also contained the following provision:

§ 2. In effect when. This act shall take effect and be in force upon the approval and ratification by the people of an amendment to section three of article twelve of the constitution of this state submitted by the forty-second session of the legislature to the people; and if such amendment so submitted shall not be so approved and ratified, this act shall thereafter be void. [Amendment approved May 21, 1917; Stats. 1917, p. 786.]

The constitutional amendment referred to in section 2 of the above amendment was not adopted, so the amendment never took effect.

§ 331a. Trustee not liable for assessments on stock. Whenever shares of the capital stock of any corporation stands in
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the name of a trustee with the names of the beneficiaries of the trust disclosed thereon or whenever the corporation has notice that any of its shares of stock is held in trust, and has a list of the names of the beneficiaries of such trust, even though the certificate representing said shares is issued in the name of the trustee individually, and without any notice thereon of such trust, the person holding such stock as trustee shall not be personally liable for assessments made or levied by the corporation upon such stock, but such personal liability for stock assessments shall only be upon and against the beneficial owners of such stock or the beneficiaries of the trust of which such stock may constitute a part. [New section added May 7, 1919; Stats. 1919, p. 356.]

§ 361. Changing number of directors of corporations. Any corporation or association may increase or diminish the number of its directors or trustees by the vote or written assent of stockholders representing a majority of its subscribed capital stock, or, if it has no capital stock, by the vote or written assent of a majority of the members. A certificate over the corporate seal, setting forth the action taken by the stockholders, or members, and stating the new number of directors, shall be signed by the president and secretary of such corporation or association, and filed in the office of the county clerk of the county where its original articles of incorporation were filed, and a copy of said certificate, certified by such county clerk, shall be filed in the office of the secretary of state, whereupon the number of directors or trustees shall be changed as stated in said certificate. This section shall apply to all corporations existing under the laws of the state of California, whether organized and incorporated prior to the enactment of this code, or subsequent thereto. [Amendment approved May 10, 1917; Stats. 1917, p. 327.]

§ 377. Records required to be kept by corporations. All corporations for profit are required to keep a record of all their business transactions; a journal of all meetings of their directors, members, or stockholders, with the time and place of holding the same, whether regular or special, and if special, its object, how authorized, and the notice thereof given. The record must embrace every act done or ordered to be done; who were present, and who absent; and, if requested by any director, member, or stockholder, the time shall be noted when he entered the meeting or obtained leave of absence therefrom. On a similar request, the ayes and noes must be taken on any proposition, and a record thereof made. On similar request, the protest of any director, member, or stockholder, to any

action or proposed action, must be entered in full. Such records shall be open to the inspection of any legislative committee, board, commission, or officer of the state of California whose duty it is to inspect or examine the same, and of any director, member, or bona fide stockholder thereof; provided, however, the board of directors may, by unanimous vote, deny such examination or inspection to a stockholder who demands the same with intent to use to the injury of the corporation the information to be acquired thereby, and a satisfactory showing of such intent shall be a complete defense to any action or proceeding brought by any such person to compel the officers of any such corporation to submit any of such records for his inspection or examination. [Amendment approved May 31, 1917; Stats. 1917, p. 1407.]

§ 378. Stock and transfer books. In addition to the records required to be kept by the preceding section, corporations for profit must keep a book, to be known as the "stock and transfer book," in which must be kept a record of all stock; the names of the stockholders or members, alphabetically arranged; installments paid or unpaid; assessments levied and paid or unpaid; a statement of every alienation, sale, or transfer of stock made, the date thereof, and by and to whom; and all such other records as the by-laws prescribe. Corporations for religious and benevolent purposes must provide in their by-laws for such records to be kept as may be necessary. Such stock and transfer book shall be open to the inspection of any officer, bona fide stockholder, member, or creditor of the corporation. [Amendment approved May 31, 1917; Stats. 1917, p. 1407.]

§ 400. Directors of corporation are trustees of creditors. Unless other persons are appointed by the court, the directors or managers of the affairs of a corporation at the time of its dissolution are trustees of the creditors and stockholders or members of the corporation dissolved, and have full powers to settle the affairs of the corporation, collect and pay outstanding debts, sell the assets thereof in such manner as the court shall direct, and distribute the proceeds of such sales and all other assets to the stockholders. Such trustees shall have authority to sue for and recover the debts and property of the corporation, and shall be jointly and severally personally liable to its creditors and stockholders or members, to the extent of its property and effects that shall come into their hands. Death, resignation or failure or inability to act shall constitute a vacancy in the position of trustee, which vacancy shall be filled by appointment by the superior court upon petition of any person or creditor interested in the property of such

corporation. Such trustees may be sued in any court in this state by any person having a claim against such corporation or its property. Trustees of corporations heretofore dissolved or whose charters have heretofore been forfeited by law shall have and discharge in the same manner and under the same obligations, all the powers and duties herein prescribed. Vacancies in the office of trustees of such corporations shall be filled as hereinbefore provided. [Amendment approved May 11, 1917; Stats. 1917, p. 380.]

§ 405. Designation of person upon whom process may be served. Service on secretary of state, when valid. [Repealed 1917; Stats. 1917, p. 381.]

Designation of person upon whom service may be had. See post, Act 756.

§ 406. Foreign corporations, statute of limitations in favor of. Proof of corporate existence. Change of designation. [Repealed 1917; Stats. 1917, p. 381.]

§ 408. Foreign corporations to file certified copies of articles of incorporation. [Repealed 1917; Stats. 1917, p. 381.]

Filing copies of articles. See post, Act 756.

§ 409. Foreign corporations, fees to be paid by on filing certified copies of articles of incorporation. [Repealed 1917; Stats. 1917, p. 381.]

Fees to be paid by. See post, Act 756.

§ 410. Foreign corporations failing to comply with law. [Repealed 1917; Stats. 1917, p. 381.]

Failure to comply with law. See post, Act 756.

§ 421. Legal investments of insurance companies. Corporations organized under the laws of this state for the transaction of any kind of insurance business authorized by such laws may invest their capital, surplus and accumulations in the purchase of, or loans upon any of the securities specified in subdivisions one to five inclusive of this section.

1. **U. S. bonds.** Bonds or interest-bearing notes or obligations of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

2. **State bonds.** Bonds of this state or those for which the faith and credit of the state of California are pledged for the payment of principal and interest and bonds of any other state

in the United States that has not, within five years next preceding such investment by such insurance company, defaulted in payment of any part of either principal or interest due upon any legally authorized bond issue.

3. County, etc., bonds. Bonds or interest-bearing notes or obligations issued under authority of law by any county, municipality or school district in this state, or in any other state or territory of the United States; provided, that said county, municipality or school district or the state or territory in which it is located has not, within two years next preceding such investment by such insurance company, defaulted in payment of any part of either principal or interest due upon any legally authorized bond issue.

4. Road division, etc., bonds. Bonds of any permanent road division in this state, and any irrigation district bonds which the law may now or hereafter authorize as legal investments for insurance companies; provided, that the total amount of bonds issued by any such irrigation district does not exceed sixty per centum of the aggregate market value of the lands within such district, and of the water, water rights, canals, reservoirs, reservoir sites and irrigation works owned or to be acquired or constructed with the proceeds of any such bonds, by such district, such facts in reference to bonds of irrigation districts to be determined by a commission now or hereafter authorized by law to ascertain and report upon such facts.

5. First mortgage notes. (a) Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the principal so loaned or the entire note or bond issue so secured shall not exceed sixty per centum of the market value of such real estate, or of such real estate with improvements taken as security at the date of investment; provided, also, in case said loan is made, or said note or bond issue created for a building loan on real estate, that at no time shall the principal so loaned or the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security; or

(b) **Notes guaranteed by policy of mortgage insurance.** Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of chapter eight of title two of part four of division first of the Civil Code; provided, that no insurance corporation shall make any investment in any of the securities specified in subdi-

visions one, two, three, four and five of this section in an amount exceeding the market value of such security, at the date of such investment.

6. Investment of balance of capital. Record of investment. Corporations organized for and engaged in the business of fire, life or marine insurance, may, after the investment of two hundred thousand dollars, and corporations organized for and engaged in the business of transacting any other kind of insurance authorized by law, except mortgage insurance, may also, after the investment of one hundred thousand dollars in any of the securities specified in subdivisions one, two, three, four and five of this section, invest the balance of their capital, surplus and any accumulations in the purchase of or loans upon the stock of any corporation (except a mining corporation) organized and carrying on business under the laws of this state, or the laws of the United States, which stocks have, at the date of such investment, a market value of not less than their paid-in value, or in the purchase of, or loans upon, interest-bearing bonds issued by a corporation organized under the laws of any state or territory in the United States, which corporation has not, within five years next preceding the date of such investment, defaulted in payment of any part of either principal or interest of any bond of the issue of which the bonds which comprise such investment form a part, and which stocks or bonds must, in each case, be rated as first-class securities; provided, that any investment made, under the provisions of this subdivision of this section shall be approved by vote of two-thirds of all the directors of the investing corporation. Such approval shall be entered upon the records or minutes of such corporation. Such entry must show the fact of making such investment, the amount thereof, the name of each director voting to approve the same, the amount, character and value of the security purchased or taken as collateral, and if the investment be a loan, the name of the borrower, the rate of interest thereon, and the date when the loan will become due or payable. It shall be the duty of the secretary of any such investing corporation to report in writing during the months of January and July of each year to the insurance commissioner, the data above set forth respecting each such investment, and the insurance commissioner may, if any such investment is not approved by him, require the corporation to sell or dispose of the same.

7. Policy loans. Life insurance companies may also loan upon their own policies; provided, that the amount so loaned upon each policy shall not exceed the reserve against said policy at the time said loan is made; provided, further, that

no policy loans whatever shall ever be used as security which may be deposited with the insurance commissioner under section six hundred thirty-four of the Political Code; and provided, further, that whenever any such loan in any amount is made on a policy registered with the insurance commissioner under said section six hundred thirty-four of the Political Code, such registration shall be forthwith canceled.

8. Securities issued in foreign country. Any insurance company of this state doing business in any foreign country may invest so much of its funds as are required to meet its obligation incurred in such foreign country and in conformity to the laws thereof, in the same kind of securities issued in such foreign country that such company is by law allowed to invest in this state, and subject to the limitations imposed by law in this state. [Amendment approved May 28, 1917; Stats. 1917, p. 976.]

§ 453e. Corporations for insurance on assessment plan. Investment in bonds. Certificate of insurance commissioner. Corporations may be formed to carry on the business of mutual insurance upon the assessment plan, and are subject only to the provisions of this chapter. No such corporation may issue contracts of insurance until at least five hundred persons have applied, in writing, to the insurance commissioner, for membership or insurance therein, and have paid to the treasurer of such corporation the sum of twenty-five thousand dollars. This sum must be invested in bonds or securities, approved by the insurance commissioner of this state, or deposited in some bank in this state where it will earn interest. Said bonds or securities, or evidence of such deposit, must be placed, through the insurance commissioner of this state, with the state treasurer, and the principal sum must be held in trust for the contract holders of such corporation, with the right in the corporation to exchange said bonds, securities, or evidence of bank deposit for others of like value. Such corporation must also, as a condition precedent to issuing any contracts of insurance, obtain the written certificate of the insurance commissioner that it has complied with the requirements of this chapter; and that the name of the corporation is not the same as that of any other corporation of this or other states, as indicated by the insurance department reports in his office; nor must the commissioner approve any name or title so closely resembling another as to mislead the public. No corporation formed hereunder has legal existence after one year from the date of its articles, unless its organization has been completed and business commenced; nor shall

any corporation or individual solicit, or cause to be solicited, any business, until such corporation has complied with the provisions of section six hundred thirty-three of the Political Code. Nothing contained in this chapter shall be construed to exempt any corporation from the provisions of sections two hundred ninety-six and two hundred ninety-nine of this code. [Amendment approved May 26, 1917; Stats. 1917, p. 955.]

§ 594. Incorporation of associations having no fixed place of business. Any association of this state mentioned in title twelve of part four of division first of the Civil Code made up of constituent or member clubs, or other subordinate bodies, having a common periodical or occasional convention or other general assemblage whether, of members or delegates, and operating on the federation plan, whether state, district or otherwise, or having no fixed meeting place for such assemblages, or having no fixed office or principal place of business in any one county or city and county or for the meetings of its agencies or committees or officers, and which association determines such place or places from time to time through its agencies and according to its rules and customs, may incorporate under the provisions of said title for purposes other than profit and without capital stock. The articles of incorporation upon there being therein stated any of the matters hereinabove mentioned inconsistent with any part or parts of section two hundred ninety of the Civil Code need not make, as to such inconsistent matters, the statements required by said section; but such articles shall be governed otherwise by said section and the rules of section six hundred three of said code as it now stands, except that the same officers who acted as such at the meeting authorizing the incorporation shall be the ones to execute the articles and that the word incorporation is to be deemed substituted for the word authority where the latter is used in said section; and provided, further, that it shall be immaterial whether such authorization is made after or before this section goes into effect if the proceedings show it to have been made in view thereof; and, further, that such articles of incorporation, shall set forth a means whereby its office and constitutional principal place of business, which must be in this state, as it exists from time to time, may be ascertained; or must state that same shall be provided by constitution or by-law; and, until such provision is otherwise made, said place shall be the place of business, or if none such the residence, from time to time, in this state of the chief executive officer of the corporation. [New section added May 23, 1917; Stats. 1917, p. 830.]

§ 604a. Formation of religious corporations. Directors. Attesting of certificate of incorporation. Powers. For the administration of the temporalities, and for the management of the property and estate of any church, diocese, synod, or district or other organization of such church, or for the administration of the temporalities, and for the management of the property and estate of any religious society or order, community, or other organization of said religious society or order, any church, diocese, synod or other organization of such church, or any community or other council, or other organization of any such religious society or order, or of any community or other organization of such religious society or order, may elect directors and become an incorporation in the manner prescribed in this title, and with all the powers and duties and for the uses and purposes in this title provided for benevolent or religious incorporations, and subject to all the limitations and provisions in said title prescribed, except as otherwise provided in this section; provided, that directors of any such incorporation may be elected and by-laws for its government may be made and amended in accordance with the constitution, by-laws, discipline, rules and regulations of such church, diocese, synod, or district or other organization of such church, or in accordance with the constitution, by-laws, discipline, rules and regulations of such religious society or order, or of any community, or other organization of such religious society or order, at any meeting; and provided, the certificate of incorporation and of the election of directors to be filed shall be sufficiently attested by the signatures of the presiding officer, president, or other head, and acting secretary of such church, diocese, synod, or other organization of such church, or of the community or other council or other organization of such society or order, and that the limitations of section five hundred ninety-five shall not apply to such corporations heretofore organized or formed, or hereafter organized under this section when land is held or used for churches, hospitals, schools, colleges, asylums, or parsonages. Every such corporation heretofore organized or formed, or hereafter organized pursuant to the provisions of this section shall have power to contract in the same manner and to the same extent as a natural person, and may sue and be sued, and may defend in all courts and places in all matters and proceedings whatsoever and shall have authority to borrow money, give promissory notes therefor, and secure the payment thereof by mortgage or other lien upon property real or personal, and may buy, sell, lease, mortgage and deal in real and personal property in the same manner that a natural person may, subject,

however, to the provisions of section five hundred ninety-eight of this code; and may receive bequests and devises for its own use, or upon trusts, to the same extent as a natural person, subject, however, to the provisions of section one thousand three hundred thirteen of the Civil Code of the State of California and may appoint attorneys in fact. [Amendment approved May 21, 1917; Stats. 1917, p. 784.]

§ 638. Security for loans. Interest. For every loan made a note or obligation, expressing and setting forth the exact rate of interest, must be executed by the borrower, secured by a first mortgage or deed of trust upon unencumbered real estate having an appraised value of not less than twenty-five per cent in excess of the face of the loan, except such loans as may be made upon the security of bonds specified in section six hundred forty-seven; or in lieu of a mortgage or deed of trust, loans to the extent of not exceeding ninety per cent of the then withdrawable value, may be made upon the pledge of free shares or certificates as security for their repayment. The board of directors may from time to time fix the rate of interest to be charged on loans. A borrower may at any time repay his loan together with interest or arrears due thereon and upon the surrender of the shares, or certificate pledged as security therefor. [Amendment approved May 19, 1917; Stats. 1917, p. 780.]

§ 647a. Consolidation of building and loan associations. Consent of shareholders. Approval. Any two or more building and loan associations may unite and become incorporated in one body, with or without any dissolution or division of the funds of either of them; or any such corporation, association or society may transfer its engagements, funds and property to any other like corporation, association or society upon such terms as may be agreed by an unanimous vote of their respective boards of directors, ratified by the written consent of the shareholders holding more than two-thirds of the shares in force in each of the respective contracting associations; provided, however, that any such consolidation or transfer must also be approved by the official or officials vested by law with powers of state supervision and license. [New section approved April 8, 1919; Stats. 1919, p. 37.]

§ 715. Restraints upon alienation. Except in the single case mentioned in section seven hundred seventy-two, the absolute power of alienation cannot be suspended, by any limitation or condition whatever, for a longer period than as follows:

1. During the continuance of the lives of persons in being at the creation of the limitation or condition; or

2. For a period not to exceed twenty-five years from the time of the creation of the suspension. [Amendment approved May 18, 1917; Stats. 1917, p. 699.]

§ 718. Period of lease of city lots. Property of minor or incompetent. Tide-lands. Purposes for which tide-lands may be leased. No lease or grant of any town or city lot for a longer period than ninety-nine years, in which shall be reserved any rent or service of any kind, shall be valid; provided, that the property of any municipality, or any minor or incompetent person, shall not be leased for a longer period than ten years, excepting that the sewer farm of a municipality and all waters and sewage used or discharged thereon may be leased for a period not exceeding twenty-five years; and excepting that the tide-lands and submerged lands granted to any city by the state, or any lands belonging to such city adjacent to such tide-lands and submerged lands, may be leased for a period not exceeding forty years if the grant from the state of California of the use of said tide-lands and submerged lands does not provide specifically for a term of years for which said lands may be leased. Said tide-lands and submerged lands and lands adjacent thereto can only be leased for industrial uses, the purpose of improvement and development of the harbor of said city, and the construction and maintenance of wharves, docks, piers or bulkhead piers or for other public uses and purposes consistent with the requirements of commerce or navigation at said harbor. [Amendment approved May 21, 1917; Stats. 1917, p. 798.]

§ 1207. Defectively acknowledged deeds, etc., validated. Any instrument affecting the title to real property, including any instrument executed by a married woman on or after the first day of July, 1891, which was, previous to the first day of January, 1919, copied into the proper book of record, kept in the office of any county recorder, imparts, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein affects the rights of purchasers or encumbrancers previous to the taking effect of this act. Duly certified copies of the record of any such instrument may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded; provided, when such copying in the proper book of record occurred within fifteen years

prior to the trial of the action, it is shown first that the original instrument was genuine. [Amendment approved May 5, 1919; Stats. 1919, p. 244.]

§ 1271. Consent to dispose of property by will. Either husband or wife may, by will, dispose of his or her half of the community property by and with the consent of the other, which consent must be in writing upon or attached to the will; but either spouse may, without the consent of the other, make such testamentary disposition in favor of the other spouse or of the lineal descendants of the testator. [New section added May 27, 1919; Stats. 1919, p. 1275.]

Sections 1271, 1401, 1402 and 1402a of the Civil Code, constituting chapter 611 of the Laws of 1919 (Stats. 1919, p. 1274), were delayed from going into effect by a referendum petition filed with the Secretary of State. They will be voted on at the next general election in November, 1920, or at any special election which may be called by the Governor.

§ 1300. Effect of marriage of woman on her will. If, after making a will, the testatrix marries, and the husband survives the testatrix, the will is revoked, unless provision has been made for him by marriage contract, or unless he is provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation can be received. [Amendment approved May 27, 1919; Stats. 1919, p. 1239.]

§ 1300a. Revocation by marriage and birth of issue. If, after making a will, the testatrix marries, and has issue of said marriage, born either in her life time or after her death, and the husband or issue survives her, the will is revoked, unless provision has been made for such issue by some settlement, or unless such issue are provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received. [New section added May 27, 1919; Stats. 1919, p. 1240.]

§ 1313. Restriction on devise for charitable uses. Exceptions. No estate, real or personal, shall be bequeathed or devised to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by will duly executed at least thirty days before the decease of the testator; and if so made at least thirty days prior to such death, such devise or legacy and each of them shall be valid; provided, that no such devise or bequest shall collectively exceed one-third of the estate of the testator,

leaving legal heirs, and in such case a pro rata deduction from such devises or bequests shall be made so as to reduce the aggregate thereof to one-third of such estate; and all dispositions of property made contrary hereto shall be void, and go to the residuary legatee or devisee, next of kin, or heirs, according to law; and provided, further, that bequests and devises to the state, or to any state institution, or for the use or benefit of the state or any state institution, or to any educational institution which is exempt from taxation under section one *a* of article thirteen of the constitution of the state of California, or for the use or benefit of any such educational institution, are excepted from the restrictions of this section; provided, however, that nothing in this section contained shall apply to bequests or devises made by will executed at least six months prior to the death of a testator who leaves no parent, husband, wife, child or grandchild, or when all of such heirs shall have by writing, executed at least six months prior to his death, waived the restriction contained herein. [Amendment approved May 5, 1919; Stats. 1919, p. 324.]

This section was also amended in 1917 (Stats. 1917, p. 272). The amendment of 1917 read as follows:

§ 1313. No estate, real or personal, shall be bequeathed or devised to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by will duly executed at least thirty days before the decease of the testator; and if so made at least thirty days prior to such death, such devise or legacy and each of them shall be valid; provided, that no such devise or bequest shall collectively exceed one-third of the estate of the testator, leaving legal heirs, and in such case a pro rata deduction from such devises or bequests shall be made so as to reduce the aggregate thereof to one-third of such estate; and all dispositions of property made contrary hereto shall be void, and go to the residuary legatee or devisee, next of kin, or heirs, according to law; and provided, further, that bequests and devises to the state, or to any state institution, or for the use or benefit of the state or any state institution, are excepted from the restrictions of this section.

§ 1401. **One-half of community subject to testamentary disposition of wife.** Upon the death of the wife, one-half of the community property belongs to the surviving husband, and the other half is subject to the testamentary disposition of the wife, subject, however, to the provisions of section one thousand two hundred seventy-one of the Civil Code; and in the absence of such testamentary disposition, the entire community property goes to the surviving husband without administration, except such portion thereof as may have been set apart to the wife by judicial decree for her support and maintenance, which portion is subject to her testamentary disposi-

tion, and in the absence of such disposition goes to her descendants or heirs, exclusive of her husband, and the fact of intestacy may be determined by proceedings under section one thousand seven hundred twenty-three of the Code of Civil Procedure. When the wife makes testamentary disposition of her interest in the community property, the entire community property is subject to the community debts, and the charges and expenses of administration. Prior to admission of any such will to probate, the husband shall continue in the management and control of the community property; after the admission of the will to probate, the court may and so far as the proper and advantageous administration of the estate will permit, must continue the management and control of the community property in the husband, who from time to time shall account to the estate for such management and control. [Amendment approved May 27, 1919; Stats. 1919, p. 1274.]

The going into effect of this section was delayed by the filing of a referendum petition. See note to § 1271.

§ 1402. One-half subject to testamentary disposition of husband. Upon the death of the husband, one-half of the community property belongs to the surviving wife, and the other half is subject to the testamentary disposition of the husband, subject, however, to the provisions of section one thousand two hundred seventy-one of the Civil Code, and in absence of such testamentary disposition, it all goes to the surviving wife upon administration. In case of the dissolution of the community by the death of the husband, the entire community property is equally subject to his debts, the family allowance and the charges and expenses of administration. [Amendment approved May 27, 1919; Stats. 1919, p. 1274.]

The going into effect of this section was delayed by the filing of a referendum petition. See note to § 1271.

§ 1402a. Share of surviving spouse exempt from inheritance tax, etc. The one-half of the community property which belongs to the surviving spouse shall not be subject to inheritance tax or be reckoned as part of the estate of the deceased spouse for the purpose of fixing the compensation of executors or administrators or fixing attorneys fees. [New section added May 27, 1919; Stats. 1919, p. 1275.]

The going into effect of this section was delayed by the filing of a referendum petition. See note to § 1271.

§ 1405. Escheat property. Recovery. Whenever any person dies leaving any property in this state not disposed of by

will, and there are no persons entitled to succeed thereto under the laws of this state, the same shall escheat to the state as of the date of the death of the decedent. The property or proceeds of any estate deposited in the state treasury after final decree of distribution or judgment of the superior court by reason of the failure of heirs to make claim thereto may be recovered upon judgment of the superior court or order of the state board of control as provided in the Code of Civil Procedure. [Amendment approved May 5, 1917; Stats. 1917, p. 255.]

§ 1861a. Liens of keepers of furnished apartment houses. Keepers of furnished apartment houses shall have a lien upon the baggage and other property of value belonging to their tenants or guests, which may be in such furnished apartment house, for the proper charges due from such tenants or guests, for their accommodation, rent, services, meals, and such extras as are furnished at their request, and for all moneys expended for them, at their request, and for the costs of enforcing such lien, with the right to the possession of such baggage and other property of value until such charges are paid, and such moneys are repaid; and unless such charges shall be paid and unless such moneys shall be repaid within sixty days from the time when such charges and moneys, respectively, become due, said keeper of a furnished apartment house may sell said baggage and property, at public auction to the highest bidder, after giving notice of such sale by publication of a notice containing the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of such sale, once every week, for four successive weeks, prior to the date of sale, in a newspaper of general circulation in the county in which said furnished apartment house is situated, and also by mailing, at least fifteen days prior to the date of sale, a copy of such notice addressed to such tenant or guest at his postoffice address, if known, and if not known, such notice shall be addressed to such tenant or guest at the place where such furnished apartment house is situated; and, after satisfying such lien out of the proceeds of such sale, together with any reasonable costs that may have been incurred in enforcing said lien, the residue of said proceeds of sale, if any, shall, upon demand made within six months after such sale, be paid by said keeper of a furnished apartment house to such tenant or guest; and if not demanded within six months from the date of such sale, said residue, if any, shall be paid into the treasury of the county in which such sale took place; and if the same be not claimed by the owner thereof, or his legal

representative, within one year thereafter, it shall be paid into the general fund of the county; and such sale shall be a perpetual bar to any action against said keeper of a furnished apartment house for the recovery of such baggage or property, or of the value thereof, or for any damages growing out of the failure of such tenant or guest to receive such baggage or property. [New section added June 1, 1917; Stats. 1917, p. 1662.]

§ 1917. Legal rate of interest. [Repealed by initiative act adopted November 5, 1918; Stats. 1919, p. lxxxiii.]

See post, Act 1675.

§ 1918. Parties may agree on any rate of interest. [Repealed by initiative act adopted November 5, 1918; Stats. 1919, p. lxxxiii.]

See post, Act 1675.

§ 1919. Interest becomes part of principal when. [Repealed by initiative act adopted November 5, 1918; Stats. 1919, p. lxxxiii.]

See post, Act 1675.

§ 1920. Interest on judgments. [Repealed by initiative act adopted November 5, 1918; Stats. 1919, p. lxxxiii.]

See post, Act 1675.

§ 1980. Contracts for service limited to five years. A contract to render personal service, other than a contract of apprenticeship, as provided in the chapter on master and servant, cannot be enforced against the employee beyond the term of five years from the commencement of service under it; but if the employee voluntarily continues his service under it beyond that time, the contract may be referred to as affording a presumptive measure of the compensation. [Amendment approved May 25, 1919; Stats. 1919, p. 1074.]

DIVISION III.

PART IV.

TITLE VII.

CHAPTER III.

ARTICLE III.

Bills of Lading.

- Subdivision I. Issue of bills of lading, §§ 2126-2126i.
 II. Obligation and rights of carriers upon their bills of lading, §§ 2127-2128k.
 III. Negotiation and transfer of bills, §§ 2129-2130g.
 IV. Criminal offenses, §§ 2131-2131f.
 V. Interpretation, § 2132-2132d.

SUBDIVISION I.

Issue of Bills of Lading.

- § 2126. Bills governed by this article.
 § 2126a. Form of bills. Essential terms.
 § 2126b. Form of bills. What terms may be inserted.
 § 2126c. Definition of non-negotiable or straight bill.
 § 2126d. Definition of negotiable or order bill.
 § 2126e. Negotiable bills must not be issued in sets.
 § 2126f. Duplicate negotiable bills must be so marked.
 § 2126g. Non-negotiable bills shall be so marked.
 § 2126h. Insertion of name of person to be notified.
 § 2126i. Acceptance of bill indicates assent to its terms.

§ 2126. Bills of lading. Bills of lading issued by any common carrier shall be governed by this article.

NOTE.—All of Article III of Chapter III of Title VII of Part IV of Division III of the Civil Code, containing §§ 2126 to 2132d, inclusive, and relating to bills of lading, was repealed by an act approved May 21, 1919 (Stats. 1919, p. 762), and a new Article III was adopted in its place. The new article adopted is what is known as the Uniform Bill of Lading Law. The repealing act contained the following clause (Stats. 1919, p. 775): "Nothing contained herein shall be construed as limiting in any way the powers of the railroad commission under the Public Utilities Act, or any re-enactment, revision or amendment thereof."

§ 2126a. Essential terms of bill of lading. Every bill must embody within its written or printed terms—

- (a) The date of its issue;
 (b) The name of the person from whom the goods have been received;

- (c) The place where the goods have been received;
- (d) The place to which the goods are to be transported;
- (e) A statement whether the goods received will be delivered to a specified person, or to the order of a specified person;
- (f) A description of the goods or of the packages containing them which may, however, be in such general terms as are referred to in section two thousand one hundred twenty-eight of this code; and
- (g) The signature of the carrier.

A negotiable bill shall have the words "order of" printed thereon immediately before the name of the person upon whose order the goods received are deliverable.

A carrier shall be liable to any person injured thereby for the damage caused by the omission from a negotiable bill of any of the provisions required in this section.

See note to § 2126.

§ 2126b. What terms may be inserted. A carrier may insert in a bill, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

- (a) Be contrary to law or public policy, or
- (b) In any wise impair his obligation to exercise at least that degree of care in the transportation and safekeeping of the goods intrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

See note to § 2126.

§ 2126c. Non-negotiable or straight bill. A bill in which it is stated that the goods are consigned or destined to a specified person, is a non-negotiable or straight bill.

See note to § 2126.

§ 2126d. Negotiable or order bill. A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill, is a negotiable or order bill.

Any provision in such a bill that it is non-negotiable shall not affect its negotiability within the meaning of this article.

See note to § 2126.

§ 2126e. Negotiable bills must not be issued in sets. Negotiable bills issued in this state for the transportation of goods to any place in the United States on the continent of North America, except Alaska, shall not be issued in parts or sets.

If so issued the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who pur-

chases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts.

See note to § 2126.

§ 2126f. Duplicate negotiable bills must be so marked. When more than one negotiable bill is issued in this state for the same goods to be transported to any place in the United States on the continent of North America, except Alaska, the word "duplicate" or some other word or words indicating that the document is not an original bill shall be placed plainly upon the face of every such bill, except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill.

See note to § 2126.

§ 2126g. Non-negotiable bills must be marked. A non-negotiable bill shall have placed plainly upon its face by the carrier issuing it "non-negotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgments of an informal character.

See note to § 2126.

§ 2126h. Insertion of name of person to be notified. The insertion in a negotiable bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill, or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

See note to § 2126.

§ 2126i. Acceptance of bill indicates assent to terms. Except as otherwise provided in this article where a consignor receives a bill and makes no objection to its terms or conditions at the time he receives it, neither the consignor nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provision of the bill, shall be allowed to deny that he is bound by such terms and conditions, so far as they are not contrary to law or public policy.

See note to § 2126.

SUBDIVISION II.

Obligations and Rights of Carriers upon Their Bills of Lading.

- § 2127. Obligation of carrier to deliver.
- § 2127a. Justification of carrier in delivering.
- § 2127b. Carrier's liability for misdelivery.
- § 2127c. Negotiable bills must be canceled when goods delivered.
- § 2127d. Negotiable bills must be canceled or marked when parts of goods delivered.
- § 2128. Altered bills.
- § 2128a. Lost or destroyed bills.
- § 2128b. Effect of duplicate bills.
- § 2128c. Carrier cannot set up title in himself.
- § 2128d. Interpleader of adverse claimants.
- § 2128e. Carrier has reasonable time to determine validity of claims.
- § 2128f. Adverse title is no defense, except as above provided.
- § 2128g. Liability for nonreceipt or misdescription of goods.
- § 2128h. Attachment or levy upon goods for which a negotiable bill has been issued.
- § 2128i. Creditor's remedies to reach negotiable bills.
- § 2128j. Negotiable bill must state charges for which lien is claimed.
- § 2128k. Effect of sale.

§ 2127. Obligation of carrier to deliver. A carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods, or if the bill is negotiable, by the holder thereof, if such demand is accompanied by—

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;

(b) An offer in good faith to surrender, properly indorsed, the bill which was issued for the goods if the bill is negotiable; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

See note to § 2126.

§ 2127a. Justification of carrier in delivering. A carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is—

(a) A person lawfully entitled to the possession of the goods, or

(b) The consignee named in a non-negotiable bill for the goods, or

(c) A person in possession of a negotiable bill for the goods by the terms of which the goods are deliverable to his order, or which has been indorsed to him or in blank by the consignee or by the mediate or immediate indorsee of the consignee.

See note to § 2126.

§ 2127b. Carrier's liability for misdelivery. Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

A request or information to be effective within the meaning of this section must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

See note to § 2126.

§ 2127c. Negotiable bills must be canceled upon delivery of goods. Except as provided in section two thousand one hundred twenty-eight *k* of this code, and except when compelled by legal process, if a carrier delivers goods for which a negotiable bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier, and notwithstanding delivery was made to the person entitled thereto.

See note to § 2126.

§ 2127d. When part of goods are delivered. Except as provided in section two thousand one hundred twenty-eight *k* of this code, and except when compelled by legal process, if a carrier delivers part of the goods for which a negotiable bill had been issued and fails either—

(a) To take up and cancel the bill, or

(b) To place plainly upon it a statement that a portion of the goods has been delivered, with a description, which may be in general terms, either of the goods or packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill, to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

See note to § 2126.

§ 2128. Altered bills. Any alteration, addition or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

See note to § 2126.

§ 2128a. Lost or destroyed bills. Where a negotiable bill has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the carrier or any person injured by such delivery from any liability or loss, incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees.

The delivery of the goods under an order of the court as provided in this section, shall not relieve the carrier from liability to a person to whom the negotiable bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

See note to § 2126.

§ 2128b. Effect of duplicate bills. A bill upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

See note to § 2126.

§ 2128c. Carrier cannot set up title in himself. No title to goods or right to their possession, asserted by a carrier for

his own benefit, shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

See note to § 2126.

§ 2128d. Interpleader of adverse claimants. If more than one person claims the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate.

See note to § 2126.

§ 2128e. Reasonable time to ascertain validity of claim. If someone other than the consignee or person in possession of the bill, has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods either to the consignee or person in possession of the bill, or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

See note to § 2126.

§ 2128f. Adverse title no defense except as provided. Except as provided in the two preceding sections and in section two thousand one hundred twenty-seven *a* of this code, no right or title of a third person unless enforced by legal process shall be a defense to an action brought by the consignee of a non-negotiable bill or by the holder of a negotiable bill against the carrier for failure to deliver the goods on demand.

See note to § 2126.

§ 2128g. Liability for nonreceipt or misdescription of goods. Liability of carrier. If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to—

- (a) The consignee named in a non-negotiable bill, or
- (b) The holder of a negotiable bill,

Who has given value in good faith relying upon the description therein of the goods, for damages caused by the nonreceipt by the carrier or a connecting carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

If, however, the goods are described in a bill merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill, such statements, if true, shall not make liable the carrier issuing the bill, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. All carriers must issue to shippers of carload freight from agency stations a clean bill of lading at the request of the shipper and in such cases shall discontinue the practice of noting on bill of lading "Shipper's load and count." Upon request of shipper of carload freight from a nonagency station, the carrier shall send a man to check the loading and shall issue a clean bill of lading, the expense, except transportation of man to and from point of loading to perform service of checking, to be borne by the shipper.

See note to § 2126.

§ 2128h. Attachment or levy upon goods. If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner and a negotiable bill is issued for them, they cannot thereafter, while in the possession of the carrier, be attached by garnishment or otherwise, or be levied upon under an execution, unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

See note to § 2126.

§ 2128i. Creditor's remedies to reach negotiable bills. A creditor whose debtor is the owner of a negotiable bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill, or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

See note to § 2126.

§ 2128j. Bill must state charges for lien claim. If a negotiable bill is issued the carrier shall have no lien on the goods therein mentioned, except for charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

See note to § 2126.

§ 2128k. Effect of sale. After goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods to the consignee or owner of the goods, or to a holder of the bill given for the goods when they are shipped, even of [if] such a bill be negotiable.

See note to § 2126.

SUBDIVISION III.

Negotiation and Transfer of Bills.

- § 2129. Negotiation of negotiable bills by delivery.
- § 2129a. Negotiation of negotiable bills by indorsement.
- § 2129b. Transfer of bills.
- § 2129c. Who may negotiate a bill.
- § 2129d. Rights of person to whom a bill has been negotiated.
- § 2129e. Rights of person to whom a bill has been transferred.
- § 2129f. Transfer of negotiable bill without indorsement.
- § 2129g. Warranties on sale of bill.
- § 2130. Indorser not a guarantor.
- § 2130a. No warranty implied from accepting payment of a debt.
- § 2130b. When negotiation not impaired by fraud, accident, mistake, duress, or conversion.
- § 2130c. Subsequent negotiation.
- § 2130d. Form of bill as indicating rights of buyer and seller.
- § 2130e. Demand, presentation or sight draft must be paid, but draft on more than three days' time merely accepted before buyer is entitled to the accompanying bill.
- § 2130f. Negotiation defeats vendor's lien.
- § 2130g. When rights and remedies under mortgages and liens are not limited.

§ 2129. Negotiation of negotiable bills by delivery. A negotiable bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

See note to § 2126.

§ 2129a. By indorsement. A negotiable bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

See note to § 2126.

§ 2129b. Transfer of bills. A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby.

A non-negotiable bill cannot be negotiated, and the indorsement of such a bill gives the transferee no additional right.

See note to § 2126.

§ 2129c. Who may negotiate bills. A negotiable bill may be negotiated by any person in possession of the same, however such possession may have been acquired if, by the terms of the bill, the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

See note to § 2126.

§ 2129d. Rights of person to whom bill has been negotiated. A person to whom a negotiable bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value, and

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

See note to § 2126.

§ 2129e. Rights of person to whom bill has been transferred. A person to whom a bill has been transferred but not negotiated acquires thereby as against the transferrer, the title to the goods, subject to the terms of any agreement with the transferrer. If the bill is non-negotiable, such person also acquires the right to notify the carrier of the transfer to him of such bill, and thereby to become the direct obligee of what-

ever obligations the carrier owed to the transferrer of the bill immediately before the notification.

Prior to the notification of the carrier by the transferrer or transferee of a non-negotiable bill, the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferrer, or by a notification to the carrier by the transferrer or a subsequent purchaser from the transferrer of a subsequent sale of the goods by the transferrer.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time with the exercise of reasonable diligence to communicate with the agent or agents having actual possession or control of the goods.

See note to § 2126.

§ 2129f. Transfer of negotiable bill without indorsement.

Where a negotiable bill is transferred for value by delivery, and the indorsement of the transferrer is essential for negotiation, the transferee acquires a right against the transferrer to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

See note to § 2126.

§ 2129g. Warranties on sale of bill. A person who negotiates or transfers for value a bill by indorsement or delivery, including one who assigns for value a claim secured by a bill, unless a contrary intention appears, warrants—

- (a) That a bill is genuine;
- (b) That he has a legal right to transfer it;
- (c) That he has knowledge of no fact which would impair the validity or worth of the bill; and
- (d) That he has a right to transfer the title of the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a bill the goods represented thereby.

In the case of an assignment of a claim secured by a bill, the liability of the assignor shall not exceed the amount of the claim.

See note to § 2126.

§ 2130. Indorser not a guarantor. The indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

See note to § 2126.

§ 2130a. No warranty implied from accepting payment of debt. A mortgagee or pledgee, or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or to warrant the genuineness of such bill or the quantity or quality of the goods therein described.

See note to § 2126.

§ 2130b. When negotiation not impaired by fraud, etc. The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor, in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress or conversion.

See note to § 2126.

§ 2130c. Subsequent negotiation. Where a person having sold, mortgaged, or pledged goods which are in the carrier's possession and for which a negotiable bill has been issued, or having sold, mortgaged, or pledged the negotiable bill representing such goods, continues in possession of the negotiable bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

See note to § 2126.

§ 2130d. Form of bill as indicating rights of buyer and seller. Where goods are shipped by the consignor in accordance with a contract or order for their purchase, the form in which the bill is taken by the consignor shall indicate the trans-

fer or retention of the property or right to the possession of the goods as follows:

(a) Where by the bill the goods are deliverable to the buyer or to his agent, or to the order of the buyer or of his agent, the consignor thereby transfers the property in the goods to the buyer.

(b) Where by the bill the goods are deliverable to the seller or to his agent, or to the order of the seller or of his agent, the seller thereby reserves the property in the goods. But if, except for the form of the bill, the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

(c) Where by the bill the goods are deliverable to the order of the buyer or of his agent, but possession of the bill is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods, as against the buyer.

(d) Where the seller draws on the buyer for the price and transmits the draft and bill together to the buyer to secure acceptance or payment of the draft, the buyer is bound to return the bill if he does not honor the draft, and if he wrongfully retains the bill he acquires no added right thereby. If, however, the bill provides that the goods are deliverable to the buyer, or to the order of the buyer, or is indorsed in blank or to the buyer by the consignee named therein, one who purchases in good faith, for value, the bill or goods from the buyer, shall obtain the title to the goods, although the draft has not been honored, if such purchaser has received delivery of the bill indorsed by the consignee named therein, or of the goods, without notice of the facts making the transfer wrongful.

See note to § 2126.

§ 2130e. Draft on buyer by seller of goods. Where the seller of goods draws on the buyer for the price of the goods and transmits the draft and a bill of lading for the goods either directly to the buyer or through a bank or other agency, unless a different intention on the part of the seller appears, the buyer and all other parties interested shall be justified in assuming:

(a) If the draft is by its terms or legal effect payable on demand or presentation or at sight, or not more than three days thereafter (whether such three days be termed days of grace or not), that the seller intended to require payment of the draft before the buyer should be entitled to receive or retain the bill.

(b) If the draft is by its terms payable on time, extending beyond three days after demand, presentation or sight (whether such three days be termed days of grace or not), that the seller intended to require acceptance, but not payment of the draft before the buyer should be entitled to receive or retain the bill.

The provisions of this section are applicable whether by the terms of the bill the goods are consigned to the seller, or to his order, or to the buyer, or to his order, or to a third person, or to his order.

See note to § 2126.

§ 2130f. Negotiation defeats vendor's lien. Where a negotiable bill has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

See note to § 2126.

§ 2130g. When rights and remedies are not limited. Except as provided in section two thousand one hundred thirty f of this code, nothing in this article shall limit the rights and remedies of a mortgagee or lienholder whose mortgage or lien on goods would be valid, apart from this article, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

See note to § 2126.

SUBDIVISION IV.

Criminal Offenses.

- § 2131. Issue of bill for goods not received.
- § 2131a. Issue of bill containing false statement.
- § 2131b. Issue of duplicate bills not so marked.
- § 2131c. Negotiation of bill for mortgaged goods.
- § 2131d. Negotiation of bill when goods are not in carrier's possession.
- § 2131e. Inducing carrier to issue bill when goods have not been received.
- § 2131f. Issue of non-negotiable bill not so marked.

§ 2131. Issue of bill for goods not received. Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill knowing that all or any part of the

goods for which such bill is issued have not been received by such carrier, or by an agent of such carrier or by a connecting carrier, or are not under the carrier's control at the time of issuing such bill, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to § 2126.

§ 2131a. Issue of bill containing false statement. Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill for goods, knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

See note to § 2126.

§ 2131b. Issue of duplicate bill not so marked. Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a duplicate or additional negotiable bill for goods in violation of the provisions of section two thousand one hundred twenty-six *f* of this code, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncanceled, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to § 2126.

§ 2131c. Negotiation of bill for mortgaged goods. Any person who ships goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable bill which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

See note to § 2126.

§ 2131d. Negotiation of bill when goods not in carrier's possession. Any person who with intent to deceive negotiates or transfers for value a bill knowing that any or all of the goods which by the terms of such bill appear to have been received for transportation by the carrier which issued the bill,

are not in the possession or control of such carrier, or of a connecting carrier, without disclosing this fact, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to § 2126.

§ 2131e. Bill issued when goods have not been received. Any person who with intent to defraud secures the issue by a carrier of a bill knowing that at the time of such issue, any or all of the goods described in such bill as received for transportation have not been received by such carrier, or an agent of such carrier or a connecting carrier, or are not under the carrier's control, by inducing an officer, agent, or servant of such carrier falsely to believe that such goods have been received by such carrier, or are under its control, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

See note to § 2126.

§ 2131f. Issue of non-negotiable bill not so marked. Any person who with intent to defraud issues or aids in issuing a non-negotiable bill without the words "not negotiable" placed plainly upon the face thereof, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

See note to § 2126.

SUBDIVISION V.

Interpretation.

- § 2132. Rule for cases not provided for in this article.
- § 2132a. Interpretation shall give effect to purpose of uniformity.
- § 2132b. Definitions.
- § 2132c. Article does not apply to existing bills.
- § 2132d. Inconsistent legislation repealed.

§ 2132. Rules for cases not provided for in this article. In any case not provided for in this article, the rules of law and equity including the law-merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, accident, mistake, bankruptcy, or other invalidating cause, shall govern.

See note to § 2126.

§ 2132a. Interpretation and construction. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 2132b. Definitions. (1) In this article, unless the context or subject matter otherwise requires—

“Action” includes counterclaim, setoff, and suit in equity.

“Bill” means bill of lading.

“Consignee” means the person named in the bill as the person to whom delivery of the goods is to be made.

“Consignor” means the person named in the bill as the person from whom the goods have been received for shipment.

“Goods” means merchandise or chattels in course of transportation, or which have been or are about to be transported.

“Holder” of a bill means a person who has both actual possession of such bill and a right of property therein.

“Order” means an order by indorsement on the bill.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee and to take as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Value” is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a bill is taken either in satisfaction thereof or as security therefor.

(2) A thing is done “in good faith,” within the meaning of this article, when it is in fact done honestly, whether it be done negligently or not.

See note to § 2126.

§ 2132c. Not applicable to existing bills. The provisions of this article do not apply to bills made and delivered prior to the taking effect thereof.

See note to § 2126.

§ 2132d. Inconsistent legislation repealed.

There is no section of this number in the body of the act, although in the classification of this subdivision this section number with the above headline is given.

§ 2767. Disposition by beneficiary of interest in installment. The beneficiary under a policy of life insurance, providing for the payment of the proceeds thereof in periodical installments,

may be restrained from disposing of or encumbering his interest in any such installment, prior to the date when it shall become due and payable by the insurer, by a condition or stipulation in the policy. [New section added May 29, 1917; Stats. 1917, p. 1314.]

§ 2924. Transfer, when mortgage, when pledge. Power of sale to be exercised when. Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge.

Where, by a mortgage hereafter created, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust hereafter made of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which such mortgage or transfer is a security, such power shall not be exercised (except where such mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the commissioner of corporations, or is made by a public utility subject to the provisions of the public utilities act), until, (a) the mortgagee or beneficiary shall first record, in the office of the recorder of the county wherein the mortgaged or trust property or some part thereof is situated, a notice of such breach and of his election to sell or cause to be sold such property to satisfy the obligation; (b) not less than three months shall thereafter elapse; and (c) the mortgagee, trustee or other person authorized to make the sale shall give notice of the time and place thereof, in the manner and for a time not less than that required by law for sales of real property upon execution. [Amendment approved May 10, 1917; Stats. 1917, p. 300.]

TITLE XV.

Negotiable Instruments.

- Chapter I. Negotiable Instruments in General, §§ 3082-3206.
II. Bills of Exchange, §§ 3207-3264.
III. Promissory Notes and Checks, §§ 3265-3265e.
IV. General Provisions, §§ 3266-3266d.

CHAPTER I.

Negotiable Instruments in General.

- Article I. Form and Interpretation, §§ 3082-3104.
II. Consideration, §§ 3105-3110.
III. Negotiation, §§ 3111-3131.
IV. Rights of the Holder, §§ 3132-3140.
V. Liabilities of Parties, §§ 3141-3150.
VI. Presentment for Payment, §§ 3151-3169.
VII. Notice of Dishonor, §§ 3170-3199.
VIII. Discharge of Negotiable Instruments, §§ 3200-3206.

ARTICLE I.

Form and Interpretation.

- § 3082. Form of negotiable instrument.
§ 3083. Certainty as to sum; what constitutes.
§ 3084. When promise is unconditional.
§ 3085. Determinable future time, what constitutes.
§ 3086. Additional provisions not affecting negotiability.
§ 3087. Omissions; seal; particular money.
§ 3088. When payable on demand.
§ 3089. When payable to order.
§ 3090. When payable to bearer.
§ 3091. Terms when sufficient.
§ 3092. Date, presumption as to.
§ 3093. Antedated and postdated.
§ 3094. When date may be inserted.
§ 3095. Blanks; when may be filled.
§ 3096. Incomplete instrument not delivered.
§ 3097. Delivery; where effectual; when presumed.
§ 3098. Construction where instrument is ambiguous.
§ 3099. Liability of person signing in trade or assumed name.
§ 3100. Signature by agent; authority; how shown.
§ 3101. Liability of person signing as agent, etc.
§ 3102. Signature by procuration; effect of.
§ 3103. Effect of indorsement by infant or corporation.
§ 3104. Forged signature; effect of.

§ 3082. **Requirements for negotiable instrument.** An instrument to be negotiable must conform to the following requirements:

(1) It must be in writing and signed by the maker or drawer;

(2) Must contain an unconditional promise or order to pay a sum certain in money;

(3) Must be payable on demand, or at a fixed or determinable future time;

(4) Must be payable to order or to bearer; and

(5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

NOTE.—All of Title XV of Part IV of Division Third of the Civil Code, containing Sections 3086 to 3262, inclusive, and relating to negotiable instruments, was repealed by an act approved June 1, 1917 (Stats. 1917, p. 1533), and a new Title XV was adopted in its place. The new title adopted is what is known as the Uniform Negotiable Instruments Law. Crawford, in his work on the Annotated Negotiable Instruments Law, treats this law fully.

§ 3083. Sum payable certain. The sum payable is a sum certain within the meaning of this act, although it is to be paid—

(1) With interest; or

(2) By stated installments; or

(3) By stated installments, with a provision that upon default in payment of any installment or of interest, the whole shall become due; or

(4) With exchange, whether at a fixed rate or at the current rate; or

(5) With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

See note to § 3082.

§ 3084. Unqualified promise unconditional. An unqualified order or promise to pay is unconditional within the meaning of this act, though coupled with—

(1) An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

(2) A statement of the transaction which gives rise to the instrument. But an order or promise to pay out of a particular fund is not unconditional.

See note to § 3082.

§ 3085. Time for payment. An instrument is payable at a determinable future time, within the meaning of this act, which is expressed to be payable—

(1) At a fixed period after date or sight; or

(2) On or before a fixed or determinable future time specified therein; or

(3) On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

See note to § 3082.

§ 3086. Non-negotiable instrument. An instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable. But the negotiable character of an instrument otherwise negotiable is not affected by a provision which—

(1) Authorizes the sale of collateral securities in case the instrument be not paid at maturity; or

(2) Authorizes a confession of judgment if the instrument be not paid at maturity; or

(3) Waives the benefit of any law intended for the advantage or protection of the obligor; or

(4) Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

See note to § 3082.

§ 3087. Negotiability not affected. The validity and negotiable character of an instrument are not affected by the fact that—

(1) It is not dated; or

(2) Does not specify the value given, or that any value has been given therefor; or

(3) Does not specify the place where it is drawn or the place where it is payable; or

(4) Bears a seal; or

(5) Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

See note to § 3082.

§ 3088. Payable on demand. An instrument is payable on demand—

(1) Where it is expressed to be payable on demand, or at sight, or on presentation; or

(2) In which no time for payment is expressed.

Where an instrument is issued, accepted, or indorsed when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand.

See note to § 3082.

§ 3089. Payable to order. The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of—

- (1) A payee who is not maker, drawer, or drawee; or
- (2) The drawer or maker; or
- (3) The drawee; or
- (4) Two or more payees jointly; or
- (5) One or some of several payees; or
- (6) The holder of an office for the time being.

Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.

See note to § 3082.

§ 3090. Payable to bearer. The instrument is payable to bearer—

- (1) When it is expressed to be so payable; or
- (2) When it is payable to a person named therein or bearer; or
- (3) When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or
- (4) When the name of the payee does not purport to be the name of any person; or
- (5) When the only or last indorsement is an indorsement in blank.

See note to § 3082.

§ 3091. Language of instrument. The instrument need not follow the language of this act, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.

See note to § 3082.

§ 3092. True date. Where the instrument or an acceptance of any indorsement thereon is dated, such date is deemed prima facie to be the true date of the making, drawing, acceptance, or indorsement as the case may be.

See note to § 3082.

§ 3093. Ante or post dating. The instrument is not invalid for the reason only that it is antedated or postdated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.

See note to § 3082.

§ 3094. Instrument undated. Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date or issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date.

See note to § 3082.

§ 3095. Filling up blanks. Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

See note to § 3082.

§ 3096. Incomplete instrument not delivered. Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery.

See note to § 3082.

§ 3097. Delivery necessary. Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As

between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting or indorsing, as the case may be; and in such case the delivery may be shown to have been conditional, or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

See note to § 3082.

§ 3098. Rules of construction. Where the language of the instrument is ambiguous or there are omissions therein, the following rules of construction apply:

(1) Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, reference may be had to the figures to fix the amount;

(2) Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof;

(3) Where the instrument is not dated, it will be considered to be dated as of the time it was issued;

(4) Where there is a conflict between the written and printed provisions of the instrument, the written provisions prevail;

(5) Where the instrument is so ambiguous that there is doubt whether it is a bill or note, the holder may treat it as either at his election;

(6) Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser;

(7) Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

See note to § 3082.

§ 3099. Liability on instrument. No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs

in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

See note to § 3082.

§ 3100. Signature by agent. The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

See note to § 3082.

§ 3101. Liability of agent. Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

See note to § 3082.

§ 3102. Signature by "procuration." A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

See note to § 3082.

§ 3103. Indorsement by corporation or infant. The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

See note to § 3082.

§ 3104. Forged signature. When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party, against whom it is sought to enforce such right, is precluded from setting up the forgery or want of authority.

See note to § 3082.

ARTICLE II.

Consideration.

- § 3105. Presumption of consideration.
- § 3106. Consideration, what constitutes.
- § 3107. What constitutes holder for value.
- § 3108. When lien on instrument constitutes holder for value.
- § 3109. Effect of want of consideration.
- § 3110. Liability of accommodation party.

§ 3105. Presumption of consideration. Every negotiable instrument is deemed *prima facie* to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

See note to § 3082.

§ 3106. Consideration, what constitutes. Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes value; and is deemed such whether the instrument is payable on demand or at a future time.

See note to § 3082.

§ 3107. Holder for value. Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who become such prior to that time.

See note to § 3082.

§ 3108. Lien on instrument. Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

See note to § 3082.

§ 3109. Effect of want of consideration. Absence or failure of consideration is matter of defense as against any person not a holder in due course; and partial failure of consideration is a defense *pro tanto*, whether the failure is an ascertained and liquidated amount or otherwise.

See note to § 3082.

§ 3110. Liability of accommodation party. An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder

for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

See note to § 3082.

ARTICLE III.

Negotiation.

- § 3111. What constitutes negotiation.
- § 3112. Indorsement; how made.
- § 3113. Indorsement must be of entire instrument.
- § 3114. Kinds of indorsement.
- § 3115. Special indorsement.
- § 3116. Blank indorsement; how changed to special indorsement.
- § 3117. When indorsement restrictive.
- § 3118. Effect of restricting indorsement; rights of indorsee.
- § 3119. Qualified indorsement.
- § 3120. Conditional indorsement.
- § 3121. Indorsement of instrument payable to bearer.
- § 3122. Indorsement where payable to two or more persons.
- § 3123. Effect of instrument drawn or indorsed to a person as cashier.
- § 3124. Indorsement where name is misspelled, etc.
- § 3125. Indorsement in representative capacity.
- § 3126. Time of indorsement; presumption.
- § 3127. Place of indorsement; presumption.
- § 3128. Continuation of negotiable character.
- § 3129. Striking out indorsement.
- § 3130. Transfer without indorsement; effect of.
- § 3131. When prior party may negotiate instrument.

§ 3111. Negotiation. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

See note to § 3082.

§ 3112. Indorsement. The indorsement must be written on the instrument itself or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

See note to § 3082.

§ 3113. Indorsement of entire instrument. The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument. But where the instrument has been paid in part, it may be indorsed as to the residue.

See note to § 3082.

§ 3114. Kinds of indorsement. An indorsement may be either special or in blank; and it may also be either restrictive or qualified, or conditional.

See note to § 3082.

§ 3115. Special indorsement. A special indorsement specifies the person to whom, or to whose order, the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so indorsed is payable to bearer, and may be negotiated by delivery.

See note to § 3082.

§ 3116. Blank indorsement, how changed to special indorsement. The holder may convert a blank indorsement into a special indorsement by writing over the signature of the indorser in blank any contract consistent with the character of the indorsement.

See note to § 3082.

§ 3117. Indorsement restrictive. An indorsement is restrictive, which either—

- (1) Prohibits the further negotiation of the instrument; or
- (2) Constitutes the indorsee the agent of the indorser; or
- (3) Vests the title in the indorsee in trust for or to the use of some other person.

But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

See note to § 3082.

§ 3118. Rights conferred. A restrictive indorsement confers upon the indorsee the right—

- (1) To receive payment of the instrument;
- (2) To bring any action thereon that the indorser could bring;
- (3) To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

See note to § 3082.

§ 3119. Qualified indorsement. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar

import. Such an indorsement does not impair the negotiable character of the instrument.

See note to § 3082.

§ 3120. Conditional indorsement. Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

See note to § 3082.

§ 3121. Payable to bearer. Where an instrument, payable to bearer, is indorsed specially it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as make title through his indorsement.

See note to § 3082.

§ 3122. Payable to two or more persons. Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

See note to § 3082.

§ 3123. Indorsed to person as "cashier." Where an instrument is drawn or indorsed to person as "cashier" or other fiscal officer of a bank or corporation, it is deemed prima facie to be payable to the bank or corporation of which he is such officer; and may be negotiated by either the indorsement of the bank or corporation, or the indorsement of the officer.

See note to § 3082.

§ 3124. Name misspelled. Where the name of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he think fit, his proper signature.

See note to § 3082.

§ 3125. In representative capacity. Where any person is under obligation to indorse in a representative capacity, he may indorse in such terms as to negative personal liability.

See note to § 3082.

§ 3126. Time of indorsement. Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed prima facie to have been effected before the instrument was overdue.

See note to § 3082.

§ 3127. Place of indorsement. Except where the contrary appears, every indorsement is presumed prima facie to have been made at the place where the instrument is dated.

See note to § 3082.

§ 3128. Continuation. An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise.

See note to § 3082.

§ 3129. Striking out indorsement. The holder may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all indorsers subsequent to him, are thereby relieved from liability on the instrument.

See note to § 3082.

§ 3130. Transfer without indorsement. Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferor had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferor. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

See note to § 3082.

§ 3131. Prior party may negotiate. Where an instrument is negotiated back to a prior party such party may, subject to the provisions of this title, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

See note to § 3082.

ARTICLE IV.

Rights of the Holder.

- § 3132. Right of holder to sue; payment.
- § 3133. What constitutes a holder in due course.
- § 3134. When person not deemed holder in due course.
- § 3135. Notice before full amount paid.
- § 3136. When title defective.
- § 3137. What constitutes notice of defect.
- § 3138. Rights of holder in due course.
- § 3139. When subject to original defenses.
- § 3140. Who deemed holder in due course.

§ 3132. Right to sue. The holder of a negotiable instrument may sue thereon in his own name and payment to him in due course discharges the instrument.

See note to § 3082.

§ 3133. Holder in due course. A holder in due course is a holder who has taken the instrument under the following conditions:

- (1) That it is complete and regular upon its face;
- (2) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;
- (3) That he took it in good faith and for value;
- (4) That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

See note to § 3082.

§ 3134. Not holder in due course. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

See note to § 3082.

§ 3135. Notice before full amount paid. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

See note to § 3082.

§ 3136. When title defective. The title of a person who negotiates an instrument is defective within the meaning of this title when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear, or other unlawful

means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

See note to § 3082.

§ 3137. Notice of defect. To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

See note to § 3082.

§ 3138. Rights of holder in due course. A holder in due course holds the instrument free from any defect of title of prior parties, and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

See note to § 3082.

§ 3139. When subject to original. In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were non-negotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights of such former holder in respect of all parties prior to the latter.

See note to § 3082.

§ 3140. Who deemed holder in due course. Every holder is deemed prima facie to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as holder in due course. But the last-mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

See note to § 3082.

ARTICLE V.

Liabilities of Parties.

- § 3141. Liability of maker.
- § 3142. Liability of drawer.
- § 3143. Liability of acceptor.
- § 3144. When person deemed indorser.
- § 3145. Liability of irregular indorser.
- § 3146. Warranty where negotiation by delivery, etc.
- § 3147. Liability of general indorser.
- § 3148. Liability of indorser where paper negotiable by delivery.
- § 3149. Order in which indorsers are liable.
- § 3150. Liability of an agent or broker.

§ 3141. Liability of maker. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

See note to § 3082.

§ 3142. Liability of drawer. The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negating or limiting his own liability to the holder.

See note to § 3082.

§ 3143. Liability of acceptor. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits—

(1) The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

(2) The existence of the payee and his then capacity to indorse.

See note to § 3082.

§ 3144. Person deemed indorser. A person placing his signature upon an instrument otherwise than as maker, drawer, or acceptor, is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

See note to § 3082.

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§ 3145. Liability of irregular indorser. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery he is liable as indorser, in accordance with the following rules:

(1) If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

(2) If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

(3) If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

See note to § 3082.

§ 3146. Warranty when negotiation by delivery, etc. Every person negotiating an instrument by delivery or by a qualified indorsement, warrants—

(1) That the instrument is genuine and in all respects what it purports to be;

(2) That he has a good title to it;

(3) That all prior parties had capacity to contract;

(4) That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section do not apply to persons negotiating public or corporation securities, other than bills and notes.

See note to § 3082.

§ 3147. Liability of general indorser. Every indorser who indorses without qualification, warrants to all subsequent holders in due course—

(1) The matters and things mentioned in subdivision one, two and three of the next preceding section; and

(2) That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

See note to § 3082.

§ 3148. When negotiable by delivery. Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

See note to § 3082.

§ 3149. Order in which indorsers liable. As respects one another indorsers are liable *prima facie* in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsers who indorse are deemed to indorse jointly and severally.

See note to § 3082.

§ 3150. Liability of broker or agent. Where a broker or other agent negotiates an instrument without indorsement he incurs all the liabilities prescribed by section three thousand one hundred forty-seven, unless he discloses the name of his principal, and the fact that he is acting only as agent.

See note to § 3082.

ARTICLE VI.

Presentment for Payment.

- § 3151. Effect of want of demand on principal debtor.
- § 3152. Presentment where instrument is not payable on demand and where payable on demand.
- § 3153. What constitutes a sufficient presentment.
- § 3154. Place of presentment.
- § 3155. Instrument must be exhibited.
- § 3156. Presentment where instrument payable at bank.
- § 3157. Presentment where principal debtor is dead.
- § 3158. Presentment to persons liable as partners.
- § 3159. Presentment to joint debtors.
- § 3160. When presentment not required to charge the drawer.
- § 3161. When presentment not required to charge the indorser.
- § 3162. When delay in making presentment is excused.
- § 3163. When presentment may be dispensed with.
- § 3164. When instrument dishonored by nonpayment.
- § 3165. Liability of person secondarily liable, when instrument dishonored.
- § 3166. Time of maturity.
- § 3167. Time; how computed.
- § 3168. Rule where instrument payable at bank.
- § 3169. What constitutes payment in due course.

§ 3151. Presentment for payment. Presentment for payment is not necessary in order to charge the person primarily liable on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as

herein otherwise provided, presentment for payment is necessary in order to charge the drawer and indorsers.

See note to § 3082.

§ 3152. Presentment for payment. Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

See note to § 3082.

§ 3153. What constitutes sufficient presentment. Presentment for payment, to be sufficient, must be made—

(1) By the holder, or by some person authorized to receive payment on his behalf;

(2) At a reasonable hour on a business day;

(3) At a proper place as herein defined;

(4) To the person primarily liable on the instrument or if he is absent or inaccessible, to any person found at the place where the presentment is made.

See note to § 3082.

§ 3154. Place of presentment. Presentment for payment is made at the proper place—

(1) Where a place of payment is specified in the instrument and it is there presented;

(2) Where no place of payment is specified, but the address of the person to make payment is given in the instrument and it is there presented;

(3) Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment;

(4) In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

See note to § 3082.

§ 3155. Must be exhibited. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

See note to § 3082.

§ 3156. Where payable at bank. Where the instrument is payable at a bank, presentment for payment must be made dur-

ing banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

See note to § 3082.

§ 3157. Where principal debtor dead. Where a person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative if such there be, and if, with the exercise of reasonable diligence, he can be found.

See note to § 3082.

§ 3158. Persons liable as partners. Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

See note to § 3082.

§ 3159. Joint debts. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

See note to § 3082.

§ 3160. Presentment for payment not required when. Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

See note to § 3082.

§ 3161. Presentment for payment not required when. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation and he has no reason to expect that the instrument will be paid if presented.

See note to § 3082.

§ 3162. Delay excused. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

See note to § 3082.

§ 3168. When dispensed with. Presentment for payment is dispensed with—

(1) Where after the exercise of reasonable diligence presentment as required by this title cannot be made;

(2) Where the drawee is a fictitious person;

(3) By waiver of presentment, express or implied.

See note to § 3082.

§ 3164. When dishonored by nonpayment. The instrument is dishonored by nonpayment when—

(1) It is duly presented for payment and payment is refused or cannot be obtained; or

(2) Presentment is excused and the instrument is overdue and unpaid.

See note to § 3082.

§ 3165. Liability of person secondarily liable. Subject to the provisions of this title, when the instrument is dishonored by nonpayment, an immediate right of recourse to all parties secondarily liable thereon accrues to the holder.

See note to § 3082.

§ 3166. Time of maturity. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due or becoming payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

See note to § 3082.

§ 3167. Determination of time. Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run, and by including the date of payment.

See note to § 3082.

§ 3168. Where payable at bank. Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

See note to § 3082.

§ 3169. Payment in due course. Payment is made in due course when it is made at or after the maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

See note to § 3082.

ARTICLE VII.

Notice of Dishonor.

- § 3170. To whom notice of dishonor must be given.
- § 3171. By whom given.
- § 3172. Notice given by agent.
- § 3173. Effect of notice given on behalf of holder.
- § 3174. Effect where notice is given by party entitled thereto.
- § 3175. When agent may give notice.
- § 3176. When notice sufficient.
- § 3177. Form of notice.
- § 3178. To whom notice may be given.
- § 3179. Notice where party is dead.
- § 3180. Notice to partners.
- § 3181. Notice to persons jointly liable.
- § 3182. Notice to bankrupt.
- § 3183. Time within which notice must be given.
- § 3184. Where parties reside in same place.
- § 3185. Where parties reside in different places.
- § 3186. When sender deemed to have given due notice.
- § 3187. Deposit in postoffice; what constitutes.
- § 3188. Notice to subsequent party.
- § 3189. Where notice must be sent.
- § 3190. Waiver of notice.
- § 3191. Whom affected by waiver.
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- § 3193. When notice is dispensed with.
- § 3194. Delay in giving notice; how excused.
- § 3195. When notice need not be given to drawer.
- § 3196. When notice need not be given to indorser.
- § 3197. Notice of nonpayment where acceptance refused.
- § 3198. Effect of omission to give notice of nonacceptance.
- § 3199. When protest need not be made; when must be made.

§ 3170. Notice of dishonor. Except as herein otherwise provided, when a negotiable instrument has been dishonored by nonacceptance or nonpayment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

See note to § 3082.

§ 3171. By whom given. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who upon taking it up would have a right to reimbursement from the party to whom the notice is given.

See note to § 3082.

§ 3172. Notice given by agent. Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

See note to § 3082.

§ 3173. Effect of notice. Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right of recourse against the party to whom it is given.

See note to § 3082.

§ 3174. Effect where notice is given by party entitled thereto. Where notice is given by or on behalf of a party entitled to give notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

See note to § 3082.

§ 3175. When agent may give notice. Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon the receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

See note to § 3082.

§ 3176. When notice sufficient. A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the instrument does not vitiate the notice unless the party to whom the notice is given is in fact misled thereby.

See note to § 3082.

§ 3177. Form of notice. The notice may be in writing or merely oral and may be given in any terms which sufficiently identify the instrument, and indicate that it has been dishonored by nonacceptance or nonpayment. It may in all cases be given by delivering it personally or through the mails.

See note to § 3082.

§ 3178. To whom notice given. Notice of dishonor may be given either to the party himself or to his agent in that behalf.

See note to § 3082.

§ 3179. Notice where party is dead. When any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if with reasonable diligence he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

See note to § 3082.

§ 3180. Notice to partners. Where the parties to be notified are partners, notice to any one partner is notice to the firm even though there has been a dissolution.

See note to § 3082.

§ 3181. Notice to persons jointly liable. Notice to joint parties who are not partners must be given to each of them, unless one of them has authority to receive such notice for the others.

See note to § 3082.

§ 3182. Notice to bankrupt. Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

See note to § 3082.

§ 3183. Time within which notice must be given. Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided, must be given within the times fixed by this title.

See note to § 3082.

§ 3184. Notice where parties reside in same place. Where the person giving and the person to receive notice reside in the same place, notice must be given within the following times:

(1) If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following;

(2) If given at his residence, it must be given before the usual hours of rest on the day following;

(3) If sent by mail, it must be deposited in the postoffice in time to reach him in usual course on the day following.

See note to § 3082.

§ 3185. Notice where parties reside in different places. Where the person giving and the person to receive notice re-

side in different places, the notice must be given within the following times:

(1) If sent by mail, it must be deposited in the postoffice in time to go by mail the day following the day of dishonor, or if there be no mail at a convenient hour on that day, by the next mail thereafter;

(2) If given otherwise than through the postoffice, then within the time that notice would have been received in due course of mail, if it had been deposited in the postoffice within the time specified in the last subdivision.

See note to § 3082.

§ 3186. Notice deemed given. Where notice of dishonor is duly addressed and deposited in the postoffice, the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.

See note to § 3082.

§ 3187. Deposit in postoffice. Notice is deemed to have been deposited in postoffice when deposited in any branch postoffice or in any letter-box under the control of the postoffice department.

See note to § 3082.

§ 3188. Notice to subsequent party. Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

See note to § 3082.

§ 3189. Where notice may be sent. Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

(1) Either to the postoffice nearest to his place of residence, or to the postoffice where he is accustomed to receive his letters; or

(2) If he live in one place, and have his place of business in another, notice may be sent to either place; or

(3) If he is sojourning in another place, notice may be sent to the place where he is sojourning.

But where the notice is actually received by the party within the time specified in this title, it will be sufficient, though not sent in accordance with the requirements of this section.

See note to § 3082.

§ 3190. Waiver of notice. Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

See note to § 3082.

§ 3191. Who is affected by waiver. Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only.

See note to § 3082.

§ 3192. Waiver of protest. A waiver of protest, whether in the case of a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of formal protest, but also of presentment and notice of dishonor.

See note to § 3082.

§ 3193. Notice dispensed with. Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it cannot be given to or does not reach the parties sought to be charged.

See note to § 3082.

§ 3194. Delay excused. Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence.

See note to § 3082.

§ 3195. When not required to be given to drawer. Notice of dishonor is not required to be given to the drawer in either of the following cases:

- (1) Where the drawer and drawee are the same person;
- (2) When the drawee is a fictitious person or a person not having capacity to contract;
- (3) When the drawer is a person to whom the instrument is presented for payment;
- (4) Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument;
- (5) Where the drawer has countermanded payment.

See note to § 3082.

§ 3196. When not required to be given indorser. Notice of dishonor is not required to be given to an indorser in either of the following cases:

(1) Where the drawee is a fictitious person or a person not having capacity to contract, and the indorser was aware of the fact at the time he indorsed the instrument;

(2) Where the indorser is the person to whom the instrument is presented for payment;

(3) Where the instrument was made or accepted for his accommodation.

See note to § 3082.

§ 3197. Notice of nonpayment where acceptance refused. Where due notice of dishonor by nonacceptance has been given notice of a subsequent dishonor by nonpayment is not necessary, unless in the meantime the instrument has been accepted.

See note to § 3082.

§ 3198. Effect of omission. An omission to give notice of dishonor by nonacceptance does not prejudice the rights of a holder in due course subsequent to the omission.

See note to § 3082.

§ 3199. Protest. Where any negotiable instrument has been dishonored it may be protested for nonacceptance or nonpayment, as the case may be; but protest is not required except in the case of foreign bills of exchange.

See note to § 3082.

ARTICLE VIII.

Discharge of Negotiable Instruments.

§ 3200. Instrument; how discharged.

§ 3201. When persons secondarily liable on, discharged.

§ 3202. Right of party who discharged instrument.

§ 3203. Renunciation by holder.

§ 3204. Cancellation; unintentional; burden of proof.

§ 3205. Alteration of instrument; effect of.

§ 3206. What constitutes a material alteration.

§ 3200. How discharged. A negotiable instrument is discharged—

(1) By payment in due course by or on behalf of the principal debtor;

(2) By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation;

(3) By the intentional cancellation thereof by the holder;

(4) By any other act which will discharge a simple contract for the payment of money;

(5) When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

See note to § 3082.

§ 3201. Persons secondarily liable discharged. A person secondarily liable on the instrument is discharged—

- (1) By any act which discharges the instrument;
- (2) By the intentional cancellation of his signature by the holder;
- (3) By the discharge of a prior party;
- (4) By a valid tender of payment made by a prior party;
- (5) By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved;
- (6) By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved.

See note to § 3082.

§ 3202. Right of party who discharged. Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except—

- (1) Where it is payable to the order of a third person, and has been paid by the drawer; and
- (2) Where it was made or accepted for accommodation, and has been paid by the party accommodated.

See note to § 3082.

§ 3203. Renunciation by holder. The holder may expressly renounce his rights against any party to the instrument, before, at or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

See note to § 3082.

§ 3204. Cancellation. A cancellation made unintentionally, or under a mistake or without the authority of the holder,

is inoperative; but where an instrument or any signature thereon appears to have been canceled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or without authority.

See note to § 3082.

§ 3205. Alteration. Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration, and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

See note to § 3082.

§ 3206. Material alteration. Any alteration which changes—

- (1) The date;
- (2) The sum payable, either for principal or interest;
- (3) The time or place of payment;
- (4) The number or the relations of the parties;
- (5) The medium or currency in which payment is to be made;

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

See note to § 3082.

CHAPTER II.

Bills of Exchange.

- Article I. Form and Interpretation, §§ 3207-3212.
 II. Acceptance, §§ 3213-3223.
 III. Presentment for Acceptance, §§ 3224-3232.
 IV. Protest, §§ 3233-3241.
 V. Acceptance for Honor, §§ 3242-3251.
 VI. Payment for Honor, §§ 3252-3258.
 VII. Bills in a Set, §§ 3259-3264.

ARTICLE I.

Form and Interpretation.

- § 3207. Bill of exchange defined.
 § 3208. Bill not an assignment of funds in hands of drawee.
 § 3209. Bill addressed to more than one drawee.
 § 3210. Inland and foreign bills of exchange.
 § 3211. When bill may be treated as promissory note.
 § 3212. Referee in case of need.

§ 3207. Bill of exchange defined. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

See note to § 3082.

§ 3208. Not an assignment of funds. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

See note to § 3082.

§ 3209. Addressed to more than one drawee. A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

See note to § 3082.

§ 3210. Inland and foreign bills. An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this state. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

See note to § 3082.

§ 3211. Bill treated as promissory note. Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

See note to § 3082.

§ 3212. Referee in case of need. The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say in case the bill is dishonored by nonacceptance or nonpayment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not as he may see fit.

See note to § 3082.

ARTICLE II.

Acceptance.

- § 3213. Acceptance; how made, etc.
- § 3214. Holder entitled to acceptance on face of bill.
- § 3215. Acceptance by separate instrument.
- § 3216. Promise to accept; when equivalent to acceptance.
- § 3217. Time allowed drawee to accept.
- § 3218. Liability of drawee retaining or destroying bill.
- § 3219. Acceptance of incomplete bill.
- § 3220. Kinds of acceptances.
- § 3221. What constitutes a general acceptance.
- § 3222. Qualified acceptance.
- § 3223. Rights of parties as to qualified acceptance.

§ 3213. Acceptance. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money.

See note to § 3082.

§ 3214. Holder entitled to acceptance on face of bill. The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill and, if such request is refused, may treat the bill as dishonored.

See note to § 3082.

§ 3215. Acceptance by separate instrument. Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

See note to § 3082.

§ 3216. Promise to accept. An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

See note to § 3082.

§ 3217. Time allowed drawee to accept. The drawee is allowed twenty-four hours after presentment, in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

See note to § 3082.

§ 3218. Liability of drawee retaining or destroying bill. Where a drawee to whom a bill is delivered for acceptance

destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or nonaccepted to the holder, he will be deemed to have accepted the same.

See note to § 3082.

§ 3219. Acceptance of incomplete bill. A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by non-payment. But when a bill payable after sight is dishonored by nonacceptance and the drawee subsequently accepts it, the holder in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

See note to § 3082.

§ 3220. Kinds of acceptance. An acceptance is either general or qualified. A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

See note to § 3082.

§ 3221. Kinds of acceptance. An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.

See note to § 3082.

§ 3222. Qualified acceptance. An acceptance is qualified, which is—

(1) Conditional, that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated;

(2) Partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;

(3) Local, that is to say, an acceptance to pay only at a particular place;

(4) Qualified as to time;

(5) The acceptance of some one or more of the drawees, but not of all.

See note to § 3082.

§ 3223. Rights of parties as to qualified acceptances. The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the

bill as dishonored by nonacceptance. Where a qualified acceptance is taken the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an indorser receives notice of a qualified acceptance, he must, within a reasonable time, express his dissent to the holder, or he will be deemed to have assented thereto.

See note to § 3082.

ARTICLE III.

Presentment for Acceptance:—

- § 3224. When presentment for acceptance must be made.
- § 3225. When failure to present releases drawer and indorser.
- § 3226. Presentment; how made.
- § 3227. On what days presentment may be made.
- § 3228. Presentment where time is insufficient.
- § 3229. Where presentment is excused.
- § 3230. When dishonored by nonacceptance.
- § 3231. Duty of holder where bill not accepted.
- § 3232. Rights of holder where bill not accepted.

§ 3224. When presentment for acceptance must be made.
Presentment for acceptance must be made—

(1) Where the bill is payable after sight, or in any other case, where presentment for acceptance is necessary in order to fix the maturity of the instrument; or

(2) Where the bill expressly stipulates that it shall be presented for acceptance; or

(3) Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

See note to § 3082.

§ 3225. Time for presentment. Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fails to do so, the drawer and all indorsers are discharged.

See note to § 3082.

§ 3226. To whom presentment for acceptance must be made. Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour, on a business day and before the bill is overdue, to the drawee or some person, authorized to accept or refuse acceptance on his behalf; and—

(1) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless

one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only;

(2) Where the drawee is dead, presentment may be made to his personal representative;

(3) Where the drawee has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

See note to § 3082.

§ 3227. On what days presentment may be made. A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections three thousand one hundred fifty-four and three thousand one hundred sixty-seven. When Saturday is not otherwise a holiday, presentment for acceptance may be made before twelve o'clock, noon, on that day.

See note to § 3082.

§ 3228. Presentment where time is insufficient. Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

See note to § 3082.

§ 3229. When presentment is excused. Presentment for acceptance is excused and a bill may be treated as dishonored by nonacceptance, in either of the following cases:

(1) Where the drawee is dead, or has absconded, or is a fictitious person or a person not having capacity to contract by bill;

(2) Where, after the exercise of reasonable diligence, presentment cannot be made;

(3) Where, although presentment has been irregular, acceptance has been refused on some other ground.

See note to § 3082.

§ 3230. Bill dishonored by nonacceptance. A bill is dishonored by nonacceptance—

(1) When it is duly presented for acceptance and such an acceptance as is prescribed by this title is refused or cannot be obtained; or

(2) When presentment for acceptance is excused and the bill is not accepted.

See note to § 3082.

§ 3231. Duty of holder where not accepted. Where a bill is duly presented for acceptance and is not accepted within the prescribed time the person presenting it must treat the bill as dishonored by nonacceptance or he loses the right of recourse against the drawer and indorsers.

See note to § 3082.

§ 3232. Rights of holder where bill not accepted. When a bill is dishonored by nonacceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

See note to § 3082.

ARTICLE IV.

Protest.

§ 3233. In what cases protest necessary.

§ 3234. Protest; how made.

§ 3235. Protest; by whom made.

§ 3236. Protest; when to be made.

§ 3237. Protest; where made.

§ 3238. Protest both for nonacceptance and nonpayment.

§ 3239. Protest before maturity where acceptor insolvent.

§ 3240. When protest dispensed with.

§ 3241. Protest where bill is lost, etc.

§ 3233. In what cases protest necessary. Where a foreign bill appearing on its face to be such is dishonored by nonacceptance, it must be duly protested for nonacceptance, and where such a bill which has not previously been dishonored by nonacceptance is dishonored by nonpayment, it must be duly protested for nonpayment. If it is not so protested, the drawer and indorsers are discharged. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary.

See note to § 3082.

§ 3234. How made. The protest must be annexed to the bill, or must contain a copy thereof and must be under the hand and seal of the notary making it, and must specify—

(1) The time and place of presentment;

(2) The fact that presentment was made and the manner thereof;

(3) The cause or reason for protesting the bill;

(4) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

See note to § 3082.

§ 3235. By whom made. Protest may be made by—

(1) A notary public; or

(2) By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

See note to § 3082.

§ 3236. When made. When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

See note to § 3082.

§ 3237. Where made. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business, or residence of some person other than the drawee, has been dishonored by nonacceptance, it must be protested for nonpayment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

See note to § 3082.

§ 3238. Protest both for nonacceptance and nonpayment. A bill which has been protested for nonacceptance may be subsequently protested for nonpayment.

See note to § 3082.

§ 3239. Protest before maturity. Where the acceptor has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

See note to § 3082.

§ 3240. When dispensed with. Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence.

When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

See note to § 3082.

§ 3241. When bill lost, etc. When a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

See note to § 3082.

ARTICLE V.

Acceptance for Honor.

§ 3242. When bill may be accepted for honor.

§ 3243. Acceptance for honor; how made.

§ 3244. When deemed to be an acceptance for honor of the drawer.

§ 3245. Liability of the acceptor for honor.

§ 3246. Agreement of acceptor for honor.

§ 3247. Maturity of bill payable after sight; accepted for honor, etc.

§ 3248. Protest of bill accepted for honor, etc.

§ 3249. Presentment for payment to acceptor for honor; how made.

§ 3250. When delay in making presentment is excused.

§ 3251. Dishonor of bill by acceptor for honor.

§ 3242. Acceptance for honor. Where a bill of exchange has been protested for dishonor by nonacceptance or protested for better security, and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon, or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for the part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

See note to § 3082.

§ 3243. How made. An acceptance for honor supra protest must be in writing, and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

See note to § 3082.

§ 3244. What deemed to be an acceptance for honor of the drawer. Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

See note to § 3082.

§ 3245. Liability of acceptor. The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

See note to § 3082.

§ 3246. Agreement of acceptor for honor. The acceptor for honor, by such acceptance engages that he will on due presentment pay the bill according to the terms of his acceptance; provided, it shall not have been paid by the drawee; and provided, also, that it shall have been duly presented for payment and protested for nonpayment and notice of dishonor given him.

See note to § 3082.

§ 3247. Bill payable after sight. Where a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for nonacceptance and not from the date of the acceptance for honor.

See note to § 3082.

§ 3248. Protest. Where a dishonored bill has been accepted for honor supra protest or contains a reference in case of need, it must be protested for nonpayment before it is presented for payment to the acceptor for honor or referee in case of need.

See note to § 3082.

§ 3249. Presentment to acceptor. Presentment for payment to the acceptor for honor must be made as follows:

(1) If it is to be presented in the place where the protest for nonpayment was made, it must be presented not later than the day following its maturity.

(2) If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section three thousand one hundred eighty-six.

See note to § 3082.

§ 3250. When delay in making presentment is excused. The provisions of section three thousand one hundred sixty-three apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

See note to § 3082.

§ 3251. Dishonor of bill by acceptor for honor. When the bill is dishonored by the acceptor for honor it must be protested for nonpayment by him.

See note to § 3082.

ARTICLE VI.

Payment for Honor.

- § 3252. Who may make payment for honor.
- § 3253. Payment for honor; how made.
- § 3254. Declaration before payment for honor.
- § 3255. Preference of parties offering to pay for honor.
- § 3256. Effect on subsequent parties where bill is paid for honor.
- § 3257. Where holder refuses to receive payment supra protest.
- § 3258. Rights of payer for honor.

§ 3252. Payment for honor. Where a bill has been protested for nonpayment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

See note to § 3082.

§ 3253. Payment for honor, how made. The payment for honor supra protest in order to operate as such and not as a mere voluntary payment must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

See note to § 3082.

§ 3254. Declaration. The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

See note to § 3082.

§ 3255. Preference of parties. Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference.

See note to § 3082.

§ 3256. Subsequent parties discharged. Where a bill has been paid for honor, all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

See note to § 3082.

§ 3257. Right of recourse lost. Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment.

See note to § 3082.

§ 3258. Right of payer for honor. The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

See note to § 3082.

ARTICLE VII.

Bills in a Set.

§ 3259. Bills in sets constitute one bill.

§ 3260. Right of holders where different parts are negotiated.

§ 3261. Liability of holder who indorses two or more parts of a set to different persons.

§ 3262. Acceptance of bills drawn in sets.

§ 3263. Payment by acceptor of bills drawn in sets.

§ 3264. Effect of discharging one of a set.

§ 3259. Bills in sets one bill. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

See note to § 3082.

§ 3260. Where different parts are negotiated. Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

See note to § 3082.

§ 3261. Liability of holder. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

See note to § 3082.

§ 3262. Acceptance. The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

See note to § 3082.

§ 3263. Payment by acceptor. When the acceptor of a bill drawn in a set pays it without requiring the part being his acceptance to be delivered up to him, and that part at maturity

is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

See note to § 3082.

§ 3264. Whole bill discharged. Except as herein otherwise provided where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

See note to § 3082.

CHAPTER III.

Promissory Notes and Checks.

ARTICLE I.

§ 3265. Promissory note defined.

§ 3265a. Check defined.

§ 3265b. Within what time a check must be presented.

§ 3265c. Certification of check; effect of.

§ 3265d. Effect where the holder of check procures it to be certified.

§ 3265e. When check operates as an assignment.

§ 3265. Promissory note defined. A negotiable promissory note within the meaning of this title is an unconditional promise in writing made by one person to another signed by the maker engaging to pay on demand, or at a fixed or determinable future time, a sum certain in money to order or to bearer. Where a note is drawn to the maker's own order, it is not complete until indorsed by him.

See note to § 3082.

§ 3265a. Check defined. A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this title applicable to a bill of exchange payable on demand apply to a check.

See note to § 3082.

§ 3265b. Time for presenting check. A check must be presented for payment within a reasonable time after its issue or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

See note to § 3082.

§ 3265c. Certified check. Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

See note to § 3082.

§ 3265d. Effect of acceptance or certification. Where the holder of a check procures it to be accepted or certified the drawer and all indorsers are discharged from liability thereon.

See note to § 3082.

§ 3265e. When check operates as assignment. A check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

See note to § 3082.

CHAPTER IV. General Provisions.

ARTICLE I.

§ 3266. Definitions and meaning of terms.

§ 3266a. Person primarily liable on instrument.

§ 3266b. Reasonable time, what constitutes.

§ 3266c. Time, how computed, when last day falls on holiday.

§ 3266d. Application of act.

§ 3266. Definitions. In this title, unless the context otherwise requires—

“Acceptance” means an acceptance completed by delivery or notification.

“Action” includes counterclaim and setoff.

“Bank” includes any person or association of persons carrying on the business of banking, whether incorporated or not.

“Bearer” means the person in possession of a bill or note which is payable to bearer.

“Bill” means bill of exchange, and “note” means negotiable promissory note.

“Delivery” means transfer of possession, actual or constructive, from one person to another.

“Holder” means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

“Indorsement” means an indorsement completed by delivery.

“Instrument” means negotiable instrument.

“Issue” means the first delivery of the instrument complete in form, to a person who takes it as a holder.

“Person” includes a body of persons, whether incorporated or not.

“Value” means valuable consideration.

“Written” includes printed, and “writing” includes print.

See note to § 3082.

§ 3266a. Person primarily liable on instrument. The person "primarily" liable on an instrument is the person who by the terms of the instrument is absolutely required to pay the same. All other parties are "secondarily" liable.

See note to § 3082.

§ 3266b. Reasonable time, what constitutes: In determining what is a "reasonable time" or an "unreasonable time," regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.

See note to § 3082.

§ 3266c. Time, how computed when last day falls on holiday. Where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

See note to § 3082.

§ 3266d. Application of act. The provisions of this title do not apply to negotiable instruments made and delivered prior to the taking effect hereof. In any case not provided for in this title the rules of law and equity including the law-merchant shall govern.

See note to § 3082.

§ 3320. Liability for nonpayment of check. No bank shall be liable to a depositor because of the nonpayment through mistake or error, and without malice, of a check which should have been paid unless the depositor shall allege and prove actual damage by reason of such nonpayment and in such event the liability shall not exceed the amount of damage so proved. [New section added May 17, 1917; Stats. 1917, p. 622.]

§ 3423. When injunction may not be granted. An injunction cannot be granted:

First—To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless such restraint is necessary to prevent a multiplicity of such proceedings.

Second—To stay proceedings in a court of the United States.

Third—To stay proceedings in another state upon a judgment of a court of that state.

Fourth—To prevent the execution of a public statute, by officers of the law, for the public benefit.

Fifth—To prevent the breach of a contract, other than a contract in writing for the rendition or furnishing of personal service from one to another where the minimum compensation for such service is at the rate of not less than six thousand dollars per annum and where the promised service is of a special, unique, unusual, extraordinary or intellectual character which gives it peculiar value the loss of which cannot be reasonably or adequately compensated in damages in an action at law, the performance of which would not be specifically enforced.

Sixth—To prevent the exercise of a public or private office, in a lawful manner, by the person in possession.

Seventh—To prevent a legislative act by a municipal corporation. [Amendment approved May 6, 1919; Stats. 1919, p. 328.]

§ 3440. Transfers presumed fraudulent. Exceptions. Recording of notice of sale. Sales at public auction. Transfers under order of court. Every transfer of personal property, other than a thing in action, or a ship or cargo at sea or in a foreign port, and every lien thereon, other than a mortgage, when allowed by law, and a contract of bottomry or respondentia, is conclusively presumed if made by a person having at the time the possession or control of the property, and not accompanied by an immediate delivery, and followed by an actual and continued change of possession of the things transferred, to be fraudulent, and therefore void, against those who are his creditors while he remains in possession, and the successors in interest of such creditors, and against any persons on whom his estate devolves in trust for the benefit of others than himself, and against purchasers or encumbrancers in good faith subsequent to the transfer; provided, however, that the provisions of this section shall not apply to the transfer of wines in the wineries or wine cellars of the makers or owners thereof, or other persons having possession, care, and control of the same, and the pipes, casks, and tanks in which the said wines are contained, which transfers shall be made in writing, and certified and verified in the same form as provided for chattel mortgages, and which shall be recorded in the book of miscellaneous records in the office of the county recorder of the county in which the same are situated; provided, also, that the sale, transfer, or assignment of a stock in trade (or of such a quantity of a stock in trade as to be substantially a whole) in bulk, or in any manner otherwise than in the or-

dinary course of trade and in the regular and usual practice and method of business of the vendor, transferrer, or assignor, and the sale, transfer, assignment or mortgage of the fixtures or store equipment of a merchant, will be conclusively presumed to be fraudulent and void as against the existing creditors of the vendor, transferrer, assignor or mortgagor, unless at least seven days before the consummation of such sale, transfer, assignment or mortgage the vendor, transferrer, assignor or mortgagor, or the intended vendee, transferee, assignee, or mortgagee, shall record in the office of the county recorder in the county or counties in which the said stock in trade, fixtures or equipment are situated a notice of said intended sale, transfer, assignment or mortgage, stating the name and address of the intended vendor, transferrer, assignor or mortgagor, and the name and address of the intended vendee, transferee, assignee or mortgagee, and a general statement of the character of the merchandise or property intended to be sold, assigned, transferred or mortgaged, and the date when and the place where the purchase price or consideration, if any there be, is to be paid; provided, nevertheless, that if such intended sale is to be at public auction the notice above required to be recorded shall state that fact, the time, terms, and place of said sale, the names and addresses of the vendor and auctioneer, and a general statement of the character of the merchandise or property intended to be sold; but such sale shall in no event occur within seven days of the date of recordation of said notice; provided, further, that the provisions of this section shall not apply or extend to any sale, transfer, assignment or mortgage made under the direction or order of a court of competent jurisdiction or by any executor, administrator, guardian, receiver, or other officer or person acting in the regular and proper discharge of official duty, or in the discharge of any trust imposed upon him by law, nor to any transfer or assignment, statutory or otherwise, made for the benefit of creditors generally, nor to any sale, transfer, assignment or mortgage of any property exempt from execution. [Amendment approved May 5, 1917; Stats. 1917, p. 255.]

THE PENAL CODE

OF CALIFORNIA.

AMENDMENTS OF 1917 AND 1919.

§ 18a. Minimum punishment for felony. Except in cases where a different minimum punishment is prescribed by law, for every offense declared to be a felony and punishable by imprisonment in the state prison, the minimum punishment shall be imprisonment in the state prison for not less than six months. [New section added March 25, 1919; Stats. 1919, p. 7.]

§ 63. United States senator, candidates for must not give or promise pecuniary aid to legislative candidates. [Repealed by act approved April 24, 1917; Stats. 1917, p. 170.]

§ 63½. Members of legislature shall not accept any valuable consideration. [Repealed by act approved April 24, 1917; Stats. 1917, p. 170.]

§ 109a. Escapes from state hospitals. Any person who willfully assists any inmate of a state hospital to escape, or in an attempt to escape therefrom, is guilty of a misdemeanor. [New section added May 5, 1917; Stats. 1917, p. 275.]

§ 182. Criminal conspiracy defined. If two or more persons conspire:

1. To commit any crime;
2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime;
3. Falsely to move or maintain any suit, action or proceeding;
4. To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain

money or property by false pretenses or by false promises with fraudulent intent not to perform such promises;

5. To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

They are punishable as follows:

When they conspire to commit any felony, or to commit any act injurious to the public health, or to public morals, or tending to pervert or obstruct justice, or the due administration of the laws, they shall be punishable in the same manner and to the same extent as in this code provided for the punishment of the commission of the said felony or act. respectively.

When they conspire to do any of the other acts described in this section they shall be punishable by imprisonment in the county jail or state penitentiary not exceeding two years, or by a fine not exceeding five thousand dollars, or both, and cases of such conspiracy may be prosecuted and tried in the superior court of any county in which any overt act tending to effect such conspiracy shall be done. [Amendment approved May 5, 1919; Stats. 1919, p. 170.]

§ 184. Place of trial. No agreement amounts to a conspiracy, unless some act, beside such agreement, be done within this state to effect the object thereof, by one or more of the parties to such agreement and the trial of cases of conspiracy may be had in any county in which any such act be done. [Amendment approved May 5, 1919; Stats. 1919, p. 170.]

§ 259. Newspaper articles of personal character must be signed. Penalty for violation. Name of author of book or news agency sufficient. [Repealed by act approved April 24, 1917; Stats. 1917, p. 174.]

§ 270. Penalty for not furnishing child with food, etc. A parent of either a legitimate or illegitimate minor child who willfully omits, without lawful excuse to furnish necessary food, clothing, shelter, or medical attendance for his child, is punishable by imprisonment in the state prison, or in the county jail, not exceeding two years, or by fine not exceeding one thousand dollars, or by both. The superior court, sitting as a juvenile court, may exercise original jurisdiction over all such offenses. [Amendment approved May 5, 1917; Stats. 1917, p. 252.]

§ 310. Desecration of national flag. Penalty. Any person, firm or corporation, who, in any manner, for exhibition

or display, puts, places, or causes to be placed, an inscription, picture, device, design, symbol, name, advertisement, word, letter, character, mark or notice of any kind whatsoever, upon any flag of the United States, or ensign evidently purporting to be such flag, or who in any manner appends, annexes or affixes to any such flag any inscription, picture, device, symbol, name, advertisement, word, letter, character, mark or notice whatsoever, or who displays or exhibits, or causes to be displayed or exhibited, any flag of the United States or ensign purporting to be such flag, upon which is put, attached, annexed, affixed or placed in any manner, any inscription, picture, design, device, symbol, name, advertisement, word, letter, mark or notice whatsoever, or who mutilates, tramples upon, or otherwise defaces or defiles any such flag, said flag being public or private property, or who places or causes to be placed on any manufactured or prepared article or covering of said article, such flag or indication of such flag, or who uses or causes to be used for purposes of a commercial or other trademark, such flag or indication of such flag, shall be fined not more than two hundred dollars or imprisoned not more than one year, or both, for each and every offense, in the county jail of the county in which the trial is held; provided, however, that flags or ensigns, the property of and used in the service of the United States, or any state, territory or District of Columbia, may have inscriptions, names of actions, battles, skirmishes, or words, marks or symbols, which are placed thereon pursuant to law or authorized regulations. [Amendment approved April 5, 1917; Stats. 1917, p. 43.]

Protection of Bear Flag. See post, § 310a.

§ 310a. Protection of Bear Flag. Any person, firm or corporation who in any manner, for exhibition or display, puts, places or causes to be placed, an inscription, picture, device, design, symbol, name, advertisement, word, letter, character, mark or notice of any kind whatsoever upon any flag of the state of California, as designated and described in "An act to select and adopt the Bear Flag as the state flag of California," approved February 3, 1911, or ensign evidently purporting to be such flag or any design thereof, or who in any manner appends, annexes or affixes to any such flag or any design thereof any inscription, picture, device, symbol, name, advertisement, word, letter, character, mark or notice whatsoever, or who displays or exhibits, or

causes to be displayed or exhibited, any flag of the said state of California or ensign purporting to be such flag or any design thereof, upon which is put, attached, annexed, affixed or placed in any manner, any inscription, picture, design, device, symbol, name, advertisement, word, letter, mark or notice whatsoever, or who mutilates, tramples upon, or otherwise defaces or defiles any such flag or any design thereof, said flag being public or private property, or who places or causes to be placed on any manufactured or prepared article or covering of said article, such flag or indication of such flag, or who uses or causes to be used for purposes of an advertisement or of a commercial or other trademark, such flag or indication of such flag, shall be fined not more than two hundred dollars or imprisoned not more than one year, or both, for each and every offense, in the county jail of the county in which the trial is held; provided, however, that flags or ensigns, the property of and used in the service of the United States may have inscriptions, names of actions, battles, skirmishes, or words, marks or symbols, which are placed thereon pursuant to law or authorized regulations; and provided, further, that patriotic societies which at the date of the passage hereof have and are using as emblems or badges of membership in said societies a design consisting of a single star and stripe and a bear, together with words or letters on or in proximity to the design indicating the society of which it is the emblem, may continue the manufacture and use of such emblems or badges as insignia of membership in said societies. [New section added April 30, 1919; Stats. 1919, p. 147.]

Protection of national flag. See ante, § 310.

§ 331. Gambling* in houses owned or rented. Every person who knowingly permits any of the games mentioned in section three hundred thirty and section three hundred thirty *a* of this code to be played, conducted, or dealt in any house owned or rented by such person, in whole or in part, is punishable as provided in the preceding sections. [Amendment approved June 1, 1917; Stats. 1917, p. 1662.]

§ 351a. Falsely representing goods for sale. Written consent. Any person who sells, attempts to sell, offers for sale or assists in the sale of any goods, product or output, and who willfully and falsely represents such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, or any member

of a firm or any officer of a corporation, who knowingly permits any employee of such firm or corporation to sell, offer for sale or assist in the sale of any goods, product or output or to falsely represent such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, is guilty of a misdemeanor and punishable by a fine of not less than fifty dollars or more than three hundred dollars, or by imprisonment in the county jail for not less than twenty or more than ninety days, or both; provided, however, that this section shall not apply to any person who sells or offers for sale under his own name or brand the product or output of another manufacturer or producer with the written consent of such manufacturer or producer. [New section added May 17, 1917; Stats. 1917, p. 570.]

§ 373. Establishing or keeping pesthouses within cities, towns or villages. [Enacted February 14, 1872. Repealed by act approved April 5, 1917; Stats. 1917, p. 40.]

§ 384. Fires. Penalty for violating act. Any person who shall willfully or negligently commit any of the acts hereinafter enumerated in this section shall be guilty of a misdemeanor, and upon conviction thereof be punishable by a fine of not less than fifty nor more than five hundred dollars, or imprisonment in the county jail not less than fifteen days nor more than six months, or both such fine and imprisonment, except that in the case of an offense against subsection five of this section the fine imposed may be not less than ten dollars.

1. Setting fire without permission. Setting fire, or causing or procuring fire to be set to any forest, brush or other inflammable vegetation growing on lands not his own, without the permission of the owner of such land; provided, that no person shall be convicted under this section who shall have set in good faith and with reasonable care, a backfire for the purpose of stopping the progress of a fire then actually burning.

2. Allowing fires to escape. Allowing fires to escape from the control of the persons having charge thereof, or to spread to the lands of any person other than the builder of such fire without using every reasonable and proper precaution to prevent such fire from escaping.

3. Burning brush without taking precaution. Burning brush, stumps, logs, rubbish, fallen timbers, fallows, grass

or stubble, or blasting with dynamite, powder or other explosives, or setting off fireworks, whether on his own land or that of another, without taking every proper and reasonable precaution both before the lighting of said fire and at all times thereafter to prevent the escape thereof; provided, that any firewarden may, at his discretion, give a written permit to any person desiring to burn or blast as aforesaid; such permit shall contain such rules and regulations for the building and management of such fires as the state board of forestry may from time to time prescribe; and in any prosecution under this subsection it shall be prima facie evidence that the defendant has taken proper and reasonable precautions to prevent the escape of such fire, when he shall show that he has received such a permit and has complied with all the rules and regulations therein prescribed.

4. Using engine without device to prevent sparks. Using any logging locomotive, donkey or threshing engine, or any other engine or boiler, in or near any forest, brush, grass, grain or stubble land, unless he shall prove upon the trial, affirmatively, that such engines or boilers used by him were provided with adequate devices to prevent the escape of fire or sparks from smokestacks, ash-pans, fire-boxes, or other parts, and that he has used every reasonable precaution to prevent the causing of fire thereby.

4a. Fire-extinguishers on harvesters or hay-press. Harvesting grain or causing grain to be harvested by means of a combined harvester, header, or stationary threshing-machine, or baling hay by means of a hay-press, unless he shall keep at all times in convenient places upon each said combined harvester, header, or stationary threshing-machine, or hay-press, fully equipped and ready for immediate use, two suitable chemical fire-extinguishers, approved by the underwriters' laboratories, each of the capacity of not less than two and one-half gallons.

4b. Spark-arresting device on tractors, etc. Operating or causing to be operated any gas tractor, oil-burning engine, gas-propelled harvesting-machine or auto truck in harvesting or moving grain or hay, or moving said tractor, engine, machine or auto truck in or near any grain or grass lands, unless he shall maintain attached to the exhaust on said gas tractor, oil-burning engine or gas-propelled harvesting-machine an effective spark-arresting and burning carbon-arresting device.

5. Refusing to aid in fighting fires. Refusing or failing to render assistance in combating fires at the summons of any firewarden unless prevented by good and sufficient reasons.

6. Leaving fire burning not applicable to cities. Leaving a camp fire burning or unextinguished without some person in attendance, or allowing such fire to spread after being built.

7. Provisions do not apply to cities. The provisions of this section shall not apply to the setting of fire on lands within any municipal corporation of the state. [Amendment approved May 2, 1919; Stats. 1919, p. 173.]

§ 403a. Use of red flag prohibited. Any person who displays a red flag, banner or badge or any flag, badge, banner, or device of any color or form whatever in any public place or in any meeting place or public assembly, or from or on any house, building or window as a sign, symbol or emblem of opposition to organized government or as an invitation or stimulus to anarchistic action or as an aid to propaganda that is of a seditious character is guilty of a felony. [New section added April 30, 1919; Stats. 1919, p. 142.]

§ 439. Effecting insurance on account of foreign companies that have not complied with the laws of this state. [Repealed as far as inconsistent with § 596 of the Political Code by act approved April 20, 1917; Stats. 1917, p. 150. See Political Code, § 596.]

§ 464. Burglary with explosives. 1. Any person who, with intent to commit crime, breaks and enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe or other secure place by use of nitroglycerine, dynamite, gunpowder or any other explosive, shall be deemed guilty of burglary with explosives.

2. **Penalty.** Any person duly convicted of burglary with explosives shall be punished by imprisonment for a term of not less than twenty-five nor more than forty years. [New section added May 5, 1917; Stats. 1917, p. 273.]

§ 476a. Penalty for issuing bank check with intent to defraud. Every person who for himself or as the agent or representative of another or as an officer of a corporation, willfully, with intent to defraud, makes or draws or utters or delivers to another person any check or draft on a bank,

banker or depositary for the payment of money, knowing at the time of such making, drawing, uttering or delivery, that he or his principal or the corporation of which he is an officer has not sufficient funds in, or credit with such bank, banker or depositary, to meet such check or draft in full upon its presentation, is punishable by imprisonment in the county jail for not more than one year or in the state prison for not more than fourteen years. The word "credit" as used herein shall be construed to be an arrangement or understanding with the bank or depositary for the payment of such check or draft. [Amendment approved May 2, 1919; Stats. 1919, p. 238.]

§ 483. Selling ticket, etc., to person not entitled to use. Any person, firm, corporation, partnership, or association that shall sell to another any ticket, pass, scrip, mileage or commutation book, coupon, or other instrument for passage on a common carrier, for the use of any person not entitled to use the same according to the terms thereof, or of the book or portion thereof from which it was detached, shall be guilty of a misdemeanor. [New section added May 31, 1917; Stats. 1917, p. 1401.]

§ 487. Grand larceny defined. Grand larceny is larceny committed in either of the following cases:

1. When the property taken is of a value exceeding fifty dollars.

2. When the property is taken from the person of another.

3. When the property taken is a horse, mare, gelding, cow, steer, bull, calf, mule, jack, jenny, sheep, or lamb. [Amendment approved May 2, 1919; Stats. 1919, p. 235.]

§ 496a. Purchase of wire, etc., by junk dealers. Every person who, being a dealer in or collector of junk, metals or second-hand materials, or the agent, employee, or representative of such dealer or collector, buys or receives any wire, cable, copper, lead, solder, iron or brass used by or belonging to a railroad or other transportation, telephone, telegraph, gas or electric light company or county, city, city and county or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving such property, and is punishable, by imprisonment in a state prison for not more than five years, or in a county jail for not more than one year, or by a fine of not more than two hundred fifty dollars, or by both such fine and

imprisonment. [New section added May 27, 1919; Stats. 1919, p. 1302.]

§ 499a. Stealing electricity misdemeanor. Every person who shall willfully, and knowingly with intent to injure or defraud, make or cause to be made any connection in any manner whatsoever with any electric wire or electric appliance of any character whatsoever operated by any person, persons or corporation authorized to generate, transmit and sell electric current, or who shall so willfully and knowingly with intent to injure or defraud, use or cause to be used any such connection in such manner as to supply any electric current for heat or light or power to any electric lamp, or apparatus or device, by or at which electric current for heat or light or power is consumed or otherwise used or wasted, without passing through a meter for the measuring and registering of the quantity passing through such electric wire or apparatus, or who shall, knowingly and with like intent injure, alter or procure to be injured or altered any electric meter, or obstruct its working, or procure the same to be tampered with or injured, or use or cause to be used any electric meter, or appliance so tampered with or injured, shall be deemed guilty of a misdemeanor. [Amendment approved April 20, 1917; Stats. 1917, p. 150.]

§ 504a. Fraudulent removal of leased property embezzlement. Every person who shall fraudulently remove, conceal or dispose of any goods, chattels or effects, leased or let to him by any instrument in writing, or any personal property or effects of another in his possession, under a contract of purchase not yet fulfilled, and any person in possession of such goods, chattels, or effects knowing them to be subject to such lease or contract of purchase who shall so remove, conceal or dispose of the same with intent to injure or defraud the lessor or owner thereof, is guilty of embezzlement. [New section added May 5, 1917; Stats. 1917, p. 273.]

§ 506. When contractor, etc., guilty of embezzlement. Every trustee, banker, merchant, broker, attorney, agent, assignee in trust, executor, administrator, or collector, or person otherwise intrusted with or having in his control property for the use of any other person, who fraudulently appropriates it to any use or purpose not in the due and lawful execution of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, and any con-

tractor who appropriates money paid to him for any use or purpose, other than for that which he received it, is guilty of embezzlement, and the payment of laborers and materialmen for work performed or material furnished in the performance of any contract is hereby declared to be the use and purpose to which the contract price of such contract, or any part thereof, received by the contractor shall be applied. [Amendment approved May 27, 1919; Stats. 1919, p. 1090.]

§ 506a. Collector defined. Any person who, acting as collector, or acting in any capacity in or about a business conducted for the collection of accounts or debts owing by another person, and who violates the provisions of section five hundred six of the Penal Code, shall be deemed to be an agent or person as defined in said section five hundred six of the Penal Code, and subject for a violation of the provisions of said section five hundred six of the Penal Code, to be prosecuted, tried, and punished in accordance therewith and with law; and the word collector herein set forth shall also include and be held to mean every such person who collects, or who has in his possession or under his control property or money for the use of any other person, whether in his own name and mixed with his own property or money, or otherwise, or whether he has any interest, direct or indirect, in or to such property or money, or any portion thereof, and who fraudulently appropriates to his own use, or the use of any person other than the true owner, or person entitled thereto, or secretes such property or money, or any portion thereof, or interest therein not his own, with a fraudulent intent to appropriate it to any use or purpose not in the due and lawful execution of his trust. [New section added May 24, 1917; Stats. 1917, p. 931.]

§ 532a. False financial statements. Any person—

(1) **Making false statement of financial condition.** Who shall knowingly make or cause to be made, either directly or indirectly or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself, or any other person, firm or corporation, in whom he is interested, or for whom he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the execution of a contract of guaranty or suretyship, the dis-

count of an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange, or promissory note, for the benefit of either himself or of such person, firm or corporation; or

(2) **Benefiting by false statement.** Who knowing that a false statement in writing has been made, respecting the financial condition or means or ability to pay, of himself, or such person, firm or corporation in which he is interested, or for whom he is acting, procures, upon the faith thereof, for the benefit either of himself, or of such person, firm or corporation, either or any of the things of benefit mentioned in the first subdivision of this section; or

(3) **Reaffirming false statement. Penalty.** Who knowing that a statement in writing has been made, respecting the financial condition or means or ability to pay of himself or such person, firm or corporation, in which he is interested, or for whom he is acting, represents on a later day in writing that such statement theretofore made, if then again made on said day, would be then true, when in fact, said statement if then made would be false, and procures upon the faith thereof, for the benefit either of himself or of such person, firm or corporation either or any of the things of benefit mentioned in the first subdivision of this section; shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. [Amendment approved April 30, 1919; Stats. 1919, p. 277.]

§537. Defrauding innkeepers, etc. Any person who obtains any food or accommodation at an hotel, inn, restaurant, boarding-house, lodging-house, or furnished apartment house without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boarding-house, lodging-house, or furnished apartment house by the use of any false pretense, or who, after obtaining credit, food or accommodation at an hotel, inn, restaurant, boarding-house, lodging-house, or furnished apartment house absconds or surreptitiously removes his baggage therefrom without paying for his food or accommodations is guilty of a misdemeanor. [Amendment approved April 30, 1919; Stats. 1919, p. 240.]

§537d. Removing automobile subject to lien misdemeanor. Any person who surreptitiously or by false pretenses obtains or removes from any garage or repair shop

any automobile or other personal property upon which the proprietor or manager thereof would be entitled to a lien, pursuant to the provisions of section three thousand fifty-one of the Civil Code, is guilty of a misdemeanor. [New section added May 7, 1917; Stats. 1917, p. 291.]

§ 561. Frauds by bank officers, etc. An officer, director, agent, teller, clerk or employee of any bank, who, either,

1. Knowingly overdraws his account with such bank and thereby obtains the money, notes or funds of any such bank; or

2. Asks for, receives, or consents or agrees to receive, any commission, emolument, gratuity or reward, or any promise of any commission, emolument, gratuity or reward, or any money, property or thing of value or of personal advantage for procuring or endeavoring to procure for any person, firm or corporation, any loan from, or the purchase or discount of any paper, note, draft, check or bill of exchange by any such bank, or for permitting any person, firm or corporation to withdraw any account with such bank, is guilty of a felony. [Amendment approved May 17, 1917; Stats. 1917, p. 579.]

§ 561a. Any officer, director, trustee, employee or agent of any bank in this state, who abstracts or willfully misapplies any of the money, funds or property of such bank, or willfully misapplies its credit, is guilty of a felony. Nothing in this section shall be deemed or construed to repeal, amend or impair any existing provision of law prescribing a punishment for any such offense. [New section added May 17, 1917; Stats. 1917, p. 579.]

§ 561b. Frauds by director of bank. Every director of a bank in this state who

1. In case of the fraudulent insolvency of such bank, shall have participated in such fraud; or

2. Willfully does any act as such director which is expressly forbidden by law or willfully omits to perform any duty imposed upon him as such director by law, is guilty of a misdemeanor.

The insolvency of a bank is deemed fraudulent unless its affairs appear upon investigation to have been administered clearly, legally and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe. [New section added May 17, 1917; Stats. 1917, p. 579.]

§ 561c. Guaranty in sum beyond legal amount. An officer or agent of any bank in this state, who makes or delivers any guaranty or indorsement on behalf of such bank, whereby it may become liable upon any of its discounted notes, bills or obligations, in a sum beyond the amount of loans and discounts which such bank may legally make, is guilty of a misdemeanor. [New section added May 17, 1917; Stats. 1917, p. 580.]

§ 561d. Loan to director. Deposit with corporation to make loan. Concealing accounts or loans. A director of a bank, organized under the laws of this state, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended to make a loan or discount to any director of such corporation, or upon paper upon which any such director is liable or responsible to an amount exceeding the amount allowed by the statutes; or

Any director, trustee, officer or employee of any such bank who makes or maintains, or attempts to make or maintain, a deposit of such bank's funds with any other corporation on condition, or with the understanding, express or implied, that the corporation receiving such deposit make a loan or advance, directly or indirectly, to any director, trustee, officer or employee of the corporation so making or maintaining or attempting to make or maintain such deposit; or

Any officer or employee of any such bank who intentionally conceals from the directors or trustees of such bank any discounts or loans made by it between the regular meetings of its board of directors or trustees, or the purchase of any securities or the sale of its securities during the same period, or knowingly fails to report to the board of directors or trustees when required to do so by law, all discounts or loans made by it and all securities purchased or sold by it between the regular meetings of its board of directors or trustees, is guilty of a misdemeanor.

Nothing in this section shall render any loan made by the directors of any bank, in violation thereof, invalid. [New section added May 17, 1917; Stats. 1917, p. 580.]

§ 563a. False entry. Any officer, director, trustee, employee or agent of any bank organized under the laws of this state, who makes a false or untrue entry in any book or any report, tag or statement, of the business, affairs or condition, in whole or in part, of such corporation, with intent to deceive any officer, director or trustee thereof, or any agent or examiner, private or official, employed or law-

fully appointed to examine into its condition or into any of its affairs, or any public officer, office or board to which such bank is required by law to report, or which has authority by law to examine into its affairs or into any of its affairs, or who, with like intent, willfully omits to make a new entry of any matter particularly pertaining to the business, property, affairs, assets or accounts of such bank in any book, report, statement, or tag of such bank made, written or kept, or required to be made, written or kept by him or under his direction, is guilty of a felony. [New section added May 17, 1917; Stats. 1917, p. 579.]

§ 563b. Circulating false rumors regarding bank. Any person who willfully and knowingly makes, circulates or transmits to another or others any statement or rumor, written, printed or by word of mouth, which is untrue in facts and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, doing business in this state, or who knowingly counsels, aids, procures or induces another to start, transmit or circulate any such statement or rumor, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. [New section added April 11, 1917; Stats. 1917, p. 92.]

§ 599f. Penalty for killing elk. Every person who willfully kills any elk, is guilty of a felony, and is punishable by imprisonment in the state prison for a term not exceeding two years and the possession of any elk meat shall be prima facie evidence of a violation of this act. [Amendment approved April 5, 1917; Stats. 1917, p. 39.]

§ 602. Malicious injury to real property. Every person who willfully commits any trespass by either:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another;

(b) Carrying away any kind of wood or timber lying on such lands;

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof;

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone;

(e) Digging, taking, or carrying away from land in any city or town, laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone;

(f) Maliciously tearing down, damaging, mutilating or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another; or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto;

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands;

(h) Willfully opening, tearing down, or otherwise destroying any fence on the inclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property; or

(i) Entering any inclosure belonging to, or occupied by another, for the purpose of hunting, shooting, killing, or destroying any kind of game within such inclosure, without having first obtained permission from the owner of such inclosure;

Is guilty of a misdemeanor. [Amendment approved May 10, 1917; Stats. 1917, p. 319.]

§ 626 [1]. [See note at end of section.] **Protection of ducks, geese, etc. Valley quail. Mountain quail. Grouse. Doves. Sagehens. Rabbits.** Every person who between

misdemeanor. [Amendment approved May 18, 1919; Stats. 1919, p. 718.]

Section 626 of the Penal Code was amended three times at the legislative session of 1919. See ante, § 626 [1], and post, § 626 [3]. To distinguish the sections apart, they have been numbered § 626 [1], § 626 [2] and § 626 [3], respectively. Section 626 was also amended in 1917 (Stats. 1917, p. 652).

§ 626 [3]. [See note at end of section.]. **Protection of game. Ducks, etc. Desert or valley quail. Rabbits. Mountain quail. Grouse. Doves. Sagehens. Rabbits on owner's premises.** Every person who between the first day of February and the fifteenth day of October, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys or has in his possession any kind of wild duck, or goose, or brant or mudhen or gallinule, or Wilson snipe; or who, at any time hunts, pursues, takes, kills or destroys or has in his possession any rail, or wood duck or wild pigeon or any shore-bird, except Wilson snipe, or any sandhill crane, whooping crane or little brown crane; or who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills, or destroys or has in his possession any desert or valley quail, or cottontail or brush rabbits; or who, between the first day of December and the thirty-first day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession any mountain quail; or who, between the fifteenth day of October and the fourteenth day of September, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession any grouse; or who, between the first day of November and the thirty-first day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession, any dove is guilty of a misdemeanor; or who, between the first day of October and the fourteenth day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession, any sagehen, is guilty of a misdemeanor; provided, that in fish and game district four every person who at any time hunts, pursues, takes, kills or destroys or has in his possession, any sagehen is guilty of a misdemeanor; provided, further, that in fish and game districts numbers two, three, and any fish and game districts lying between the northern boundary of Mendocino county and the southern boundary of Ventura county, every person, who, between the first day of February and the fourteenth

day of November, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys or has in his possession, any mountain quail is guilty of a misdemeanor; provided, further, that in fish and game districts number four and number four and one-half every person who between the first day of January and the fifteenth day of October, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys or has in his possession any desert, valley or mountain quail is guilty of a misdemeanor; provided, further, that nothing in this section shall prohibit the hunting, pursuing, taking, killing or destroying of any cottontail or brush rabbit by the owner or tenant of any premises, or by any person authorized in writing by such owner or tenant, but the rabbits so hunted, pursued, taken, killed or destroyed shall not be shipped or sold during the closed season. [Amendment approved May 18, 1919; Stats. 1919, p. 729.]

Section 626 of the Penal Code was amended three times at the legislative session of 1919. See ante, §§ 626 [1] and 626 [2]. To distinguish the sections apart, they have been numbered § 626 [1], § 626 [2] and § 626 [3], respectively. Section 626 was also amended in 1917. See Stats. 1917, p. 652.

§ 626a. Retaining fish and game after open season.

Whenever or wherever in any section of the code an open season for the pursuing, hunting, taking, catching, killing or possession of wild birds, wild animals or fish is prescribed, it shall be lawful for any person to retain in possession for an additional five days next succeeding the last day of such open season any of the wild birds, wild animals or fish legally taken, caught, killed or possessed during the open season therefor; provided, that not more than the bag limit of wild birds, wild animals or fish allowed to be taken, caught, killed or possessed during one calendar day in such open season may be held in possession during said additional period of five days. [New section approved May 13, 1919; Stats. 1919, p. 500.]

The old § 626a which was amended in 1917 (Stats. 1917, p. 38) was repealed twice at the legislative session of 1919. See Stats. 1919, pp. 38 and 730. It related to the closed season for dove in games district No. 1.

626d [1]. [Enacted twice in 1919. See next section.]

Limit of game. Every person who, during any one calendar day hunts, takes, kills, pursues or destroys or has in his possession, more than twenty-five wild geese (except honker geese and black sea brant) or wild ducks, or more than twelve honker geese or black sea brant, or more than fifteen desert or valley quail, or doves or black breasted

the first day of February and the fifteenth day of October, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys or has in his possession any kind of wild duck, or goose, or brant or mudhen or gallinule, or Wilson snipe; or who, at any time hunts, pursues, takes, kills or destroys or has in his possession any rail, or wood duck or wild pigeon or any shore-bird, except Wilson snipe, or any sandhill crane, whooping crane or little brown crane; or who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys or has in his possession any desert or valley quail, or cottontail or brush rabbits; or who, between the first day of December and the thirty-first day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession any mountain quail; or who, between the fifteenth day of October and the fourteenth day of September, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession any grouse; or who, between the first day of November and the thirty-first day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession, any dove is guilty of a misdemeanor; or who, between the first day of October and the fourteenth day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys or has in his possession, any sagehen, is guilty of a misdemeanor; provided, that in fish and game district four every person who at any time hunts, pursues, takes, kills or destroys or has in his possession, any sagehen is guilty of a misdemeanor; provided, further, that in fish and game districts numbers two, three and four and any fish and game districts lying between the northern boundary of Mendocino county and the southern boundary of San Diego county, every person, who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys or has in his possession, any mountain quail is guilty of a misdemeanor; provided, further, that nothing in this section shall prohibit the hunting, pursuing, taking, killing or destroying of any cottontail or brush rabbit by the owner or tenant of any premises, or by any person authorized in writing by such owner or tenant, but the rabbits so hunted, pursued, taken, killed or destroyed shall not be shipped or sold during the closed season. [Amendment approved April 8, 1919; Stats. 1919, p. 38.]

Section 626 of the Penal Code was amended three times at the legislative session of 1919. See post, §§ 626 [2] and 626 [3]. To distinguish the sections apart, they have been numbered § 626 [1], § 626 [2] and § 626 [3], respectively. Section 626 was also amended in 1917 (Stats. 1917, p. 652).

§ 626 [2]. [See note at end of section.] **Protection of game. Ducks, etc. - Desert or valley quail. Rabbits. Grouse. Sagehens. Mountain quail.** Every person who, between the first day of February and the fifteenth day of October, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys, or has in his possession, any kind of wild duck, or goose, or brant, or mudhen, or gallinule, or Wilson snipe; or, who, at any time, takes, kills or destroys, or has in his possession, any rail, or wood duck, or wild pigeon, or any shore-bird, except Wilson snipe, or any sandhill crane, whooping crane, or little brown crane; or, who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys, or has in his possession, any desert or valley quail; or, who, except in fish and game districts four, nineteen and twenty-one, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills or destroys, or has in his possession, any cottontail or brush rabbit; or, who, between the first day of December and the thirty-first day of August, both dates inclusive, of the following year, hunts, pursues, takes, kills or destroys, or has in his possession, any mountain quail; or, who, between the fifteenth day of October and the fourteenth day of September, both dates inclusive, of the year following, hunts, pursues, takes, kills or destroys, or has in his possession, any grouse is guilty of a misdemeanor; or, who, between the first day of October and the fourteenth day of August, both dates inclusive, of the year following, hunts, pursues, takes, kills, or destroys, or has in his possession, any sagehen is guilty of a misdemeanor; provided, that in fish and game district number four every person who at any time hunts, pursues, takes, kills, or destroys, or has in his possession, any sagehen is guilty of a misdemeanor; provided, further, that in fish and game districts numbers two, three and four, and any fish and game districts lying between the northern boundary of Mendocino county and the southern boundary of San Diego county, every person, who, between the first day of February and the fourteenth day of November, both dates inclusive, of any year, hunts, pursues, takes, kills, or destroys, or has in his possession, any mountain quail is guilty of a

sion. [Amendment approved May 13, 1919; Stats. 1919, p. 520.]

§ 626g. Protection of tree squirrels. Every person, who, between the first day of January and the thirty-first day of August, of the same year, both dates inclusive, hunts, takes, kills or destroys, or has in his possession, any species of tree squirrel, or who at any time buys, sells, offers for sale, or has in his possession for sale, any tree squirrel, is guilty of a misdemeanor, and every person who takes, kills or destroys, or has in his possession, more than twelve tree squirrels during any one open season, is guilty of a misdemeanor. [Amendment approved April 15, 1919; Stats. 1919, p. 92.]

§ 626j. Tracking deer with more than one dog misdemeanor. Every person, who, owning, controlling, or having in his possession any dogs, suffers, permits or allows more than one of said dogs to run, track or trail any deer at any time during the open season that deer may be lawfully killed is guilty of a misdemeanor.

Every person, who, owning, controlling or having in his possession any dogs, suffers, permits or allows any of said dogs to run, track or trail any deer during the closed season for the taking of deer is guilty of a misdemeanor. [Amendment approved April 5, 1917; Stats. 1917, p. 59.]

§ 626l. Permission to take fish and game for scientific purposes. Nothing in this chapter, nor the Penal Code, shall prohibit the possession or the taking alive for scientific, educational or propagation purposes any of the wild game birds or game mammals or fishes of this state; provided, however, permission to take, kill and possess said wild game birds, game mammals or fishes for said purposes shall have been first obtained in writing from the state board of fish and game commissioners, and said permit shall accompany the shipment of said wild game birds or game mammals or fishes and shall exempt them from seizure while passing through any part of this state, or while in possession, in accordance with said permit.

All game birds or game mammals or fish taken under any permit shall be taken under the supervision of said board. [Amendment approved April 16, 1917; Stats. 1917, p. 139.]

§ 626o. Protection of game. Every person who, in the state of California, shoots at any kind of game bird or mammal, except whales, from a power boat, sailboat, automobile, or airplane, is guilty of a misdemeanor.

Every person who shall use a shotgun of a larger gauge than that commonly known and designated as a number ten

gauge shall be guilty of a misdemeanor. [Amendment approved May 13, 1919; Stats. 1919, p. 483.]

This section was also amended in 1917. See Stats. 1917, p. 1279.

§ 626p. Hunting beaver. Penalty. Every person, who takes, catches or kills or has in his possession any beaver, or who has in his possession any green beaver hides, is guilty of a misdemeanor.

(a) Provided, that the state fish and game commission may in writing authorize any person to take, catch or kill any beaver, when notice in writing is given the state fish and game commission that beavers are endangering or destroying the levees or other protective works of any reclamation district, levee district, or swamp-land district.

(b) Provided, further, that the person or persons so taking, catching or killing any such beavers shall, within ten days thereafter, report in writing such taking, catching or killing and the place thereof to the state fish and game commission, and the state fish and game commission may thereupon issue permission in writing for the disposal of such hide or pelt so taken, caught or killed.

(c) Provided, further, that the provisions of this section shall not apply to the skin or pelt of any beaver taken, caught or killed in any other state or country in which the taking, catching, killing and sale of beavers is permitted.

(d) Every person found guilty of a violation of the provisions of this section must be fined in a sum not less than twenty-five dollars, nor more than five hundred dollars, or imprisonment in the county jail of the county in which the conviction shall be had not less than twenty-five days, nor more than one hundred and fifty days, or by both such fine and imprisonment. [Amendment approved April 5, 1917; Stats. 1917, p. 39.]

§ 626r. Penalty for sale of aigrettes, etc. Every person who, after the first day of November, one thousand nine hundred seventeen, sells or offers for sale or has in his possession for sale any aigrette or egret, osprey, bird of paradise, goura, or numidi, or the plume feathers, quills, head, wings, tail, skin, or parts of skin, raw or manufactured, of the said aigrette or egret, osprey, bird of paradise, goura or numidi, shall be guilty of a misdemeanor. [New section added May 18, 1917; Stats. 1917, p. 662.]

§ 626s. Protection of wild game. Penalty. Every person who, in fish and game districts numbers one a, one b, one

c, one *d*, one *e*, one *f*, one *g*, one *h*, one *i*, one *j*, one *k*, one *l*, two *a*, three *a*, three *b*, three *c*, three *d*, four *a*, four *b*, four *c*, four *d*, four *e*, four *f*, hunts, pursues, takes, catches, kills, destroys or has in his possession any wild bird or wild animal, excepting the predatory birds and animals designated in this chapter, or who, within the boundaries of said fish and game districts numbers one *a*, one *b*, one *c*, one *d*, one *e*, one *f*, one *g*, one *h*, one *i*, one *j*, one *k*, one *l*, one *m*, two *a*, three *a*, three *b*, three *c*, three *d*, three *e*, three *f*, four *a*, four *b*, four *c*, four *d*, four *e*, hunts, pursues, takes, catches, kills or destroys or has in his possession any predatory bird or animal without first having secured written permission from the board of fish and game commissioners, shall be guilty of a misdemeanor; provided, that nothing in this act shall prohibit the hunting, pursuing and killing of waterfowl in game districts four *a* and four *e*, in accordance with the provisions prescribed in this chapter.

Every person who, in fish and game district number twenty-six, takes, catches, kills or has in possession any fish is guilty of a misdemeanor.

Every person found guilty of a violation of any of the provisions of this section shall be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail in the county in which conviction shall be had, not less than fifty days nor more than one hundred fifty days, or by both such fine and imprisonment. All fines and forfeitures collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund. Nothing in this act shall prohibit the fish and game commission or persons authorized by them, from taking at all times and in any manner such fish or game as they may deem necessary for scientific purposes, or purposes of propagation. [Amendment approved May 13, 1919; Stats. 1919, p. 497.]

Section 626s was also amended in 1917. See Stats. 1917, p. 1042.

§ 626u. Affidavit when shipping deer. Penalty. Any person lawfully killing a deer during the open season may ship such entire deer to any part of the state during the open season for the killing of deer in the district in which the animal is killed, provided that an affidavit is made before a justice of the peace or notary public, in which affidavit is set forth the date and place of killing, the name and address, the number of hunting license of the party killing and shipping the deer, the name and address of the party to whom the deer is shipped. The original of this

affidavit must immediately be filed with the fish and game commission in San Francisco, a copy attached to the carcass of the deer shipped and a copy left on file with the notary public or justice of the peace before whom the affidavit is made. After such deer is received in the district in which the season is closed, if it is desired to distribute it to two or more persons, the receiver must at once file with the fish and game commission a list of the persons receiving any part of the said deer.

Every person failing to comply with the provisions of this act shall be guilty of a misdemeanor, and is punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail, in the county in which the conviction shall be had, of not less than twenty-five days, nor more than one hundred and fifty days, or by both such fine and imprisonment; and all fines and forfeitures imposed or collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund. [Amendment approved May 17, 1917; Stats. 1917, p. 655.]

§ 626½. Protection of growing crops from wild ducks, etc. In any fish and game district in the state in which are growing crops of rice or grain which are being destroyed by wild ducks, wild geese or mudhens, it shall be lawful for the owner or any bona fide employee of the owner of such crops, at any time between the fifteenth day of September and the first day of February of the following year, to shoot such wild ducks, wild geese or mudhens on the lands on which said crops are situated, at such times and in such numbers as may be necessary to protect said growing crops, notwithstanding any law now in effect to the contrary; provided, that the owner of such crops shall have first obtained from the proper department of the federal government a license or permit to shoot such wild ducks, wild geese or mudhens when such a license or permit may be required. [New section approved May 27, 1919; Stats. 1919, p. 1286.]

§ 627a. Transportation of game out of state misdemeanor. Every railroad company, express company, transportation company, or other common carrier, its officers, agents, and servants, and every other person who transports, carries or takes out of this state, or who receives for the purpose of transporting from this state, any deer, deer-skin, or part of deerskin, or any quail, partridge, pheasant, grouse, or sagehen or prairie-chicken, dove, wild pigeon, or

any wild duck, wild goose, rail, snipe, ibis, curley, plover, or other shore-birds (*Limicolae*), except for the purpose of propagation or scientific purposes, under a permit, in writing, first obtained from the board of fish and game commissioners of the State of California, or who transports, carries or takes from the state, or receives for the purpose of transportation from the state, the carcass of any such animal or any such bird, or any part of the carcass of any such animal or bird, is guilty of a misdemeanor [Amendment approved April 6, 1917; Stats. 1917, p. 77.]

§ 627b. Shipment of more than limit of certain game.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports, for any one person during any one calendar day; or any person who ships or offers for shipment or transportation during any one calendar day, more than the bag limit of wild birds or wild animals or fish allowed to be taken, caught, killed or possessed during any one calendar day, is guilty of a misdemeanor.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports for any one person, between sunrise of one Sunday and sunrise of the following Sunday; or any person who ships or offers for shipment or transportation between sunrise of one Sunday and sunrise of the following Sunday, more than the bag limit of wild birds or wild animals or fish allowed to be taken, caught, killed or possessed between sunrise of one Sunday and sunrise of the following Sunday, is guilty of a misdemeanor.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports for any one person during any one season; or any person who ships or offers for shipment or transportation during any one season, more than the seasonal bag limit of wild birds or wild animals or fish allowed to be taken, caught, killed or possessed during any one season, is guilty of a misdemeanor.

Every common carrier, its officers, agents or servants, who receives for shipment or transportation, or who ships or transports, or any person who ships or offers for shipment or transportation any wild birds or wild animals or fish, unless the same are at all times in open view, labeled with the name and residence of the shipper and the name and residence of the actual consignee and the exact contents as to kind and species of wild birds or wild animals

or fish contained in the package offered for shipment or transportation; or any person who ships any of the wild birds or wild animals or fish by parcel post is guilty of a misdemeanor.

All acts and parts of acts inconsistent with this act are hereby repealed. [Amendment approved May 18, 1917; Stats. 1917, p. 651.]

§ 628. Protection of shrimp. Spiny lobster. Crab. Caught below Mexican boundary. Every person who, at any time offers for shipment or ships, or who receives for shipment or transportation from the state of California to any place in any other state, territory or foreign country, or who has in his possession, for any purpose any dried shrimp or shrimp shells of shrimp caught or taken in the waters of this state, shall be guilty of a misdemeanor; and be it provided, that the possession of such dried shrimp or shrimp shells for any purpose shall be prima facie evidence that such dried shells are of shrimp which were caught or taken in the waters of this state. Every person who, between the first day of March and the fourteenth day of October inclusive of any year, takes, catches, kills, has in possession, buys, sells or offers for sale any spiny lobster (*Panulirus interruptus*), or who at any time takes, catches, kills, has in possession, buys, sells, or offers for sale any spiny lobster (*Panulirus interruptus*), of less than ten and one-half inches or more than sixteen inches in length, measured from one extremity to the other and exclusive of legs, claws or feelers, shall be guilty of a misdemeanor. Every person who, at any time, takes, catches, kills, has in his possession, buys, sells, or offers for sale any crab (*Cancer magister*), of less than seven inches in breadth measured straight across the back from point to point, or any female crab (*Cancer magister*), or who, between the thirty-first day of July and the fourteenth day of November, inclusive, of any year, takes, catches, kills, has in possession, buys, sells or offers for sale any crab (*Cancer magister*), shall be guilty of a misdemeanor; provided, that crabs from without the state may be imported into the state for sale at any time; provided, such crabs are duly inspected and tagged according to the rules and regulations to be prescribed by the fish and game commission. The cost of such inspection and tagging must be borne by the person or persons importing such crabs. Any person who shall at any time, pickle, can or otherwise preserve any spiny lobster (*Panulirus interruptus*) or crab (*Cancer magister*) or who shall at any time sell any spiny lobster (*Panulirus interruptus*) or crab (*Cancer*

magister) meat not in the shell of any such spiny lobster (*Panulirus interruptus*) or crab (*Cancer magister*) or who shall bring to shore any part or portion of any spiny lobster (*Panulirus interruptus*) or crab (*Cancer magister*) without the remaining portions of such spiny lobster (*Panulirus interruptus*) or crab (*Cancer magister*) in such condition that the size of such spiny lobster (*Panulirus interruptus*) or crab (*Cancer magister*) cannot be measured, shall be guilty of a misdemeanor.

Every person who ships or offers for shipment or transportation any species of crab taken in fish and game districts five, six, seven, seven a, eight and nine, is guilty of a misdemeanor.

None of the provisions of this act shall apply to spiny lobster caught or taken without the waters of this state, when said spiny lobsters are not caught in waters lying south for a distance of ten miles from the international boundary line between the United States and Mexico, extended westerly in the Pacific Ocean, and bearing after inspection such evidence of having been so caught or taken as may be hereafter prescribed by the fish and game commission; and be it provided, that all the expenses of such inspection shall be borne by the importer of such spiny lobster; and be it provided, further, that all spiny lobster imported into this state shall be of the size prescribed in this section. [Amendment approved May 13, 1919; Stats. 1919, p. 424.]

This section was also amended in 1917. See Stats. 1917, p. 1062.

§ 628a. Protection of bass. Shad. Limit. Penalty.

Every person, who at any time, buys, sells, offers for sale or has in his possession any striped bass of less than three pounds in weight, or who, except with hook and line and in the manner commonly known as angling, takes, catches, kills or has in his possession any striped bass or shad between the twenty-fifth day of September and the fourteenth day of November inclusive of any year or between the first day of June and the thirty-first day of July, both dates inclusive, of any year, or who, between the twenty-fifth day of September and the fourteenth day of November, inclusive, or between the first day of June and the thirty-first day of July, inclusive, of any year, takes, catches, kills or has in his possession more than five striped bass or shad, or who between the twenty-fifth day of September and the fourteenth day of November, inclusive, or between the first day of June and the thirty-first day of July, inclusive, of any year, buys, sells, offers for sale, ships or offers for shipment

or receives for shipment or transportation any striped bass, or who at any time offers for shipment, ships or receives for shipment or transportation from the state of California to any place in any other state, territory or foreign country any striped bass is guilty of a misdemeanor. Every person who takes any striped bass or shad in a net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor. Every person who shall cast, extend or draw, or assist in casting, extending or drawing any net or seine, for the purpose of taking or catching any shad or striped bass in any of the waters of this state at any time between sunrise of each Saturday and sunset of the following Sunday is guilty of a misdemeanor; provided, however, that nothing in this section shall prohibit any person from having in his possession, in any one calendar day, not more than five striped bass of less than three pounds each in weight, caught with hook and line, but such fish shall not be bought, sold or offered for sale, or shipped or offered for shipment. Every person who violates any of the provisions of this section is guilty of a misdemeanor. [Amendment approved May 13, 1919; Stats. 1919, p. 426.]

This section was also amended in 1917. See Stats. 1917, p. 668.

§ 628b. Protection of black bass, perch, sunfish, etc. Exception. Protection of catfish. Exception. Every person who at any time, except with hook and line and in the manner commonly known as angling, takes, catches or kills any black bass, Sacramento perch, crappie, calico bass or any variety of sunfish, or has in his possession more than twenty-five black bass, Sacramento perch, crappie, calico bass or any variety of sunfish, during one calendar day, or who takes, catches, kills or has in his possession any black bass less than seven inches in length, or who buys, sells, offers or exposes for sale any black bass, Sacramento perch, crappie, calico bass or any variety of sunfish; every person who in any fish and game district, between the first day of December and the thirtieth day of April of the year following, both dates inclusive, takes, catches, kills or has in his possession any black bass, Sacramento perch, crappie, calico bass or any variety of sunfish, is guilty of a misdemeanor.

Nothing in this section shall prohibit the taking of black bass at any time in any lake exceeding seventy-five square miles in area within the boundaries of fish and game district number two, or prohibit the possession within the boundaries

in fish and game district number two, of black bass taken in
any person who at any time, has in his possession for
or offers for sale, any catfish, between the fif-
teenth day of May and the fourteenth day of August, inclu-
ding any year, or who at any time has in his possession for
or offers for sale, any dressed catfish, which shall
measure less than seven inches in length, exclusive of any
part of the head, or who at any time has in his possession for
or sells, or offers for sale, any undressed catfish less than
nine inches in length, or who retains any catfish in live cars
or boats that do not measure nine inches in length, or who at
any time within a period of five years, kills or has in his pos-
session any sturgeon, is guilty of a misdemeanor.

Nothing in this section, or elsewhere in this code, shall pro-
hibit the state fish and game commission, or persons author-
ized by it, from taking at all times such fish as they may
deem necessary for scientific purposes, or for purposes of
propagation. [Amendment approved May 18, 1917; Stats.
1917, p. 664.]

**§ 628c. Protection of young fish. Fish near spawn-
taking station. In fourteenth district. For scientific pur-
poses.** Every person who, by seine or other means, catches
the young fish of any species and does not immediately re-
turn the same to the water alive, or who buys, sells or offers
for sale, or has in his possession, any of such fish, whether
fresh or dried, or who takes or catches any fish for the sole
purpose of taking the eggs or ova of such fish, or who
catches, takes, kills or carries away any fish from any pond
or reservoir belonging to, or controlled by the state fish and
game commission, or who takes, catches, or kills any kind
of fish, in any manner, in any river or stream upon which a
spawn-taking station is maintained within one-half mile of
the lower side of such spawn-taking station or in any lake
upon which a spawn-taking station is maintained within
one-half mile of such spawn-taking station during such time
as said spawn-taking stations may be in operation, or who
in fish and game district number fourteen at any time takes,
catches, or kills, any kind of fish is guilty of a misdemeanor.
Nothing in this section, or elsewhere in this code, shall pro-
hibit the state fish and game commission, or persons author-
ized by them, from taking at all times such fish as they may
deem necessary for scientific purposes or for purposes of
propagation. [Amendment approved May 13, 1919; Stats.
1919, p. 482.]

§ 628e. Protection of whiting. Yellow-fin or spot-fin croaker. Barracuda. Every person who in fish and game district number nineteen at any time except with hook and line, takes, catches or kills any California whiting (*Menticirrhus undulatus*), also known as surf fish, or any yellow-fin or any spot-fin croaker; every person who, at any time within the period of three years, buys, sells, offers, or exposes for sale any California whiting (*Menticirrhus undulatus*), also known as surf fish, or any yellow-fin or any spot-fin croaker; every person who, at any time buys, sells, offers or exposes for sale any southern, bastard or chicken halibut (*Paralichthys californicus*) of less than four pounds in weight, or any barracuda less than three pounds in weight, or any albacore weighing less than six pounds, is guilty of a misdemeanor. And all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the "fish commission fund." [Amendment approved April 20, 1917; Stats. 1917, p. 153.]

§ 628f. Protection of abalone. Clams. Every person who, between the first day of February and the last day of February of the same year, both dates inclusive, takes, catches, kills, or has in his possession any red abalone (*Haliotis rufescens*), or who, between the first day of February and the thirtieth day of April of the same year, both dates inclusive, takes, catches, kills or has in his possession any pink abalone (*Haliotis corrugata*), or any black abalone (*Haliotis crackerodie*), or any green abalone (*Haliotis fulgens*) is guilty of a misdemeanor. Every person who at any time, takes, catches, kills or has in his possession any red abalone (*Haliotis rufescens*) the shell of which is less than seven inches in greatest diameter, or any green abalone (*Haliotis fulgens*) the shell of which is less than six and one-half inches in greatest diameter, or any pink abalone (*Haliotis corrugata*) the shell of which is less than six inches in greatest diameter, or any black abalone (*Haliotis crackerodie*) the shell of which is less than five inches in greatest diameter, or who by any means whatsoever, takes, or catches any abalone (*Haliotis*) and does not bring the same naturally attached to the shell and alive, to the shore above high-water mark, or who takes, catches or kills any abalone (*Haliotis*) for other than food purposes, or who, at any time, dries any abalones (*Haliotis*), or who offers for shipment, or ships, or receives for shipment or transportation from the state of California to any place in any other state, territory or foreign country any abalone meat or abalone shells, excepting articles manufactured from abalone shells;

or who takes, catches, kills or has in his possession any abalone (*Haliotis*) taken, caught or killed with a spear shall be guilty of a misdemeanor. Every person who, in fish and game districts seventeen, nineteen and twenty of this state, uses or assists in using any diving apparatus of any character for the taking or catching of any abalone (*Haliotis*), or who, in fish and game districts four or nineteen, takes, catches or kills or has in possession during any one calendar day more than ten abalone (*Haliotis*); or who, in fish and game district seventeen takes, catches, kills or has in possession more than twenty abalone in any one calendar week shall be guilty of a misdemeanor.

None of the provisions of this act shall apply to abalone or clams caught or taken without the waters of this state and bearing after inspection such evidence of having been so caught or taken as may be hereinafter prescribed by the fish and game commission; and, be it provided, that the expense of such inspection shall be borne by the importer of such abalone (*Haliotis*).

Every person who gathers or takes in any manner or destroys or has in his possession any clam known as the Pismo clam (*Tivela stultorum*) which shall measure less than four and three-quarters inches across its shell in the greatest breadth, or who, during any one calendar day, takes, gathers in any manner or has in his possession more than thirty-six of said clams, or who, between the first day of May and the thirty-first day of August, both dates inclusive, of any year, takes, catches or gathers any clams in fish and game district seventeen is guilty of a misdemeanor.

Every person who takes, gathers in any manner or has in his possession, or who ships, offers for shipment, sells or offers for sale any cockles or little-neck clams (*Tapes staminea*) measuring less than one and one-half inches in its greatest breadth; every person who takes, catches or gathers in any manner any razor clam (*Siliqua patula*), except during a period of forty-eight hours beginning at the first low tide after the first high tide (large water) of the full moon of each month and for a period of forty-eight hours beginning at the first mean low tide after the first high tide (large water) of the new moon of each month, or who takes, catches or gathers in any way more than fifty of said razor clams (*Siliqua patula*) during any one calendar day is guilty of a misdemeanor.

Every person who during any one calendar day takes, gathers in any manner, or has in his possession, or who ships, offers for shipment, sells or offers for sale, more than

ten clams of the species *Schizothaerus muttallii*, variously known as rubber-neck, big-neck or great Washington clam, is guilty of a misdemeanor.

Every person who takes, catches or kills or has in possession any clam or clams taken from fish and game districts eight or nine, between the first day of May and the thirty-first day of August of any year, both dates inclusive; or who at any time ships or offers for shipment or receives for shipment or transportation, to any place outside the limits of fish and game district one, any clam or clams of any species taken in fish and game districts seven, eight or nine, is guilty of a misdemeanor.

Every person violating any of the provisions of this section upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than five hundred dollars or by imprisonment in the county jail in the county in which the conviction shall be had not less than ten days nor more than six months or by both such fine and imprisonment; and all fines and forfeitures imposed or collected for any violation of the provisions of this section must be paid into the state treasury to the credit of the fish and game preservation fund. [Amendment approved May 13, 1919; Stats. 1919, p. 518.]

This section was also amended in 1917. See Stats. 1917, p. 669.

§ 628j. Catching salt water eels. Penalty. Every person, who in fish and game district three, in the state of California, takes, catches, kills or has in his possession, any salt water eel (*Blenniidae*), measuring less than twelve inches in length, or who takes, catches, kills or has in his possession more than fifteen salt water eels (*Blenniidae*), during any one calendar day, is guilty of a misdemeanor.

Every person found violating any of the provisions of this section is guilty of a misdemeanor and must be fined in a sum not less than twenty dollars, nor more than five hundred dollars, or by imprisonment in the county jail in the county in which the conviction shall be had, not less than ten days, nor more than one hundred fifty days, or by both such fine and imprisonment; and all fines and forfeitures imposed or collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund. [New section approved April 24, 1917; Stats. 1917, p. 192.]

§ 629. Fish screens over ditch inlets. It shall be the duty of the state board of fish and game commissioners to examine from time to time all mill races, irrigating ditches,

pipes, flumes and canals taking or receiving water from any river, creek, stream or lake in this state. Whenever in the opinion of the state fish and game commission it shall be necessary to screen any such mill race, irrigating ditch, pipe, flume or canal in order to prevent fish from passing through or into such mill race, irrigating ditch, pipe, flume or canal and away from any river, creek, stream or lake in which fish have been planted or may exist, the state fish and game commission shall order the person, company or corporation owning, leasing, controlling or having in charge any such mill race, irrigating ditch, pipe, flume or canal to install and maintain a screen on such mill race, irrigating ditch, pipe, flume or canal. Said order shall be in writing and shall specify the size, mesh, material and location of such screen and the time within which said screen must be installed.

After making an order to place and maintain such screen, the board of fish and game commissioners shall, when requested by said owners, lessees or operators, or the person in charge of such mill race, irrigating ditch, pipe, flume or canal, fix a time and place in the county in which the intake of such mill race, irrigating ditch, pipe, flume or canal is situated, for the taking of evidence upon the question of the necessity of placing and maintaining such screen and cause a notice in writing of the time and place of hearing to be served upon such owner, lessee or operator or person in charge of such mill race, irrigating ditch, pipe, flume or canal, at least ten days before the date of such hearing. At such time and place designated in said notice testimony, under oath, shall be taken on the part of the state board of fish and game commissioners, and the owners, lessees or operators or persons in charge of such mill race, irrigating ditch, pipe, flume or canal.

If said request for a hearing upon the order herein specified is not made within ten days after the service upon said owners, lessees, or operators, or the person in charge, of said mill race, irrigating ditch, pipe, flume or canal, such order shall become final.

If it appears from the evidence upon such hearing that fish exist or have been planted in the river, stream, creek or lake from which said mill race, irrigating ditch, pipe, flume or canal takes its waters, said board of fish and game commissioners shall make an order in writing, and cause the same to be served on such owner, lessee, operator or person in charge of said mill race, irrigating ditch, pipe, flume or canal; said order shall designate the point on said mill race, irrigating ditch, pipe, flume or canal at which said screen shall be

located, and the size, mesh and materials of said screen and the time within which said screen must be installed. Said time shall be not less than thirty days, nor more than six months, from the date of service of said order upon said owner, lessee, operator or person in charge of said mill race, irrigating ditch, pipe, flume or canal.

The evidence in any investigation, inquiry or hearing, provided by this section, may be taken by any of the members of the board of fish and game commissioners, or such deputy fish and game commissioner, or employee, as the board may designate to take such evidence, and each member of the board and any of its deputies or employees designated to take evidence at the hearing provided hereby shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearings. Each witness, legally subpoenaed, attending at a hearing, shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed.

The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held under authority of this section shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, as required by any subpoena issued under authority of this section. The commission, or representative of the commission, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission or its representative, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission or its representative. The court, upon the petition of the commission or its representative, shall enter an order directing the witness to appear before the court, at a time and place to be fixed by the court in such order, the time to be not more than

ten days from the date of the order, and there show cause why he has not attended and testified or produced said papers before the commission or its representative. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representative, the court shall thereupon enter an order that said witness appear before the commission or its representative at the time and place fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The commission or its representative, or any party, may, in any investigation or hearing before the commission or its representative, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of documents and papers.

Any person, company or corporation, neglecting or refusing to put up or maintain the screen ordered by the state board of fish and game commissioners, after the order shall have become final, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars, or imprisonment in the county jail of the county in which the conviction shall be had of not less than ten days, or by both such fine and imprisonment, any fines collected over and above the costs of the proceedings to be paid into the state treasury to the credit of the fish and game preservation fund; and provided, that the continuance from day to day of the neglect or refusal to install and maintain such screen after the same is finally ordered shall constitute a separate offense for each day. [Amendment approved April 20, 1917; Stats. 1917, p. 155.]

§ 629a. Protection of fish near fishway or fish screen.
Penalty. Every person who takes, catches, kills or has in his possession any fish taken in any manner within two hundred fifty feet of any fishway, or within one hundred feet of the upper side of any fish screen, shall be guilty of a misdemeanor. Every person found guilty of violating any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or imprisonment in the county jail of the county in which the conviction shall be had not less than ten days nor more than six months. All fines and forfeitures imposed or collected for any violation of any of the provisions of this section shall be paid into the state treas-

ury to the credit of the fish and game preservation fund.
[New section approved April 8, 1919; Stats. 1919, p. 36.]

§ 631d. 1. License to raise domesticated game birds or mammals. Any person desiring to engage in the business of raising and selling domesticated game birds or mammals of any species in a wholly inclosed preserve or entire island of which he is the owner or lessee, may make application in writing to the state board of fish and game commissioners for a license so to do. The said state board of fish and game commissioners, when it shall appear that the said application is made in good faith, shall, upon the payment of a fee of two dollars and fifty cents, issue to such applicant a breeder's license permitting such applicant to breed and raise domesticated game on such preserve or entire island and to sell the same alive at any time for breeding and stocking purposes, to kill and transport same and sell the carcasses thereof for food, as hereinafter provided. Such license shall be posted or displayed in a conspicuous place on such preserve or entire island and shall expire on the last day of December in each year at midnight.

2. Game for sale tagged. Report of game killed. No domesticated game killed as aforesaid and intended for sale shall be shipped, transported, sold or offered for sale unless each quarter and each loin of each carcass of each deer and the carcass of each bird or small mammal shall have been tagged, under the supervision of the state board of fish and game commissioners, with a tag or seal which shall be supplied by said commissioners, and all domesticated game excepting deer sold under the provisions of this act must be killed otherwise than by shooting. The quarters and loins of the carcasses of such deer, and the carcass of such small game birds or mammals when tagged as aforesaid may be possessed, sold or offered for sale at any time. Every regular assistant or person designated by whom such deer or small game bird or mammal shall have been tagged, shall, within five days thereafter, make and file with the state board of fish and game commissioners a written report thereof, which shall contain a statement of the name of the person by whom such game was bred or raised and killed, the number of each species so killed and the name of the person or persons to whom such game were sold or to whom they were transported.

3. Tag on package. Common carriers may receive and transport at any time the carcasses or parts thereof of said domesticated game tagged as aforesaid, but to every package containing such carcass or parts thereof shall be affixed a

tag or label upon which shall be plainly printed or written the name of the person to whom such license was issued and by whom such game was killed, the name or names of the person or persons to whom such game is to be transported, the name of the regular assistant or other person by whom such game was tagged, the number of carcasses or portions thereof contained therein and that the game was killed and tagged in accordance with the provisions of this section.

4. License. Sale to customer. No person shall sell or offer for sale any game killed and tagged as aforesaid, without first obtaining a license so to do from the state board of fish and game commissioners, upon such terms and conditions as the said commissioners may prescribe, and any such license may be revoked for sufficient cause at the pleasure of the said commission. The said tags or seals shall remain affixed, as aforesaid, until the quarters or loins of each deer or the carcasses of such small game birds or mammals shall have been wholly consumed and the sale of a quarter or loin or any larger portion of such deer or the carcass of any such small game bird or mammal which shall not at the time have affixed thereto the tag or seal aforesaid, shall constitute a violation of this section; provided, however, that the keeper of a hotel or restaurant, boarding-house or retail dealer in meat or a club may sell portions of a quarter or loin of any such deer, or the carcass of any such small game bird or mammal, to a patron or customer for actual consumption and no license shall be required of such person or club.

5. Annual report of game killed. On or before the first day of January of each year every person to whom a license shall have been issued, as aforesaid, shall make a report to the state board of fish and game commissioners, which said report shall state the total number of game birds or mammals killed, sold or transported, as permitted by the provisions of this section during the year preceding. Such report shall set forth the name of the person to whom such game birds or mammals were sold or transported, the name of the regular assistant or person designated in whose presence such game birds or mammals were tagged and shall also give a complete list of the game birds or mammals held in his possession at the time the report is made. Such report shall be verified by the affidavit of the person to whom such license was issued, or if the license was issued to a corporation, then by an officer thereof.

6. Live game may be shipped. Any person to whom such license shall have been issued may sell and ship alive within

the state such game birds and mammals and all common carriers and transportation companies may receive and carry within the state such live game birds and mammals upon such terms and conditions as the said commissioners may prescribe.

7. Trapping game by commission. For the purpose of this act, it shall be lawful for the fish and game commission to trap and take alive any of the game birds or mammals and dispose of them to any person engaged in the domestication and sale of such game birds or mammals in this state at a price to be fixed by the fish and game commission.

8. Disposition of moneys. All moneys received from the sale of any game birds or mammals, or tags provided for in this act and all fines and forfeitures imposed and collected for any violation of the provisions of this act shall be paid into the state treasury to the credit of the fish and game preservation fund.

9. Fence about deer preserve. A preserve used for the breeding of any species of deer, pursuant to this section, shall be surrounded by a fence of wire or other material of a pattern to be approved by the state board of fish and game commissioners and of a height of not less than seven feet.

10. License revoked. If any person to whom such license shall have been issued shall be convicted of a violation of any of the fish and game laws of the state, the state board of fish and game commissioners may revoke the license of such person and thereafter no similar license shall be issued to such person.

11. Fees. The state board of fish and game commissioners shall be entitled to receive and collect for each tag or seal affixed to the carcass of any game bird or mammal, as hereinbefore provided, the sum of three cents.

12. Penalty. Laws not applicable. Any person who violates or fails to perform any duty imposed by any of the provisions of this act is guilty of a misdemeanor and is liable to a penalty of one hundred dollars and to an additional penalty of twenty dollars for each game bird or mammal, or part of each game bird or mammal bought, sold or offered for sale, taken, possessed, transported or has in possession for transportation in violation thereof.

The provisions of any law relating to the protection or possession of game in its wild state shall not apply to game raised or possessed under the provisions of this act. [Amendment approved May 26, 1917; Stats. 1917, p. 1620.]

§ 631e. Revocation of licenses. Every person to whom a hunting, angler's, market fisherman's, or wholesale dealer's license has been issued, upon the third conviction for a violation of any of the laws enacted for the protection of fish or game shall, in addition to the penalty prescribed therefor, surrender his license to the judge or justice of the peace before whom such conviction is had; and such judge or justice of the peace shall revoke the hunting license of any person convicted of violating any law enacted for the protection of game, or the angler's license of any person convicted of violating any law enacted for the protection of game fish, or the market fisherman's license of any person convicted for violating any law enacted for the protection of fish, or the wholesale dealer's license of any person convicted for violating any law enacted for the protection of fish or game, and no new license shall be issued to such person for the remainder of the year for which it was issued. [Amendment approved June 1, 1917; Stats. 1917, p. 1640.]

§ 632. Protection of trout. Limit steel head and Dolly Varden trout. Domesticated trout. Scientific purposes. Penalty. Every person who in fish and game districts one, one *b*, one *c*, one *d*, one *e*, one *f*, one *g*, one *h*, one *i*, one *j*, one *k*, one *l*, one *m*, twelve *a* and twelve *b* between November first and March thirty-first of the following year, both dates inclusive, takes, catches, kills or has in his possession any variety of trout is guilty of a misdemeanor.

Every person who in fish and game districts one and one-half, one *a*, five, six, seven, seven *a*, eight and nine, between January first and March thirty-first of the same year, both dates inclusive, takes, catches, kills or has in his possession any variety of trout is guilty of a misdemeanor.

Every person who in fish and game districts two, two *a*, ten and ten *a* between March first and March thirty-first of the same year, both dates inclusive, or who between November first and December fourteenth of the same year, both dates inclusive, takes, catches, kills or has in his possession more than one trout during one calendar day is guilty of a misdemeanor.

Every person who in fish and game districts three, three *a*, three *b*, three *c*, three *d*, three *e*, eleven, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen, between the first day of November and the thirty-first day of March of the year following, both dates inclusive, takes, catches, kills or has in his possession any variety of trout is guilty of a misdemeanor; provided, that in tide water in fish and game district three,

five trout per day, regardless of weight, can be taken and possessed in fish and game district three, between December fifteenth and the last day of February of the year following, both dates inclusive.

Every person who in fish and game districts four, four *a*, four *b*, four *c*, four *d*, four *e*, four and one-half and twenty-one, between December first and April thirtieth of the year following, both dates inclusive, takes, catches, kills or has in his possession any variety of trout is guilty of a misdemeanor.

Every person who in fish and game districts twenty-three, twenty-four and twenty-five between the first day of November and the twenty-ninth day of May of the following year, both dates inclusive, takes, catches, kills or has in his possession any variety of trout or white fish is guilty of a misdemeanor; provided, that nothing in this section shall prohibit the taking of trout between May first and October thirty-first of the same year, both dates inclusive, in any lake exceeding twenty-five square miles in area within the boundaries of fish and game district twenty-five, or shall prohibit the possession within the boundaries of fish and game district twenty-five of such trout so taken.

Every person who in fish and game districts twenty-three and twenty-four between the first day of November and the thirty-first day of July of the year following, both dates inclusive, takes, catches, or kills any trout or white fish in any stream flowing into any lake within two miles extending from its mouth towards its source, or has in his possession any trout or white fish so taken in such streams is guilty of a misdemeanor.

Every person who between the first day of November and the thirty-first day of July of the year following, both dates inclusive, takes, catches or kills any trout in any lake within three hundred feet of the mouth of any stream flowing into such lake, or who has in his possession trout so taken, is guilty of a misdemeanor.

Every person who at any time takes, catches or kills any trout except with hook and line, said hook and line to be used in the manner commonly known as angling, is guilty of a misdemeanor; provided, that in fish and game districts two, two *a* and ten not more than one trout may be taken, caught or killed by spear during any one calendar day during the entire year, except during the months of February and March.

Every person who in any fish and game district takes, catches, kills or has in his possession during one calendar day more than fifty trout or more than ten pounds of trout and one trout is guilty of a misdemeanor; provided, that it shall

be lawful to take, catch, kill or have in possession in fish and game districts one and one-half, one *a*, five, six, seven, seven *a*, eight and nine not more than five trout regardless of weight during any one calendar day between November first and December thirty-first of the same year, both dates inclusive; provided, further, that it shall be lawful to take, catch, kill or have in possession not more than five trout regardless of weight, during any one calendar day, between December fifteenth and the last day of February of the following year, both dates inclusive, in fish and game districts two, two *a*, and ten; provided, further, that it shall be lawful to take, catch, kill or have in possession any number of Dolly Varden trout (*Salvelinus malma* or *Salvelinus parkei*) when such trout are taken in the open season for other trout in the same district.

Nothing in this section shall prohibit the possession and sale of steelhead and Dolly Varden trout from without the state nor the taking of any number of steelhead trout in fish and game districts five, six, seven *a* at such times and in such nets as is provided for the taking of salmon in those districts; nor the sale of such trout within the state when the same shall be inspected and tagged according to regulations to be prescribed by the fish and game commission. The cost of such inspection and tagging must be paid by the person or persons submitting such steelhead trout or Dolly Varden trout for such inspection and tagging.

Nothing in this section shall apply to trout raised under the provisions of the act authorizing and regulating the raising and selling of domesticated trout.

Nothing in this section shall prohibit the fish and game commission of this state, or persons authorized by them, from taking at all times such trout as they deem necessary for the purposes of propagation, or for scientific purposes.

Every person found guilty of a violation of any of the provisions of this section shall be punishable by a fine of not less than twenty-five dollars, or more than five hundred dollars, or by imprisonment in the county jail of the county in which the conviction shall be had not less than ten or more than one hundred fifty days, or by both such fine and imprisonment. All fines and forfeitures imposed and collected for any violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund.

All acts or parts of acts inconsistent herewith are hereby repealed. [Amendment approved May 13, 1919; Stats. 1919, p. 391.]

This section was also amended in 1917. See Stats. 1917, p. 1247.

§ 632c. Sale of trout a misdemeanor. In effect, when. Every person who buys, sells, offers or exposes for sale, barter or trade, any species of trout, except domestically reared trout, in the state of California, is guilty of a misdemeanor. Every person violating any of the provisions of this section is punishable by a fine of not less than twenty dollars, nor more than five hundred dollars, or by imprisonment in the county jail of the county in which the conviction shall be had for not less than ten days, nor more than one hundred fifty days, or by both such fine and imprisonment. All fines and forfeitures imposed and collected for violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund. The provisions of this section shall not take effect until the thirty-first day of October, one thousand nine hundred seventeen. [New section added April 17, 1917; Stats. 1917, p. 140.]

§ 633. Protection of golden trout. Every person who, at any time between the first day of October and the thirtieth day of June of the succeeding year, takes, catches, kills, destroys or has in his possession, any variety of golden trout; or who, at any time, takes, catches, kills, or destroys, any variety of golden trout, other than with hook and line; or who, at any time, takes, catches, kills, or destroys, or has in his possession, during one calendar day, more than twenty golden trout or has in his possession any variety of golden trout of less than five inches in length, is guilty of a misdemeanor. Every person found guilty of any violation of any of the provisions of this section must be fined in a sum not less than twenty dollars or be imprisoned in the county jail, in the county in which the conviction shall be had, not less than ten days, or be punished by both such fine and imprisonment, and all fines collected for any violation of any of the provisions of this section must be paid into the state treasury to the credit of the fish commission fund. Nothing in this section shall prohibit the fish commission of this state from taking at all times such golden trout as they deem necessary for the purpose of propagation or for scientific purposes. [Amendment approved May 18, 1917; Stats. 1917, p. 665.]

§ 634. 1. Protection of salmon. Every person who shall cast, extend or draw, or assist in casting, extending or drawing, any net or seine for the purpose of taking or catching any salmon at any time during the closed seasons, as provided in this act, or at any time between sunrise of Saturday

and sunset of the following Sunday, is guilty of a misdemeanor.

2. In districts one, two, three and four. Every person who, in fish and game district number one, except with spear or hook and line, said hook and line to be used in the manner commonly known as angling, takes, catches or kills any salmon, or who at any time takes, catches or kills more than three salmon during any one calendar day is guilty of a misdemeanor. Every person who, in fish and game district number two, except with spear or hook and line, said hook and line to be used in the manner commonly known as angling, takes, catches or kills any salmon, or who at any time takes, catches or kills more than one salmon during any one calendar day, is guilty of a misdemeanor.

Every person who, in fish and game districts numbers three and four, except with hook and line, said hook and line to be used in the manner commonly known as angling, takes, catches or kills any salmon is guilty of a misdemeanor. Every person who, in fish and game districts one, two, three and four, between the first day of June and the thirty-first day of July of the same year, both dates inclusive, or between the twenty-fifth day of September and the fourteenth day of November of the same year, both dates inclusive, takes, catches or kills or has in his possession more than three fresh salmon during any one calendar day, or who buys, sells, offers for sale or exposes for sale any fresh salmon, is guilty of a misdemeanor; provided, that nothing in this act shall prohibit the possession or sale at any time of any salmon from without the state, or the possession or sale at any time of any salmon lawfully taken in any fish and game district, other than fish and game districts one, two, three and four, when such salmon are inspected and tagged according to regulations to be prescribed by the fish and game commission. The cost of such inspection and tagging must be paid by the person or persons submitting such salmon for said inspection and tagging.

3. In district five. Every person who, in fish and game district five, between the first day of December and the thirty-first day of August of the year following, both dates inclusive, takes, catches or kills any salmon, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," or takes, catches, kills or has in his possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches or kills any

salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor.

4. **In district six.** Every person who, in fish and game district six, between the first day of December and the fourteenth day of April of the year following, both dates inclusive, or between the first day of June and the thirtieth day of June of the same year, both dates inclusive, or between the sixth day of September and the nineteenth day of September of the same year, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches or kills or has in his possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length, or who uses any net for the purpose of catching salmon in the daytime between the hours of six A. M. and eight P. M. between the first day of August and the fifth day of September of the same year, both dates inclusive, is guilty of a misdemeanor.

5. **In district seven.** Every person who, in fish and game district seven, between the first day of December and the thirty-first day of July of the year following, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches, kills or has in possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who at any time takes, catches, or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length, is guilty of a misdemeanor.

6. **In district seven a.** Every person who, in fish and game district seven a, between the eighth day of December and the seventh day of October of the year following, both dates inclusive, takes, catches, kills or has in possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who at any time takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and

measured inside the knots, less than six and one-half inches in length, is guilty of a misdemeanor.

7. In districts eight and nine. Every person who, in fish and game districts eight and nine, between the first day of December and the thirtieth day of September of the year following, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches, kills or has in possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches, or kills any salmon with any net any of the meshes of which are, when drawn closely together and measured inside the knots, less than six and one-half inches in length, is guilty of a misdemeanor.

8. In districts eleven, twelve, twelve b and thirteen. Every person who, in fish and game districts eleven, twelve, twelve b and thirteen, between the first day of June and the thirty-first day of July of the same year, both dates inclusive, or, between the twenty-fifth day of September and the fourteenth day of November of the same year, both dates inclusive, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," takes, catches or kills any salmon, or takes, catches, kills or has in his possession more than three fresh salmon in one calendar day, or buys, sells, offers or exposes for sale any fresh salmon, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor. Every person who, in fish and game district ten a, between the first day of December and the thirtieth day of September of the year following, both dates inclusive, takes, catches, kills or has in possession more than three fresh salmon in any one calendar day, or who at any time takes, catches or kills any salmon with any net, any of the meshes of which are less than six and one-half inches in length, is guilty of a misdemeanor.

9. In district twelve a. Every person who, in fish and game district twelve a, between the fifteenth day of May and the thirty-first day of December of the same year, both dates inclusive, takes, catches or kills any salmon, except with spear or hook and line, said hook and line to be used in the manner commonly known as "angling," or takes, catches, kills or has in his possession more than three fresh salmon in any one calendar day, or buys, sells, offers or exposes for sale any

fresh salmon, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length is guilty of a misdemeanor.

10. **In district fifteen.** Every person who, in fish and game district fifteen, from the first day of September to the fourteenth day of April of the year following, both dates inclusive, takes, catches or kills any salmon, or who, at any time takes, catches or kills any salmon in any net is guilty of a misdemeanor.

11. **In districts ten, sixteen, seventeen, eighteen and nineteen.** Every person who, in fish and game districts ten, sixteen, seventeen, eighteen and nineteen, between the twenty-fifth day of September and the fourteenth day of November of the same year, both dates inclusive, has in his possession more than three fresh salmon in any one calendar day, or who, at any time, takes, catches or kills any salmon with any net, any of the meshes of which are, when drawn closely together and measured inside the knots, less than five and one-half inches in length, is guilty of a misdemeanor.

12. **Salmon defined.** For the purpose of this act and all acts relating thereto, only such fish as belong to the genus *Oncorhynchus* shall be considered salmon.

13. **For propagation.** Nothing in this act shall prevent the fish and game commission of this state, or persons authorized by them, from taking, at all times, and in any manner, such salmon as they may deem necessary for the purpose of propagation, or for scientific purposes.

14. **Penalty.** Any violation of any of the provisions of this act shall be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of the county in which the conviction shall be had of not less than fifty days, nor more than six months, or by both such fine and imprisonment, and all fines and forfeitures imposed and collected for violation of the provisions of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund. [Amendment approved May 13, 1919; Stats. 1919, p. 433.]

This section was also amended in 1917. See Stats. 1917, p. 1035.

§ 636. **Protection of fish.** Every person who shall use or operate, or who shall assist in using or operating any net, trap, line or other appliance for the purpose of taking or

catching fish, mollusks or crustaceans in the state of California at any time, or in any manner, except as hereinafter provided, is guilty of a misdemeanor.

Gill-nets. It shall be lawful to use drift gill-nets in fish and game districts five, six, seven, seven *a*, eight, nine, ten, eleven, twelve, twelve *a*, twelve *b*, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty-two, and to use set gill-nets in fish and game districts seventeen, eighteen, nineteen and twenty *a*; provided, that in fish and game districts eleven, twelve, twelve *a*, twelve *b*, and thirteen the cork line of any gill-net shall not be submerged more than twelve feet below the surface of the water, and that the lines attaching the buoys or floats to the cork line of such submerged nets be not more than twelve feet in length and that the points of attachment of said lines on the cork line be not more than ten fathoms apart; and provided, further, that in fish and game districts eleven, twelve, twelve *a*, twelve *b* and thirteen the meshes of the gill-nets shall be approximately the same size and shall not vary in length more than one inch; and provided, further, that gill-nets are not to be used in fish and game districts twelve *a* or twelve *b* between September twenty-fifth and November fourteenth of any year, both dates inclusive, or between June first and July thirty-first of any year, both dates inclusive; and any gill-net found in any fishing boat in fish and game district twelve *a* or twelve *b* during said closed season shall be prima facie evidence that the owner of such net was using same in said fish and game districts; and provided, further, that no gill-nets are to be used or operated in fish and game district twelve between the first day of March and the thirty-first day of July of any year, both dates inclusive, the meshes of which measure between five and five-eighths inches and seven and one-half inches in length. Any lines used on gill-nets which shall tend to cause the webbing of such gill-nets to bag or hang slack shall cause such net to lose its identity as a drift gill-net and become a trammel-net.

Trammel-nets. It shall be lawful to use trammel-nets (also known as two mesh and three mesh nets) in fish and game district twelve *b*, the minimum meshes of which shall measure not less than five and one-half inches in length.

It shall be lawful to use strings or lines on the nets for the purpose of bagging the web in fish and game district twelve *b* when the net is a net having no meshes less than seven and one-half inches and when used in said district from June sixth to July thirty-first, both dates inclusive, for the purpose of taking or catching salmon only.

It shall be lawful to use trammel-nets (also known as two mesh and three mesh nets) in fish and game districts ten, eighteen and nineteen, the minimum meshes of which shall measure not less than eight inches in length.

Purse-nets and round haul-nets. It shall be lawful to use purse-nets and round haul-nets (also known as circle seines or lampara nets) in fish and game districts five, six, nine, ten, eleven, twelve, twelve *b*, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty *a*, twenty-one and twenty-two; provided, that purse or round haul-nets are not to be used in any fish and game district for the purpose of taking salmon, steelhead, striped bass or shad, and that any person who has in possession any salmon, steelhead, striped bass or shad which have been caught with a purse or round haul-net is guilty of a misdemeanor; and provided, further, that in fish and game district fifteen, purse or round haul-nets shall be used only for the purpose of taking fish for bait, and that in fish and game district sixteen, purse-nets or round haul-nets shall be used only for the purpose of taking squids, anchovies, and sardines. It shall be lawful to use circle seines or round haul-nets of not less than one-inch mesh in fish and game district seven *a* from April first to July thirty-first, both dates inclusive, for taking smelt, herring, perch, sardines or other nongame fish.

Beach-nets. It shall be lawful to use beach-nets (also known as beach seines or haul seines) in fish and game districts five, nine, ten, eleven, twelve, twelve *a*, twelve *b*, thirteen, eighteen, nineteen and twenty-two; provided, that in fish and game districts five, twelve, twelve *a* and twelve *b* the meshes of any beach-nets shall measure not less than five and one-half inches in length, and that in fish and game districts ten, eighteen and nineteen the meshes of the beach-nets shall measure not less than one and one-half inches in length; and beach-nets shall only be used in fish and game district nineteen between the first day of September and the thirty-first day of January of the year following, both dates inclusive, and for the purpose of taking smelt only.

For the purpose of this act, any net hauled from the water to the beach or shore for the purpose of taking fish, shall be known as a beach-net.

Fyke-nets. It shall be lawful to use fyke-nets in fish and game district twelve *b* for the purpose of catching catfish, carp, pike, hardheads and suckers between the fifteenth day of August and the fourteenth day of May of the year following, both dates inclusive; provided, that the smallest

meshes of any fyke-net so used shall measure not less than two and one-half inches in length.

Trawl-nets. It shall be lawful to use trawl-nets (also known as paranzella nets, beam trawls or shrimp trawls) in fish and game districts five, six, seven, twelve, thirteen and eighteen; provided, that the use of any trawl-net in fish and game districts twelve and thirteen shall be for the purpose of taking shrimp only; and provided, further, that it shall be unlawful to use trawl-nets in any bay in fish and game district number eighteen.

Crab-nets. It shall be lawful to use crab-nets in fish and game districts five, six, seven, eight, nine, ten, eleven, twelve, thirteen, seventeen, eighteen and nineteen, and lobster traps in fish and game districts seventeen, eighteen and nineteen.

Shrimp-nets. It shall be lawful to use shrimp-nets (also known as Chinese shrimp or bag nets) in fish and game district thirteen for the purpose of taking shrimp only; provided, that any fish, mollusks or crustaceans other than marketable shrimp that may be taken in such shrimp-nets shall be immediately returned to the water.

Dip-nets. It shall be lawful to use dip-nets for the purpose of taking fish to be used as bait only, in any fish and game district, excepting fish and game district fourteen; provided, that in fish and game districts one, two, three and four such dip-net shall not be baited; and provided, further, that any dip-net in fish and game districts one, two, three, four, nineteen and twenty shall not measure more than six feet in its greatest breadth; and provided, further, that it shall be unlawful for any person to have in his possession any nets other than such bait dip-nets within fish and game district twenty.

Troll lines or hand lines. It shall be lawful to use troll lines or hand lines in any fish and game district, except fish and game district fourteen and to use trawl lines in fish and game districts five, six, seven, ten, seventeen, eighteen and nineteen. It shall also be lawful to use trawl lines (also known as set lines) in any lake in fish and game district two having a surface area of not less than seventy-five square miles, for the purpose of catching catfish only; provided, that it shall be unlawful to use minnows or any species of young fish on hooks attached to such trawl lines.

Spade, shovel, etc. It shall be lawful to use any spade, shovel, hoe, rake or other appliance operated by hand for the purpose of taking mollusks in fish and game districts

five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty-one.

Set-nets and lines. Any net or line shall be considered a set-net or set line that is made fast to the bank or ground or that shall be made fast in any way and shall not be free to drift with the tide or current, and any net so placed that it will catch or impound fish within a bight, bay or estuary or against the shore, upon the receding of the tide, shall be considered a set-net; provided, that fyke-nets, shrimp-nets or crab-nets shall not be considered set-nets, nor trawl lines be considered set lines. The length of the meshes of any net shall be determined by taking at least four meshes and measuring them between the knots while they are simultaneously drawn closely together.

Recovery of fish in overflowed areas. Nothing in this section shall prevent the fish and game commission, or persons authorized by them, from using any net or other appliance in any fish and game district for the purpose of recovering fish from overflowed areas or landlocked sloughs or ponds where they have been left isolated by receding streams or flood waters.

Scientific purposes. Nothing in this section shall prohibit the fish and game commission, or anyone authorized by them, from using such nets, traps, or other appliances in the waters of the state as they may deem necessary for carrying on scientific investigation or for the propagation of fish, mollusks, or crustaceans. Nothing in this section shall prohibit the fish and game commission, or any person authorized by them, from using nets, traps, or other appliances in any fish and game district for experimental purposes.

Penalty. Every person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars or by imprisonment in the county jail in the county in which the conviction shall be had, not less than one hundred days nor more than six months or by both such fine and imprisonment; and all fines and forfeitures imposed and collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund. [Amendment approved May 13, 1919; Stats. 1919, p. 420.]

This section was also amended in 1917. See Stats. 1917, p. 1043.

§ 636a. Nets, seines, etc., prohibited. Any net, seine, dragnet, paranzella, or set-net used for taking or catching fish, which shall be used or maintained in any of the waters of this state in violation of any existing or hereafter enacted statutes or laws of this state, for the protection of fish, is hereby declared to be a public nuisance, and it is the duty of every peace officer to seize and keep the same, and report such seizure to the board of fish and game commissioners of the state. Thereupon said board must commence proceedings in the superior court of the county, or city and county, in which the same shall have been seized, by filing a petition in said court, asking for a judgment forfeiting such net, seine, dragnet, paranzella, or set-net so seized. Upon the filing of such petition, it is the duty of the clerk of said court to fix a time for the hearing thereof and to cause notices to be posted for the space of fourteen days in at least three public places in the town, city, or city and county, where the court is held, setting forth the substance of such petition and the time and place fixed for its hearing; at such time the court must hear and determine said proceeding, and upon proof that the said net, seine, dragnet, paranzella, or set-net was used in violation of law, must order the same to be forfeited. Any such net duly ordered forfeited shall be sold or destroyed by the fish and game commission. All proceeds from the sale of such forfeited nets shall be paid into the state treasury to the credit of the fish and game preservation fund. [Amendment approved April 9, 1919; Stats. 1919, p. 64.]

§ 636c. Protection of fish. Notice of intention to construct or alter dams, etc. Penalty. Any person, firm or corporation owning in whole or in part, or leasing or operating or having in charge any completed dam or other artificial obstruction on any of the waters of this state in which fish have been planted or may exist, and every person, firm or corporation proposing to construct a dam or other artificial obstruction on any of the waters of this state in which fish have been planted or may exist, shall, before the alteration of said completed dam or other artificial obstruction, or before the commencement of the construction of said proposed dam or other artificial obstruction, file with the state fish and game commission a notice of intention to alter said completed dam or other artificial obstruction or to construct said proposed dam or other artificial obstruction. Said notice with a plan of the proposed work annexed thereto shall state the name, length and location of the waters and the exact point upon said

waters where said completed dam or other artificial obstruction to be altered or reconstructed is situated, or the said proposed dam or other artificial obstruction is to be constructed. Upon the receipt of said notice, with plan annexed thereto, it shall be the duty of the board of fish and game commissioners to examine said plans. If the proposed alteration or construction will, when finished, prevent the free passage of such fish as naturally frequent the waters upon which said proposed construction or alteration is to be built, the same procedure shall be followed as provided for in section six hundred thirty-seven of this code, in so far as the same shall be applicable.

Every person found guilty of violating any of the provisions of this section shall be punished by a fine not less than two hundred dollars or more than one thousand dollars, or by imprisonment in the county jail of the county in which the conviction shall be had not less than one hundred days or more than one year, or by both such fine and imprisonment; provided, that a continuance from day to day of the negligence or refusal to equip and maintain a fishway or equip and maintain a hatchery, together with dwellings for help, traps for the taking of fish, and all other equipment necessary to operate such hatchery, or to plant fish, after final order duly given and made by the said board, shall constitute a separate offense. All fines and forfeitures imposed and collected for any violation of this act shall be paid into the state treasury to the credit of the fish and game preservation fund. [New section added May 21, 1919; Stats. 1919, p. 779.]

§ 637. Fishways provided over or around dams. To be kept free from obstructions. Hatchery constructed when fishway impracticable. Planting of fish. Right of access. Sale of young fish. Hearing on necessity for ladders. Orders of commission. 1. It shall be the duty of the state board of fish and game commissioners to examine, from time to time, all dams and artificial obstructions in all rivers and streams in this state naturally frequented by salmon, trout, shad and other fish; and if, in its opinion, there is not free passage for fish over and around any dam or artificial obstruction, to order in writing the owners or occupants thereof to provide the same, within a specified time, with a durable and efficient fishway, of such form and capacity, and in such location as shall be determined by the state board of fish and game commissioners, or persons authorized by them, and such fishway must be completed by the owners or occupants of such dam or artificial obstruction to the

satisfaction of said commissioners, within the time specified; and it shall be incumbent upon the owners or occupants of all dams or artificial obstructions, where the state board of fish and game commissioners require such fishways to be provided, to keep the same in repair and open and free from obstructions to the passage of fish at all times; and no person shall willfully destroy, injure, or obstruct any such fishway; provided, that the owners or occupants of any dam or artificial obstruction shall allow sufficient water at all times to pass through such fishway to keep in good condition any fish that may be planted or exist below said dam or obstruction; provided, further, that during the minimum flow of water in any river or stream permission may be granted by the state board of fish and game commissioners to allow the owners or occupants of any dam or artificial obstruction to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below said dam or artificial obstruction, when in the judgment of the state board of fish and game commissioners it is impracticable to pass the water through the fishway to the detriment of the owner or occupant thereof.

Whenever in the opinion of the state fish and game commission it shall be impracticable, because of the height of any dam or other artificial obstruction, or other conditions, to construct a fishway over or around said dam or other artificial obstruction, the fish and game commission may order in lieu of said fishway the owners or occupants of said dam or other artificial obstruction to completely equip, within a specified time, on a site to be selected by said fish and game commission, a hatchery, together with dwellings for help, traps for the taking of fish, and all other equipment necessary to operate a hatchery station, according to plans and specifications furnished by the fish and game commission, who shall thereafter operate said hatchery without further expense to said owner or occupant of said dam or other artificial obstruction. The aforesaid hatchery, traps and other equipment necessary to operate a hatchery station shall not be of a size greater than necessary to supply the said stream or river with a reasonable number of such fish. The said owners or occupants of said dam or other artificial obstruction shall permit said fish and game commission to locate the aforesaid hatchery, dwellings, traps and other equipment upon any of the land of the owners or occupants of said dam or other artificial obstruction upon a site or sites to be mutually agreed upon by the fish and game com-

mission and the said owners or occupants of said dam or other artificial obstruction.

If the said owners or occupants of said dam or other artificial obstruction shall generate electricity at said place of said dam or other artificial obstruction, then and in that case said owners or occupants shall furnish sufficient light, without expense, for the use of said hatchery when located and established.

Said owners or occupants shall also permit the use of water, without expense, to operate said proposed hatchery; provided, however, that the fish and game commission may, in lieu of said fishway, hatchery, dwellings, traps and other equipment necessary to operate a hatchery station as aforesaid, order the owners or occupants of said dam or other artificial obstruction to plant, under the supervision of the fish and game commission, the young of such fish as naturally frequent the waters of said stream or river, at such times, in such places and in such numbers as the fish and game commission may order; provided, further, that said owners or occupants of said dam or other artificial obstruction shall accord to the public, for the purpose of fishing, the right of access to the waters impounded by said dam or other artificial obstruction, during the open season for the taking of fish in such stream or river, subject to the rules and regulations of said fish and game commission.

The said owners or occupants of said dam or other artificial obstruction shall not be liable in damages to any person exercising the right of access to the waters impounded by said dam or other artificial obstruction, as aforesaid, who shall suffer injury through coming in contact with, or meddling with, any of the property of said owners or occupants.

The fish and game commission may sell, at cost to it, to such owners or occupants of such dam or other artificial obstruction the young of fish ordered to be planted in such stream or river.

Every person found guilty of any of the provisions of this act must be fined in a sum of not less than one hundred fifty dollars or imprisonment in the county jail of the county in which the conviction shall be had, not less than one hundred days, or by both such fine and imprisonment; and all fines and forfeitures imposed and collected for any violation of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund.

After making any order to place and maintain such ladder, or to equip and convey such hatchery and site, or to plant

such fish the state board of fish and game commissioners shall, when requested by the owners or parties in charge, fix a time and place, in the county in which the dam or other artificial obstruction is situated, for the taking of evidence upon the question of the necessity of placing and maintaining such ladder or of equipping and conveying such hatchery and site, or of planting such fish and cause notices in writing of such time and place where such hearing is to be held to be served upon the owners or persons in charge of such dam or other artificial obstruction, at least ten days before the day set for the hearing. If said request for a hearing upon the order to place and maintain such ladder or to equip such hatchery and site, or to plant such fish, is not made within ten days after the service of such order upon said owners or parties in charge of said dam or other artificial obstruction said order shall become final. At such time and place testimony, under oath, shall be taken, both on the part of the state board of fish commissioners and the owner or person in charge of such dam or other artificial obstruction, if such owner or persons in charge appears and offers evidence, and thereupon the state board of fish commissioners from the evidence offered shall determine whether or not the necessity for the placing and maintaining a ladder on said dam or other artificial obstruction or the equipping and conveying such hatchery and site or the planting of such fish is shown, and if shown to be required and necessary, said state board of fish commissioners may direct and order the placing and maintaining such ladder or the equipment and conveyance to the state of said hatchery, equipment and site or the planting of such fish. Such order to also fix the point where the ladder or hatchery and equipment is to be located or the number of and place where such fish are to be planted, and a certified copy of such order to be served upon the owners or parties in charge of such dam or other artificial obstruction.

The evidence in any investigation, inquiry or hearing, provided by this section, may be taken by any of the members of the board of fish and game commissioners, or such deputy fish and game commissioner, or employee, as the board may designate to take such evidence, and each member of the board and any of its deputies and employees designated to take evidence at the hearing provided hereby shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearings. Each witness, legally subpoenaed, attending at a hearing, shall receive for his attendance the same fees and mileage

allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed.

The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held under authority of this section shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, as required by any subpoena issued under authority of this section. The commission or representative of the commission before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission or its representative, in the cause or proceeding named in the notice and subpoena, or has refused to answer questions propounded in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission or its representative. The court, upon the petition of the commission or its representative, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission or its representative. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representative, the court shall thereupon enter an order that said witness appear before the commission or its representative at the time and place to be fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The commission or its representative or any party may, in any investigation or hearing before the commission or its representative, cause the deposition of witnesses residing within or without the state to be taken in the manner

prescribed by law for like depositions in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of documents and papers. [Amendment approved June 1, 1917; Stats. 1917, p. 1524.]

§ 637a. Protection of wild birds. Game birds enumerated. Every person in the state of California who shall at any time kill or catch, or have in his possession, living or dead, any wild bird other than a game bird, or who shall purchase, offer or expose for sale, transport or ship within or out of the state, any such wild bird after it has been killed or caught, except as permitted by this act, shall be guilty of a misdemeanor. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale, irrespective of whether said bird was captured or killed within or without the state. For the purpose of this act the following only shall be considered game birds: The Anatidae, commonly known as swans, geese, brant and river and sea ducks; the Rallidae, commonly known as rails, coots and gallinules; the Limicolae, commonly known as shore birds, plover surf birds, snipe, sandpipers, tattlers and curlews; the Gallinae, commonly known as wild turkeys, grouse, prairie chicken, pheasants, partridges, and quails; and the species of Columbidae, known as wild pigeons and doves. All other species of wild birds either resident or migratory shall be considered nongame birds; provided, that the English or European house sparrow, the great horned owl, sharp-shinned hawk, Cooper's hawk, duck hawk, butcher bird, bluejay, house-finch, commonly known as the California linnet, are not included among the birds protected by this act; and provided, further, that in fish and game district one, in fish and game district two and fish and game district three the blackbird is not included among the birds protected by this act; provided, further, that nothing in this section shall prohibit the killing of a robin, or other wild bird by the owner or tenant of any premises where such bird is found destroying berries, fruit or crops growing on such premises, but the birds so killed shall not be shipped or sold; and nothing in this act shall prevent a citizen of California from taking or keeping any wild nongame bird as a domestic pet if such bird shall not be sold or offered for sale, or transported out of the state, a permit to keep the same having first been obtained from the state board of fish and game commissioners. [Amendment approved May 18, 1917; Stats. 1917, p. 656.]

§ 637½. "Predatory animals." Where the words "predatory animals" occur in this chapter, the following animals only shall be considered predatory animals: The order Insectivora (moles, shrews), the family Canidae (wolves, coyotes, foxes), the family Procyonidae (ringtail cats, coons), the family Mustelidae (martins, fishers, wolverines, weasels, minks, skunks, badgers), the family Felidae (cougars, wild cats, jack rabbits), the order Rodentia (rats, mice, gophers), except the families Scuriidae and Petauristidae (tree squirrels, flying squirrels), the black-tailed jack rabbit of the order Lagomorpha; the cottontail rabbit and the brush rabbit of the family Leporidae in fish and game districts four, nineteen and twenty-one; and the following species of birds: blue jays, English or European house sparrow, great horned owl, sharp-shinned hawk, Cooper's hawk, duck hawk and house finch, commonly known as California linnet. [Amendment approved May 18, 1919; Stats. 1919, p. 718.]

This section was also amended in 1917. See Stats. 1917, p. 44.

§ 673. Suspension of civil rights. Civil rights of paroled prisoner. Record of order. A sentence of imprisonment in a state prison for any term less than life suspends all the civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority, or power during such imprisonment; provided, however, that in any such cases, if the person so sentenced be liberated from prison by parole under the terms and conditions of the parole laws of this state, that the board of prison directors or such other officials or official having power to grant paroles may permit to such person so paroled, civil rights, other than the right to act as a trustee, or hold public office, or exercise the privilege of an elector, during the term of such parole. The scope or extent of such civil rights shall be determined by such board of directors or other officials having control of such paroled person, either at the time the parole is granted or at such other time as, in the judgment of such board or official, is for the best interest of society and such paroled person.

The board of directors or other official having control of the matter of paroles shall, at the time of permitting such civil rights, make a permanent record thereof, and give such paroled person a duly authenticated copy of such order or orders, and such record shall be a public record for the benefit of all persons requiring information in that behalf. [Amendment approved April 8, 1919; Stats. 1919, p. 34.]

§ 674. Civil death. Civil rights of paroled prisoner. Record of order. A person sentenced to imprisonment in the state prison for life is thereafter deemed civilly dead; provided, however, that in any such cases, if the person so sentenced be liberated from prison by parole under the terms and conditions of the parole laws of this state, the board of prison directors, or such other officials or official having power to grant paroles may permit to such person so paroled, civil rights, other than the right to act as a trustee, or hold public office, or exercise the privilege of an elector, during the term of such parole. The scope or extent of such civil rights shall be determined by such board of directors or other officials having control of such paroled person, either at the time the parole is granted or at such other time as, in the judgment of such board or other official, is for the best interest of society and such paroled person. The board of directors, or other official having control of the matter of paroles, shall, at the time of permitting such civil rights, make a permanent record thereof, and give such paroled person a duly authenticated copy of such order or orders, and such record shall be a public record for the benefit of all persons requiring information in that behalf. [Amendment approved April 8, 1919; Stats. 1919, p. 35.]

§ 704. Testimony before magistrate may be taken in shorthand. When the person informed against is brought before the magistrate, if the charge be controverted, the magistrate must take testimony in relation thereto. The evidence must be reduced to writing and subscribed by the witnesses. The magistrate may, in his discretion, order the testimony and proceedings to be taken down in shorthand, and for that purpose he may appoint a shorthand reporter. The deposition or testimony of the witnesses must be authenticated in the form prescribed in section eight hundred sixty-nine of this code. [Amendment approved April 20, 1917; Stats. 1917, p. 146.]

§ 777. Jurisdiction of offenses committed in state. Every person is liable to punishment by the laws of this state, for a public offense committed by him therein, except where it is by law cognizable exclusively in the courts of the United States; and except as herein otherwise provided, the jurisdiction of every public offense is in the county wherein it is committed; provided, that if a parent violates the provisions of section two hundred seventy of this code in respect to a minor child who has been declared a ward of the juvenile court of any county under the juvenile court law of this

state, and by such juvenile court committed to the custody of a person, society or institution which places or keeps such child in another county, the jurisdiction is in either the county in which such commitment was made, or the county within which such minor child is placed or kept by authority of such commitment. [Amendment approved April 15, 1919; Stats. 1919, p. 81.]

§ 869. Testimony in preliminary examination in cases of homicide. The testimony of each witness in cases of homicide must be reduced to writing, as a deposition, by the magistrate, or under his direction, and in other cases upon the demand of the prosecuting attorney, or the defendant, or his counsel. The magistrate before whom the examination is had may, in his discretion, order the testimony and proceedings to be taken down in shorthand in all examinations herein mentioned, and for that purpose he may appoint a shorthand reporter. The deposition or testimony of the witness must be authenticated in the following form:

Form of deposition or testimony in cases of homicide. First—It must state the name of the witness, his place of residence, and his business or profession.

Second—It must contain the questions put to the witness and his answers thereto, each answer being distinctly read to him as it is taken down, and being corrected or added to until it conforms to what he declares is the truth, except in cases where the testimony is taken down in shorthand, the answer or answers of the witness need not be read to him.

Third—If a question put be objected to on either side and overruled, or the witness declines answering it, that fact, with the ground on which the question was overruled or the answer declined, must be stated.

Fourth—The deposition must be signed by the witness, or if he refuses to sign it, his reason for refusing must be stated in writing, as he gives it, except in cases where the deposition is taken down in shorthand, it need not be signed by the witness.

Fifth—The reporter shall, within ten days after the close of such examination, if the defendant be held to answer the charge, transcribe into longhand writing, his said shorthand notes, making an original and a copy thereof, and certify and file both said original and copy with the county clerk of the county, or city and county, in which the defendant was examined, and shall, in all cases file his original notes with said clerk. The reporter shall receive no compensation for any services rendered by him as such reporter in any court of this state until the provisions of this section have been,

by him, complied with, and shall, before receiving any compensation as such reporter, file with the auditor of the county his affidavit setting forth that said transcriptions, herein provided for, have been filed as herein required.

Sixth—The defendant, upon his arraignment in the superior court, shall be furnished, without cost to him, a copy of said transcription of the testimony and proceedings before the magistrate if shorthand notes thereof were taken by a reporter as provided in this section.

Seventh—The reporter's compensation shall be fixed by the magistrate before whom the examination is had, and shall not exceed that now allowed reporters in the superior courts of this state, and shall be paid out of the treasury of the county, or the city and county, in which the examination is had, on the certificate and order of the said magistrate. [Amendment approved May 10, 1919; Stats. 1919, p. 465.]

§ 928. Grand jury to examine books. Expenses. It shall be the duty of the grand jury annually to make a careful and complete examination of the books, records, and accounts of all the officers of the county, and especially those pertaining to the revenue, and report as to the facts they have found, with such recommendations as they may deem proper and fit; and if, in their judgment, the services of an expert are necessary, they shall have power to employ one, at an agreed compensation, not to exceed ten dollars a day, to be first approved by the court; and if, in their judgment, the services of assistants to such expert are required, they shall have power to employ such, at a compensation to be agreed upon and approved by the court, not to exceed, however, five dollars a day for each assistant, such compensation of expert and assistants to be payable as other county charges. It shall be the duty of every grand jury first empaneled in even-numbered years to investigate and report upon the needs of all county officers in its county, including increase or decrease in salaries, number of officers, deputies or employees, the abolition or creation of offices and the equipment for, or the method or system of performing the duties of the several offices, and it shall cause a copy of such report to be transmitted to each member of the legislature representing the county in which it has been empaneled before the commencement of the regular session of the legislature in odd-numbered years. The judge, on impanelment of the grand jury, shall charge them especially as to their duties under this section; provided, that if any grand jury shall, in the report above mentioned, comment upon any person or official who has not been indicted by the said grand jury, the

said comments shall not be deemed to be privileged. Any and all expenses incurred under this section and also the per diem and mileage where allowed by law, of the grand jurors, shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said county. [Amendment approved May 3, 1919; Stats. 1919, p. 156.]

This section was also amended in 1917. See Stats. 1917, p. 167. There was no change in the amendment adopted in 1919.

§ 1088. Peremptory challenges, criminal cases. If all challenges on both sides are disallowed, either party, first the people and then the defendant, may take a peremptory challenge unless the parties' peremptory challenges are exhausted; and each party shall be entitled to have the panel full before exercising any peremptory challenge. [Amendment approved April 21, 1919; Stats. 1919, p. 130.]

§ 1128. Custody of jury. Separate room for women. After hearing the charge, the jury may either decide in court or may retire for deliberation. If they do not agree without retiring, an officer must be sworn to keep them together in some private and convenient place, and not to permit any person to speak to or communicate with them, nor to do so himself, unless by order of the court, or to ask them whether they have agreed upon a verdict, and to return them into court when they have so agreed, or when ordered by the court; provided, however, that when the jury is composed of both men and women, in the event that it shall become necessary to retire for the night, the women must be kept in a room or rooms separate and apart from the men. [Amendment approved May 5, 1919; Stats. 1919, p. 304.]

§ 1135. Accommodations for jury after retirement. Separate room for women jurors. A room must be provided by the supervisors of each county for the use of the jury, upon their retirement for deliberation, with suitable furniture, fuel, lights, and stationery. If the supervisors neglect, the court may order the sheriff to do so, and the expenses incurred by him in carrying the order into effect, when certified by the court, are a county charge; provided, however, that said board of supervisors shall provide a room for the female members of the jury which shall be separate and apart from the room provided for the male members. [Amendment approved May 25, 1919; Stats. 1919, p. 1033.]

§ 1168. Term of imprisonment not fixed. (a) Every person convicted of a public offense, for which public offense

punishment by imprisonment in any reformatory or the state prison is now prescribed by law, if such convicted person shall not be placed on probation, a new trial granted, or imposing of sentence suspended, shall be sentenced to be confined in the state prison, but the court in imposing such sentence shall not fix the term or duration of the period of imprisonment.

(b) **Maximum and minimum term.** It is hereby made the duty of the warden of the state prison to receive such person, who shall be confined until duly released as provided for in this act; provided, that the period of such confinement shall not exceed the maximum or be less than the minimum term of imprisonment provided by law for the public offense of which such person was convicted.

(c) **Information furnished state board of prison directors.** It shall be the duty of the judge before whom such convicted person was tried, and of the district attorney conducting the prosecution, to obtain and with the commitment furnish to the state board of prison directors in writing all information that can be given in regard to the career, habits, degree of education, age, nativity, nationality, parentage, and previous occupation, of such convicted person, together with a statement to the best of their knowledge as to whether such person was industrious or not, of good character or not, the nature of his associates and his disposition.

(d) **Length of term after expiration of minimum term.** The governing authority of the reformatory or prison in which such person may be confined, or any board or commission that may be hereafter given authority so to do, shall determine after the expiration of the minimum term of imprisonment has expired, what length of time, if any, such person shall be confined, unless the sentence be sooner terminated by commutation or pardon by the governor of the state; and if it be determined that such person so sentenced be released before the expiration of the maximum period for which he is sentenced, then such person shall be released at such time as the governing board, commission or other authority may determine.

(e) **Rules and regulations.** The state board of prison directors shall make all necessary rules and regulations to carry out the provisions of this act not inconsistent therewith, and may provide the forms of all documents necessary therefor.

(f) **Discharge on serving maximum punishment.** Any convicted person undergoing sentence in either of the state

prisons of this state, not sooner released under the provisions of this act shall, in accordance with the provisions of existing law, be discharged from custody on serving the maximum punishment provided by law for the offense of which such person was convicted. [New section added May 18, 1917; Stats. 1917, p. 665.]

§ 1192a. Inquiry as to causes of criminal conduct. Notice to clerk of prison. Before judgment is pronounced upon any person convicted of an offense punishable by imprisonment in the state prison, it shall be the duty of the court, assisted by the district attorney, to ascertain in a summary manner, and by such evidence as is obtainable, whether such person has learned and practiced any mechanical or other trade, and also such other facts tending to indicate the causes of the criminal character or conduct of such convicted person, or calculated to be of assistance to the court in determining the proper punishment of such person, or to the state board of prison directors in the performance of the duties imposed upon it by law, as the court shall deem proper. Within thirty days after judgment has been pronounced, the judge and the district attorney, respectively, shall cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with such reports as the probation officer may have made relative to the prisoner. Within twenty days after the filing of such statement and reports, the clerk of the court shall mail a copy thereof, certified by such clerk, with postage thereon prepaid, addressed to the clerk of the prison to which such convicted person shall have been sentenced. The testimony pursuant to the provisions of this section shall be reported and transcribed by the clerk or official reporter. Within thirty days after judgment has been pronounced by the court, one copy of such transcript shall be filed with the clerk of the court, and another copy thereof shall be sent by mail, with postage prepaid, addressed to the warden of the prison to which such convicted person shall have been sentenced. [Amendment approved May 3, 1919; Stats. 1919, p. 176.]

§ 1202a. Imprisonment in state prison. If the judgment is for imprisonment in the state prison it shall direct that the defendant be taken to the warden of the state prison at San Quentin. Thereafter, and until the termination of the sentence, the state board of prison directors may transfer the defendant from one state prison to the other as in

the opinion of the board conditions may require. [New section added May 18, 1917; Stats. 1917, p. 688.]

§ 1203. Hearing on probation. After plea or verdict of guilty, where discretion is conferred upon the court as to the extent of the punishment, the court, upon oral suggestions of either party, or of its own motion, that there are circumstances which may properly be taken into view, either in aggravation or mitigation, of the punishment, may in its discretion, refer the same to the probation officer, directing said probation officer to investigate, and to report, recommending either for or against release upon probation, at a specified time, and the court shall hear the same summarily at such specified time, and upon such notice to the adverse party as it may direct. At such specified time, if it shall appear from the report furnished by the probation officer, or otherwise, and from the circumstances, of any person over the age of eighteen years so having pleaded guilty, or having been convicted of crime, that there are circumstances in mitigation of the punishment, or that the ends of justice shall be subserved thereby, the court shall have power, in its discretion, to place the defendant upon probation in the manner following:

(a) **Suspension of sentence. Bonds.** The court, judge or justice thereof, may suspend the imposing, or the execution of sentence and may direct that such suspension may continue for such period of time not exceeding the maximum possible term of such sentence, except as hereinafter set forth, and upon such terms and conditions as it shall determine, which terms and conditions may include, in the discretion of the court, the requirements of bonds for the appearance of the person released upon probation before the court, at any time that the court may require such appearance in the investigation of any alleged violation of said terms and conditions of probation and such bonds may be at any time by the court exonerated without affecting any of the other terms or conditions of such probation; and in case of such suspension of imposition or execution of sentence, the court shall place such person on probation and under the charge and supervision of the probation officer of said court, during such suspension; provided, however, that where the maximum possible term of such sentence is less than two years, then such period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over two years. Where the offense consists of a violation of section two hundred seventy or two hundred seventy *a* of the Penal Code of the state of California, such

suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years.

(b) **Opportunity to pay fine.** If the judgment is to pay a fine, and the defendant be imprisoned until it be paid, the court, judge or justice, upon imposing sentence, may direct that the execution of the sentence of imprisonment be suspended for such period of time, not exceeding the maximum possible term of such sentence, and on such terms as it shall determine, and shall place the defendant on probation, under the charge and supervision of the probation officer during such suspension, to the end that he may be given the opportunity to pay the fine; provided, however, that upon the payment of the fine being made, judgment shall be satisfied and the probation cease.

(c) **Rearrest. May pronounce judgment.** At any time during the probationary term of the person released on probation, in accordance with the provisions of this section, any probation officer may, without warrant, or other process, at any time until the final disposition of the case, rearrest any person so placed in his care and bring him before the court. or the court may, in its discretion, issue a warrant for the rearrest of any such person and may thereupon revoke and terminate such probation, if the interest of justice so requires, and if the court, in its judgment, shall have reason to believe from the report of the probation officer, or otherwise. that the person so placed upon probation is violating the conditions of his probation, or engaging in criminal practices. or has become abandoned to improper associates, or a vicious life. Upon such revocation and termination. the court may, if the sentence has been suspended, pronounce judgment after the said suspension of the sentence for any time within the longest period for which the defendant might have been sentenced, but if the judgment has been pronounced and the execution thereof has been suspended, the court may revoke such suspension, whereupon the judgment shall be in full force and effect. and the person shall be delivered over to the proper officer to serve his sentence.

(d) **Court may revoke order.** The court shall have power at any time during the term of probation to revoke or modify its order of suspension, of imposition or execution of sentence. It may, at any time, when the ends of justice will be subserved thereby. and when the good conduct and reform of the person so held on probation shall warrant it, terminate the period of probation and discharge the person so held, but no such order shall be made without written notice first

given by the court or the clerk thereof to the proper probation officer of the intention to revoke or modify its order, and in all cases, if the court has not seen fit to revoke the order of probation and impose sentence or pronounce judgment, the defendant shall, at the end of the term of probation, be by the court discharged.

(e) **Change of plea.** Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termination of the period thereof, shall at any time prior to the expiration of the maximum period of punishment for the offense of which he has been convicted, dating from said discharge from probation or said termination of said period of probation, be permitted by the court to withdraw his plea of guilty and enter a plea of not guilty; or if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusation or information against such defendant who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted.

(f) **Probation officers to serve.** The same probation officers and assistant probation officers and deputy probation officers shall serve under this act as are appointed under the act known as the juvenile court law, and entitled, "An act to be known as the juvenile court law, and concerning persons under the age of twenty-one years; and in certain cases providing for their care, custody and maintenance; providing for the probationary treatment of such persons, and for the commitment of such persons to the Whittier State School and the Preston School of Industry, the California School for Girls, and other institutions; establishing probation officers and a probation committee to deal with such persons and fixing the salary thereof; providing for the establishment of detention homes for such persons; fixing the method of procedure and treatment or commitment where crimes have been committed by such persons; providing for the punishment of those guilty of offenses with reference to such persons, and defining such crimes; and repealing the juvenile court law approved March 8, 1909, as amended by an act approved April 5, 1911, and as amended by an act approved June 16, 1913, and all amendments thereof and all acts or parts of acts inconsistent herewith," approved June 5, 1915, or under any laws amending or superseding the same, except in the case of offenses committed in counties and cities and counties of the second class and counties of the

third class, in the case of which offenses the adult probation officers and assistant and deputy adult probation officers appointed under subdivision (g) of this section shall serve under this act; provided, however, that in all cases of offenses defined by section twenty-one of said act known as the juvenile court law and by section two hundred and seventy of the Penal Code of California, the same probation officers, assistants and deputies shall serve under this act as are appointed under said juvenile court law.

(g) Adult probation board. Term. Vacancies. Removal for cause. Duties. In counties of third class. Payment of salaries and expenses. In counties of second class. Additional deputies. In counties and cities and counties of the second class, the judges designated for the hearing and disposition of criminal cases and proceedings by a majority vote and in counties of the third class the judge of the department or the judges of the departments, by a majority vote, to which criminal actions and proceedings are assigned shall by order entered in the minutes of the court appoint seven citizens of good moral character to be known as the adult probation board and shall fill all vacancies occurring in such board. The clerk of said court shall immediately notify each person appointed on said board and thereupon said person shall appear before a judge of the superior court and qualify by taking an oath, which shall be entered in said court record, to perform faithfully the duties of such adult probation board. The members of such adult probation board shall hold office for four years and until their successors are appointed and qualify; provided, that of those first appointed one shall hold office for one year, two for two years, two for three years and two for four years, the terms for which the respective members shall hold office to be determined by lot as soon after their appointment as may be. When any vacancy occurs in any probation board by expiration of the term of office of any member thereof, the successor shall be appointed to hold office for the term of four years. When any vacancy occurs for any other reason, the appointee shall hold office for the unexpired term of his predecessor. Any member of the probation board may be removed for cause at any time by an affirmative vote of four members of said board at a meeting called for the special purpose of considering the question of said removal and the subsequent written approval of a majority of the judges designated for the hearing and disposition of criminal cases and proceedings in counties and cities and counties of the second class, and the judge of the department or a majority of the judges of the depart-

ments to which criminal actions and proceedings are assigned in counties of the third class, said written approval to be filed with the clerk of the court within thirty days after the written report of the said board has been received by said judge. Written notice as to said special meeting shall be served on each of the members of said board at least ten days prior to the date set therefor and shall specify the purpose thereof.

It shall be the duty of such adult probation board to exercise a friendly supervision of probationers when so directed by the court, to furnish the court information and assistance whenever required upon the request of the court and from time to time to advise and recommend to the court any changes or modification of the order made in the case of a probationer as may be for the best interests of such person.

Members of the adult probation board shall serve without compensation.

In counties or cities and counties of the second class, there shall be and are hereby created the office of one adult probation officer; eight assistant adult probation officers; the salaries of said officers shall be as follows: adult probation officer, two hundred fifty dollars per month, one assistant adult probation officer, two hundred dollars per month, and seven assistant adult probation officers at one hundred forty dollars per month, each. In counties of the third class there shall be and there are hereby created the offices of one adult probation officer, one assistant adult probation officer and two deputy adult probation officers. The salaries of said officers shall be as follows: Adult probation officer two thousand one hundred dollars per annum; assistant adult probation officer one thousand nine hundred twenty dollars per annum; one deputy adult probation officer one thousand six hundred twenty dollars per annum; and one deputy adult probation officer six hundred dollars per annum. One deputy adult probation officer in counties of the third class shall be a woman and shall be a competent stenographer and typist of sufficient ability to perform the clerical and stenographic work of the office in addition to her other duties; provided, however, that in the event an adult probation department is created in counties of the third class, from and after the creation of such department and the appointment of an adult probation officer or any deputy or assistant or like officer who shall relieve the probation officer of the adult probation work, the offices of assistant probation officer at a salary of one hundred seventy-five dollars a month and of assistant probation officer at a salary of one hundred sixty

dollars per month shall cease and terminate and be abolished in counties of this class.

The salaries of the adult probation officers, assistant adult probation officers and deputy adult probation officers in counties or cities and counties of the second class and in counties of the third class shall be paid out of the county treasury of the county for which they are appointed respectively in the same manner as the salaries of the other county officers. The adult probation officers, assistant adult probation officers and deputy adult probation officers in said counties or cities and counties of the second class and in counties of the third class shall be allowed such necessary incidental expenses incurred in the performance of their duties as required by any laws of the state of California as may be authorized by a judge designated for the hearing and disposition of criminal cases and proceedings or by the judge of a department to which criminal actions and proceedings are assigned, and the same shall be a charge upon the county in which the court appointing them has jurisdiction and said expenses shall be paid out of the county treasury upon a written order of said judge of said county directing the county auditor to draw his warrant upon the county treasurer for the specific amount of such expenses. The adult probation officer shall keep a list of expenses and file a copy monthly with the county board of supervisors.

In counties or cities and counties of the second class the adult probation officer, and the assistant adult probation officer and deputy adult probation officers hereinbefore provided for shall be nominated by the adult probation board in manner as the judges designated for the hearing and disposition of criminal cases and proceedings shall direct and the appointment of such adult probation officer, assistant adult probation officer and deputy adult probation officers shall be made by a majority vote of said judges. The term of office of the adult probation officer, assistant adult probation officer and deputy adult probation officers shall be two years from the date of their said appointments.

In counties of the third class the adult probation officer, the assistant adult probation officer and the deputy adult probation officer hereinbefore provided for shall be nominated by the adult probation board and in manner as the judge of the department or a majority of the judges of the departments to which criminal actions and proceedings are assigned shall direct and the appointment of such adult probation officer, assistant adult probation officer, deputy adult probation officer shall be made by said judge or a majority of said judges. The term of office of the adult probation

officer, the assistant probation officer and the deputy adult probation officer shall be two years from the date of their appointment. The adult probation officer, the assistant adult probation officer and any deputy adult probation officer may at any time be removed in counties or cities and counties of the second class by vote of a majority of the judges designated for the hearing and disposition of criminal cases and proceedings and in counties of the third class by the judge of the department or by a majority of the judges of the departments to which criminal actions and proceedings are assigned for good cause shown and on the filing of written charges by the said judge or judges with the adult probation board. In counties or cities and counties of the second class the judges designated for the hearing and disposition of criminal cases and proceedings, and in counties of the third class the judge of the department or the judges of the departments to which criminal actions and proceedings are assigned shall have authority by an order entered in the minutes of said court to determine and fix the amount of bonds of the adult probation officer of county or city and county and of the assistant adult probation officer of the county or city and county and of the deputy adult probation officers of the county or city and county. If said bonds or any of them are furnished by any surety company licensed to transact business in the state of California, the premium thereon shall be paid out of the county treasury.

The adult probation officer may appoint as many additional deputies as he may desire; provided, however, that such deputies shall not have authority to act until their appointments shall have been approved by a majority vote of the members of the adult probation board and by a majority vote of the judges designated for the hearing and disposition of criminal cases and proceedings in counties and cities and counties of the second class, and by a majority vote of the members of the adult probation board and by a judge of the department or a majority vote of the judges of the departments to which criminal proceedings are assigned in counties of the third class. The term of office of such deputies shall expire with the term of the adult probation officer making such appointment but the adult probation officer without written approval of the majority of members of the adult probation board may at any time, in his discretion, revoke and terminate such appointment. Such deputies except as herein provided shall serve without compensation. It shall be the duty of the legislative body of every county or city and county of the second class and of every county of the third class, immediately upon this act becoming effective, to

provide and thereafter maintain, at the expense of such county or city and county, in a location in the vicinity of the jail of such county or city and county, approved by the judges designated for the hearing and disposition of criminal cases and proceedings, in counties or cities and counties of the second class and by the judge of the department or the judges of the departments to which criminal actions and proceedings are assigned in counties of the third class, suitable offices and quarters for the conducting of the business of the adult probation officer, the assistant adult probation officer and the deputy adult probation officers of such county or city and county. Nothing contained in this subdivision shall apply to the offenses defined by section twenty-one of said juvenile court law and by section two hundred seventy of the Penal Code.

(h) **Transfer of cases.** Whenever any person is released upon probation under the provision of this act, the case may be transferred to any court of the same rank in any other county, or city and county, of this state in which such person resides, or to which such person may remove, and such court shall thereupon commit such person to the care and custody of the probation officer of the county, or city and county, to which such person has been transferred; such court shall thereafter have entire jurisdiction over such case, with like power to make transfer whenever to such court such transfer may seem proper.

(i) **Report on person's antecedents, etc.** At the time of the plea or verdict of guilty of any crime of any person over eighteen years of age, the probation officer of the county of the jurisdiction of said crime shall, when so directed by the court, inquire into the antecedents, character, history, family environment, and offense of such person, and must report the same to the court, and file his report in writing in the records of said court. His report shall contain his recommendation for or against the release of such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer shall keep a complete and accurate record in suitable books or other form in writing, of the history of the case in court, and of the name of the probation officer, and his acts in connection with said case; also the age, sex, nativity, residence, education, habits of temperance, whether married or single, and the conduct, employment, and occupation, and parents' occupation, and condition of such person so committed to his care during the term of such probation and the result of such probation. Such record of such probation officer shall be

and constitute a part of the records of the court, and shall at all times be open to the inspection of the court, or of any person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other head of the police, unless otherwise ordered by the court. Said books of record shall be furnished for the use of said probation officer of said county, and shall be paid for out of the county treasury.

(j) **Report of probation officers.** Every probation officer, within fifteen days after the thirtieth day of June, and within fifteen days after the thirty-first day of December, of each year, shall make in writing and file as a public document with the county clerk a report to the superior court of the county or city and county in which such probation officer is appointed to serve, and shall furnish a copy of such report to each judge in said county or city and county who has released any person on probation who at the time of such report remains on probation; and a further copy to the secretary of the state board of charities and corrections. Such report shall state, without giving names, the exact number of persons, segregating male and female, and segregating misdemeanors and felonies, who have been released on probation to such probation officer as such number exists, deducting all cases of expiration, discharge, dismissal, and restoration of rights, on said thirtieth day of June and said thirty-first day of December; and such report shall further segregate such (person) as having been released on probation, as the case may be, in one thousand nine hundred three, one thousand nine hundred four, one thousand nine hundred five and so on, up to and including the calendar year in which such report is made and filed.

(k) **Statement of terms of probation.** The probation officer shall furnish to each person who has been released on probation, and committed to his care a written statement of the terms and conditions of his probation unless such statement has been furnished by the court, and shall report to the court, judge or justice, releasing such person upon probation, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.

(l) **Powers of peace officers.** Such probation officer shall have, as to the person so committed to the care of said probation officer, the powers of a peace officer. [Amendment approved May 27, 1919; Stats. 1919, p. 1244.]

This section was also amended in 1917. See Stats. 1917, p. 1409.

§ 1239. Appeals in criminal actions. An appeal from a judgment may be taken by the defendant by announcing per-

sonally or through his attorney in open court at the time the judgment is rendered that he appeals from the same or by filing a written notice of appeal within two days after the rendition of judgment with the clerk of the court wherein judgment was rendered; and from any order made after judgment, by announcing in open court at the time the same is made that he appeals from the same. [Amendment approved April 5, 1917; Stats. 1917, p. 37.]

§ 1298. Deposit of United States and state bonds as bail. In lieu of a deposit of money, the defendant may deposit bonds of the United States or of the state of California of the face value of the cash deposit required, and such bonds shall be treated in the same manner as a deposit of money except that the clerk shall, under order of the court, when occasion arises therefor, sell the said bonds and apply the proceeds of such sale in the manner that a deposit of cash may be required to be applied. [New section added April 30, 1919; Stats. 1919, p. 240.]

§ 1324. Witness not to prosecute on testimony of himself. Person not exempted if testimony is voluntary. [Repealed May 8, 1917; Stats. 1917, p. 291.]

§ 1438. Attendance of defendant in justices' courts. After the members of the jury are sworn, they must sit together and hear the proofs and allegations of the parties, which must be delivered in public and in the presence of the defendant and if any defendant be not present, the court or justice of the peace by an order or warrant may require the personal attendance of such defendant. [Amendment approved April 21, 1919; Stats. 1919, p. 134.]

§ 1616. Care of female prisoners in county jails. Whenever any female prisoner or prisoners are confined in any county jail in the state, and no regular jail matron has been appointed, there shall be designated by the sheriff some suitable woman who shall have immediate care of such female prisoner or prisoners, and who shall be paid out of the general fund of the county upon claims to be presented and allowed by the board of supervisors as other claims against the county. Such female prisoners shall be so kept that they cannot see or be seen by, or converse with, any male prisoners confined in said jail, and it shall be unlawful for any male officer or jailer to search the person of any female prisoner, or to enter into the room or cell occupied by any female prisoner, except in the company of such matron or woman having the care of such female prisoner. [Amendment approved May 5, 1917; Stats. 1917, p. 240.]

THE
POLITICAL CODE
OF THE
STATE OF CALIFORNIA.

AMENDMENTS OF 1917 AND 1919.

§ 10. Holidays. Saturday holiday. Public school holidays. "Admission day." Holidays within the meaning of this code, are every Sunday, the first day of January, twelfth day of February, to be known as Lincoln day, twenty-second day of February, thirtieth day of May, fourth day of July, ninth day of September, first Monday in September, twelfth day of October, to be known as "Columbus day," twenty-fifth day of December, every day on which an election is held throughout the state, and every day appointed by the President of the United States or by the governor of this state for a public fast, thanksgiving or holiday.

If the first day of January, twelfth day of February, twenty-second day of February, the thirtieth day of May, the fourth day of July, the ninth day of September, the twelfth day of October or the twenty-fifth day of December falls upon a Sunday, the Monday following is a holiday.

Every Saturday from twelve o'clock noon until twelve o'clock midnight is a holiday as regards the transaction of business in the public offices of this state, and also in political divisions thereof where laws, ordinances or charters provide that public offices shall be closed on holidays; this shall not be construed to prevent or invalidate the issuance, filing, service, execution or recording of any legal process or written instrument whatever on such Saturday afternoon; and provided, further, that the public schools of this state shall close on Saturday, Sunday, the first day of January, the thirtieth day of May, the fourth day of July, the ninth day of September, the twenty-fifth day of December and on every day appointed by the President of the United States or the governor of this state for a public fast, thanksgiving or holiday. Said public schools shall continue in session on all other legal holidays and shall hold proper exercises commemorating the day. Boards of school trustees and city boards of education shall have power to declare a holiday in the public schools under their jurisdiction when good reason exists therefor.

All public offices of the state and all state institutions, including the state university and all public schools in the state shall be closed on the ninth day of September of each year, known as "Admission day." [Amendment approved March 20, 1917; Stats. 1917, p. 12.]

§ 410. Distribution of laws, etc., by secretary of state. Decisions of courts. The laws, resolutions and journals of the legislature shall be delivered by the state printer to the secretary of state, who shall immediately distribute them as follows:

1. To the library of congress, three copies.
2. To the state library or other library or department in each state, authorized to receive them, two copies.
3. To the librarians of the University of California and the Leland Stanford Junior University, two copies each.
4. To each United States senator and each member of congress from California, to each of the United States district judges in this state, to each of the judges of the supreme court, the district courts of appeal, and the superior courts of this state, one copy.
5. To the chief of each administrative department of the state government, and to each of his deputies, one copy.
6. To the lieutenant-governor, each member of the legislature, the secretary of the senate and the clerk of the assembly, one copy each.
7. To each public library, and each library connected with an incorporated college or other educational, scientific, literary or art institution in this state, which may apply to be put on the mailing list for all or a portion of the state publications, one copy.
8. To the state library, fifty copies, or so many more as the state librarian may require for exchange purposes.
9. Of the laws alone, to the county clerk of each county, in the cheapest and most expeditious manner, to be by the sheriff distributed under the direction of the clerks, one copy for the board of supervisors, one copy for the registrar of voters, one copy to each county officer and each justice of the peace and police judge; and of the journals, three copies of each house, to each county clerk, for the use of the county.

The secretary of state must also distribute of the bound volumes of the decisions of the supreme court, and of the district courts of appeal, as soon as he receives them:

1. To each state, two copies.
2. To the library of congress, the supreme court library and the district courts of appeal libraries, two copies each.
3. To each department of this state, and to each of the United States district judges of this state, supreme, district courts of appeal and superior judges of this state, one copy.
4. To each district attorney and county clerk, one copy.
5. To the reporter of the decisions, ten copies.
6. To the state library, ten copies. [Amendment approved May 5, 1917; Stats. 1917, p. 278.]

§ 413. Salaries of assistants to secretary of state. The annual salary of the deputy of the secretary of state is three thousand dollars; of the bookkeeper, two thousand four hundred dollars; of the keeper of the archives, two thousand dollars; of each of three of the recording clerks, one thousand eight hundred dollars; of each of three

of the recording clerks; one thousand six hundred dollars; of the register clerk, one thousand eight hundred dollars; of each of the certificate clerks, one thousand six hundred dollars; of the statistician, two thousand four hundred dollars; of the superintendent and cashier of the corporation license tax department, two thousand four hundred dollars; of each of five clerks of the corporation license tax department, one thousand eight hundred dollars; of one clerk in the corporation license tax department, one thousand six hundred dollars; of the porter for the office of the secretary of state, seven hundred twenty dollars; of the porter for the corporation license tax department, three hundred sixty dollars; of the messenger for the office of the secretary of state, nine hundred dollars; of the messenger for the corporation license tax department, six hundred dollars; of each of the special clerks serving from January first to May first in each legislative year, one hundred twenty-five dollars. All such salaries are payable in the same manner and at the same time as other state officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1353.]

§ 433. Duties of controller. It is the duty of the controller:

1. To superintend the fiscal concerns of the state;
2. To report to the governor, before the fifteenth day of December next preceding each regular session of the legislature, a statement of the funds of the state, its revenues, and of the public expenditures during the two preceding fiscal years, together with a detailed estimate of the expenditures to be defrayed from the treasury for the two ensuing fiscal years, specifying therein each object of expenditure, and distinguishing between such as are provided for by permanent or temporary appropriations and such as must be provided for by a new statute, and suggesting the means from which such expenditures are to be defrayed;
3. To accompany his biennial report with tabular statements, showing: (1) The amount of each appropriation for the two preceding fiscal years, the amounts expended, and the balance, if any; (2) the amounts of revenue chargeable to each county for such years, the amount paid and the amount unpaid or due therefrom;
4. When requested, to give information in writing to either house of the legislature relating to the fiscal affairs of the state or the duties of his office;
5. To suggest plans for the improvement and management of the public revenues;
6. To keep and state all accounts in which the state is interested;
7. To keep an account of all warrants drawn upon the treasurer, and a separate account under the head of each specific appropriation, showing at all times the unexpended balance of such appropriation;
8. To keep an account between the state and the treasurer and therein charge the treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him;
9. To keep a record of warrants showing the fund upon which they are drawn, the number, in whose favor, and the appropriation applicable to the payment thereof. Before delivering a warrant to the payee named therein, he shall, whenever requested to do so by the

state treasurer, permit the state treasurer to indorse upon or attach to such warrant an order designating the place where such warrant may be paid. Such warrants may be made payable at the option of the treasurer, either at his office, or at some bank at which moneys of the state are deposited. Whenever any party is entitled to the payment of a sum greater than twenty thousand dollars, the controller shall, whenever requested to do so by the state treasurer, issue to such party several warrants aggregating the amounts due him in the amounts designated by the treasurer. Upon drawing a warrant in favor of any claimant the controller shall, unless otherwise requested, or unless for good and sufficient reasons, mail the same to the last known address of such claimant and the signature upon such warrant of the payee shall be sufficient receipt and legal evidence of the receipt of the money by said claimant;

10. To audit all claims against the state in cases where there are sufficient provisions of law for the payment thereof;

11. To examine and settle the accounts of all persons indebted to the state, and to certify the amount to the treasurer, and upon presentation and filing of the treasurer's receipt therefor to give such person a discharge and charge the treasurer therewith;

12. In his discretion to require any person presenting an account for settlement to be sworn before him, and to answer orally or in writing, as to any facts relating to it;

13. To require all persons who have received any moneys belonging to the state and have not accounted therefor to settle their accounts;

14. In his discretion to inspect the books of any person charged with the receipt, safekeeping, or disbursement of public moneys;

15. In his discretion, to require all persons who have received moneys or securities, or have had the disposition or management of any property of the state of which an account is kept in his office to render statements thereof to him; and all such persons must render such statement at such times and in such form as he may require;

16. To direct and superintend the collection of all moneys due the state, and institute suits in its name for all official delinquencies in relation to the assessment, collection, and payment of the revenue, and against persons who by any means have become possessed of public money or property and fail to pay over or deliver the same, and against all debtors of the state; of which suits the courts of Sacramento county have jurisdiction, without regard to the residence of the defendants;

17. To draw warrants on the treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law, and upon an unexhausted specific appropriation provided by law to meet the same. Every warrant must be drawn upon the fund out of which it is payable, and specify the specific appropriation applicable to the payment thereof;

18. To furnish the state treasurer with a list of warrants drawn upon the treasury;

19. To authenticate with his official seal all drafts and warrants drawn by him, and all copies of papers issued from his office;

29. To perform the duties of a member of the state board of equalization, and such other duties as are prescribed by law. [Amendment approved April 9, 1919; Stats. 1919, p. 56.]

The amendment of section 433 also contained the following provision:

§2 This act is hereby declared to be an urgency measure, and under the provisions of section one of article four of the constitution of the state of California shall take effect immediately upon approval. The facts constituting such urgency are as follows: July 1, 1919, is the date of the beginning of the next fiscal year, and the new form for state warrants for the coming year cannot be put into effect for the year at that time because of the fact that under ordinary procedure a bill does not go into effect until ninety days after the adjournment of the legislature. It is, therefore, necessary for the immediate preservation of the public safety that these warrants be upon the new form prescribed in this measure.

§439. **Assistants to controller.** The controller may appoint one deputy controller, one bookkeeper, one redemption tax expert, one statistician, one warrant registrar, one superintendent franchise tax department, one franchise tax expert, and seven clerks, who shall be civil executive officers; and one stenographer-clerk, and one stenographer. [Amendment approved May 27, 1919; Stats. 1919, p. 1352.]

This section was also amended in 1917. Stats. 1917, p. 1390.

§440. **Salaries.** The annual salary of the deputy controller is three thousand dollars; of the bookkeeper, two thousand four hundred dollars; of the redemption tax expert, two thousand four hundred dollars; of the statistician, two thousand four hundred dollars; of the warrant registrar, two thousand four hundred dollars; of the superintendent franchise tax department, two thousand four hundred dollars; of the franchise tax expert, two thousand four hundred dollars; of two clerks, one thousand eight hundred dollars each; of five clerks, one thousand six hundred dollars each; of the stenographer-clerk, one thousand five hundred dollars, and of the stenographer, one thousand two hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of other state officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1352.]

Section 440 was also amended in 1917. See Stats. 1917, p. 440.

§443. **Transfer of money to school fund.** In addition to funds provided by constitution. On or before the thirty-first day of December in the year one thousand nine hundred nineteen and on or before the thirtieth day of June in the year one thousand nine hundred twenty, and on or before the thirtieth day of June and the thirty-first day of December in each succeeding-year, the state controller shall transfer from the general fund of the state, to the state school fund, such sums as will be equivalent to seventeen and one-half dollars per annum for each pupil in average daily attendance in the elementary schools of the state as reported by the superintendent of public instruction for the school year ending June thirtieth preceeding. The money so transferred shall be in addition to the funds provided by the constitution

the city of Sacramento shall be two thousand seven hundred dollars. The salaries of said inheritance tax attorney and of said inheritance tax attorneys shall be paid at the same times and in the same manner as the salaries of other state officers. Said attorneys shall receive their necessary traveling and incidental expenses, and any other and further and additional expenses for experts, agencies or persons or for any other purpose which may be found necessary or proper in the conduct of said inheritance tax business. The amount shall be paid out of such moneys as may be available to time to the controller for use of said inheritance tax business. [Amendment approved May 31, 1917; Stats. 1917, c. 100, p. 100.]

Employees in office of state treasurer. The state treasurer shall appoint one deputy state treasurer, one cashier, one bond officer, one deposit officer, one bookkeeper and one secretary-stenographer, all of whom shall be civil executive officers. The annual salary of the deputy state treasurer is three thousand two hundred dollars; of the cashier, two thousand seven hundred dollars; of the bond officer, two thousand five hundred dollars; of the deposit officer, two thousand five hundred dollars; of the bookkeeper, two thousand two hundred dollars; and of the secretary-stenographer, one thousand five hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of other state officers. [Amendment approved May 15, 1917; Stats. 1917, p. 540.]

§470. Duties of attorney general. It is the duty of the attorney general:

1. To attend the supreme court and prosecute or defend all causes to which the state, or any officer thereof, in his official capacity is a party; and all causes to which any county may be a party, unless the interest of the county is adverse to the state, or some officer thereof acting in his official capacity;
2. After judgment in any of the causes referred to in the preceding subdivision, to direct the issuing of such process as may be necessary to carry the same into execution;
3. To account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;
4. To keep a docket of all causes in which he is required to appear, which must during business hours be open to the inspection of the public, and must show the county, district, and court in which the causes have been instituted and tried, and whether they are civil or criminal; if civil, the nature of the demand, the stage of the proceedings, and when prosecuted to judgment, memorandum of the judgment; of any process issued thereon, and whether satisfied or not; if not satisfied, the return of the sheriff; and if criminal, the nature of the crime, the mode of prosecution, the stage of the proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reasons of the delay or prevention;

for the support of the common schools and any other funds paid into the state school fund from other sources or made available by any provision of law for the support of the elementary schools of the state, and the provisions of this section shall not apply to nor affect the acts under which said additional sums are appropriated or made available for such use. [Amendment approved May 25, 1919; Stats. 1919, p. 1009.]

§ 445. Inheritance tax department established. Inheritance tax attorney and assistants. Duties. Salaries. Salaries, employees of inheritance tax department. Expenses. The controller shall maintain under his authority and direction a department, to be known as the inheritance tax department, which is hereby established, for the purpose of supervising and assisting in the administration of the inheritance or transfer tax laws of this state. Said department shall gather, record, compile, publish and distribute such information and data as the controller may direct relative to the inheritance or transfer tax laws of this or other states or relative to the administration, enforcement or evasion of such laws. Said department shall co-operate with, advise and assist inheritance tax appraisers, county treasurers, district attorneys and other officers and persons in the administration and enforcement of the inheritance or transfer tax laws of this state, and shall prepare, publish and distribute such blank forms for use of inheritance tax appraisers or other use as the controller may direct. In connection with said inheritance tax department, the controller may appoint, in addition to other employees provided for by statute, an inheritance tax attorney, whose office shall be in the city of Sacramento, five assistant inheritance tax attorneys, two of whom shall have their offices in the city of Los Angeles, two of whom shall have their offices in the city and county of San Francisco, and one of whom shall have his office in the city of Sacramento. Said attorneys shall be civil executive officers and shall be admitted and licensed to practice before the supreme court of this state. The inheritance tax attorney shall, under the authority and direction of the controller, have general supervision of said department. He shall have particular charge of the legal work connected with said department and shall perform such other duties as the controller may direct. Said assistant inheritance tax attorneys shall perform such legal and other services relative to the administration and enforcement of said inheritance or transfer tax laws in the respective counties in which their offices may be situated or in any neighboring county, as the controller may direct. The salary of said inheritance tax attorney shall be three thousand six hundred dollars per annum. The salary of one assistant inheritance tax attorney whose office shall be in the city of Los Angeles shall be three thousand six hundred dollars per annum. The salary of the second assistant inheritance tax attorney whose office shall be in the city of Los Angeles shall be two thousand four hundred dollars per annum. The salary of one assistant inheritance tax attorney whose office shall be in the city and county of San Francisco shall be three thousand six hundred dollars per annum. The salary of the second assistant inheritance tax attorney, whose office shall be in the city and county of San Francisco shall be two thousand four hundred dollars per annum. The salary of said assistant inheritance tax attorney whose office shall

be in the city of Sacramento shall be two thousand seven hundred dollars per annum. The salaries of said inheritance tax attorney and of said assistant inheritance tax attorneys shall be paid at the same times and in the same manner as the salaries of other state officers. Said attorneys shall also receive their necessary traveling and incidental expenses. Said expenses and any other and further and additional expenses for attorneys, clerks, experts, agencies or persons or for any other purpose which said controller may find necessary or proper in the conduct of said inheritance tax department shall be paid out of such moneys as may be appropriated from time to time to the controller for use of said inheritance tax department. [Amendment approved May 31, 1917; Stats. 1917, p. 1389.]

§456. **Employees in office of state treasurer.** The state treasurer may appoint one deputy state treasurer, one cashier, one bond officer, one deposit officer, one bookkeeper and one secretary-stenographer, all of whom shall be civil executive officers. The annual salary of the deputy state treasurer is three thousand two hundred dollars; of the cashier, two thousand seven hundred dollars; of the bond officer, two thousand five hundred dollars; of the deposit officer, two thousand five hundred dollars; of the bookkeeper, two thousand two hundred dollars; and of the secretary-stenographer, one thousand five hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of other state officers. [Amendment approved May 15, 1917; Stats. 1917, p. 540.]

§470. **Duties of attorney general.** It is the duty of the attorney general:

1. To attend the supreme court and prosecute or defend all causes to which the state, or any officer thereof, in his official capacity is a party; and all causes to which any county may be a party, unless the interest of the county is adverse to the state, or some officer thereof acting in his official capacity;
2. After judgment in any of the causes referred to in the preceding subdivision, to direct the issuing of such process as may be necessary to carry the same into execution;
3. To account for and pay over to the proper officer all moneys which may come into his possession belonging to the state or to any county;
4. To keep a docket of all causes in which he is required to appear, which must during business hours be open to the inspection of the public, and must show the county, district, and court in which the causes have been instituted and tried, and whether they are civil or criminal; if civil, the nature of the demand, the stage of the proceedings, and when prosecuted to judgment, memorandum of the judgment; of any process issued thereon, and whether satisfied or not; if not satisfied, the return of the sheriff; and if criminal, the nature of the crime, the mode of prosecution, the stage of the proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reasons of the delay or prevention;

5. To exercise supervisory powers over district attorneys in all matters pertaining to the duties of their offices, and perform any of such duties when, in his judgment, such action is advisable, and, from time to time require of them reports as to the condition of public business intrusted to their charge;

6. To give his opinion in writing, without fee, to the legislature or either house thereof, and to the governor, the secretary of state, controller, treasurer, surveyor-general, superintendent of public instruction, the trustees or commissioners of state institutions, and any district attorney when required, upon any question of law relating to their respective offices;

7. When required by the public service, or directed by the governor, to repair to any county in the state and assist the district attorney thereof in the discharge of his duties;

8. To bid upon and purchase, in the name of the state and under the direction of the board of control, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and to enter satisfaction in whole or in part, of such judgments as the consideration for such purchase;

9. Whenever the property of a judgment debtor in any judgment mentioned in the preceding subdivision has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of control, to redeem such property from such prior judgment, lien, or encumbrance; and all sums of money necessary for such redemption must, upon the order of the board of control, be paid out of any money appropriated for such purpose;

10. When in his opinion it may be necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as he may find necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must, when allowed by the board of control, be paid out of any appropriations for the prosecution of delinquents;

11. To report to the governor, at the time required by section three hundred thirty-two of this code, the condition of the affairs of his department, and of the reports received by him from district attorneys. [Amendment approved April 30, 1919; Stats. 1919, p. 286.]

§ 472. Appointees of attorney general. To have charge of state's legal matters. The attorney general may appoint one assistant, one chief deputy and seven additional deputies, who shall be civil executive officers. The annual salary of the assistant shall be four thousand dollars; the annual salary of the chief deputy shall be four thousand dollars; the annual salary of two of such additional deputies shall be three thousand three hundred dollars each, and the annual salary of five of such additional deputies shall be three thousand dollars each. Said salaries shall be paid at the time and in the same manner as the salaries of other state officers. The attorney general shall not employ special counsel in any case except those provided in section four hundred seventy-four of the Political Code. The attorney general shall have charge, as attorney, of all legal matters in which the state is in any wise interested,

except the business of the regents of the University of California and of the state harbor commissioners, and such other boards or officers as are now by law authorized to employ attorneys, and no board, officer or officers, or employee of the state, except said regents and said harbor commissioners and such other boards and officers as are now by law authorized to employ attorneys, shall employ any attorney other than the attorney general, or one of his assistants or deputies, in any matter in which the state is interested; nor shall any money be drawn out of the treasury, or out of any moneys appropriated out of the treasury, or out of any special or contingent fund under the control of any board, officer or officers, or employee for the pay of any legal services rendered after the passage of this act, the provisions of any existing statute to the contrary notwithstanding, excepting as above provided; provided, that whenever a district attorney in any county of this state shall, for any reason, become disqualified from conducting any criminal prosecution within such county, the attorney general may employ special counsel to conduct such prosecution, and the attorney's fee in such case shall be a legal charge against the state; provided, further, that nothing herein contained shall be construed to prevent or deny the right of any board, officer, or officers or employee of the state to employ or engage counsel in any matter of the state, after first having obtained the written consent so to do of the attorney general. [Amendment approved May 14, 1917; Stats. 1917, p. 529.]

§ 475. Clerks, etc., of attorney general. The attorney general may appoint two clerks, one phonographic reporter, one service agent, and six stenographers for his office. The annual salary of each of said clerks and of the phonographic reporter and of the service agent shall be one thousand eight hundred dollars; the annual salary of five of said stenographers shall be one thousand five hundred dollars; the annual salary of one of said stenographers shall be one thousand two hundred dollars. Said salaries shall be paid at the same time and in the same manner as the salaries of state officers are paid. The clerks, the phonographic reporter, the service agent, and the stenographers shall be civil executive officers. The service agent and two of said stenographers, to be designated by the attorney general, shall be exempted from the provisions of the civil service act and shall hold their positions during the pleasure of the attorney general. [Amendment approved May 14, 1917; Stats. 1917, p. 515.]

§ 514. Assistants to superintendent of public instruction. The superintendent of public instruction may appoint one deputy superintendent of public instruction, one statistician, one bookkeeper and one secretary, all of whom shall be civil executive officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1332.]

§ 515. Salaries. The annual salary of the deputy superintendent of public instruction shall be the same as the annual salary of the deputy secretary of state, namely, three thousand dollars. The annual salary of the statistician shall be two thousand four hundred dollars. The annual salary of the bookkeeper shall be two thousand one hundred dollars. The annual salary of the secretary shall be one thousand

eight hundred dollars. [Amendment approved May 27, 1919; Stats. 1919, p. 1333.]

§ 534. Salaries of superintendent of state printing and deputy. The annual salary of the superintendent of state printing shall be five thousand dollars. He may appoint a deputy superintendent of state printing who shall be a civil executive officer, and who shall receive a salary of three thousand dollars per annum. [Amendment approved May 27, 1919; Stats. 1919, p. 1351.]

§ 589. Salary of insurance commissioner. The annual salary of the insurance commissioner is six thousand dollars and the annual salary of the deputy of the insurance commissioner is two thousand seven hundred dollars. [Amendment approved June 1, 1917; Stats. 1917, p. 1667.]

§ 591. Office of insurance commissioner. The commissioner may procure suitable offices in the city of San Francisco for conducting the business of the insurance department. The commissioner shall, from time to time, furnish the necessary furniture, stationery, fuel, lights, printing and other conveniences and incur traveling and such other expenses and employ such assistance as may be necessary for the transaction of the business of his office. To defray the expenses of conducting the business of the insurance department there shall be set aside and reserved each and every year out of the funds paid into the state treasury by the insurance commissioner sixty thousand dollars as a special fund to be called the insurance commissioner's special fund. All expenditures authorized in this section must be audited by the board of control or other proper authorities who must allow the same and direct payment thereof to be made and the controller shall draw warrants therefor on the state treasury for the payment of the same to the insurance commissioner out of the said insurance commissioner's special fund; except that there shall be a revolving fund, or petty cash fund, of five hundred dollars which may be used by the commissioner without first obtaining the approval of any other department or official; provided, however, that such expenditures must ultimately be audited by the board of control and paid for as prescribed by law. [Amendment approved June 1, 1917; Stats. 1917, p. 1667.]

§ 594. Classification of insurance business. All insurance business in the state of California is hereby classified in the following eighteen kinds, namely:

1. **Life.** Life insurance, including within its meaning insurance upon the lives of persons and every insurance appertaining thereto, and the granting, purchasing and disposing of annuities.

2. **Fire.** Fire insurance, including within its meaning insurance against loss or damage by fire, lightning, windstorm, tornadoes or earthquakes.

3. **Marine.** Marine insurance, including within its meaning insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interests, and every insurance connected with marine risks and risks of transportation and navi-

gation, including the risks of lake, river and inland transportation and navigation.

4. **Title.** Title insurance, including within its meaning the issuance of guarantees and policies of insurance affecting titles to real estate, and guaranteeing or insuring owners of real or personal property, or others interested therein, or having liens or incumbrances thereon, against loss by reason of defective titles, incumbrances, or adverse claims of title, or otherwise.

5. **Fidelity and surety.** Fidelity and surety insurance, including within its meaning the guaranteeing of persons holding places of public or private trust, and guaranteeing and executing all bonds, undertakings, and contracts of suretyship, and guaranteeing the performance of contracts other than insurance policies, and not including guaranteeing the payment of mortgages or trust deeds.

6. **Accident.** Accident insurance, and either sickness or health insurance, including within its meaning insurance against injury, disablement or death resulting from traveling or general accidents, and against disablements resulting from sickness and every insurance appertaining thereto.

7. **Plate glass.** Plate glass insurance, including within its meaning all insurance against breakage of glass, whether local or in transit.

8. **Liability.** Liability insurance, including within its meaning all insurance against loss or damage resulting from accident to or injury, fatal or nonfatal, suffered either by an employee or other person, and for which the insured is liable, except workmen's compensation insurance, and except common carrier liability insurance.

9. **Workmen's compensation.** Workmen's compensation insurance which is hereby defined to be insurance against any liability imposed by law upon any or all employers of labor or other person to compensate their or any employees and the dependents of such employees for any injury sustained by such employees by accident arising out of and in the course of their employment, irrespective of negligence or of the fault of either party, and includes all insurance written in accordance with the provisions of the workmen's compensation insurance and safety act of 1917, and amendments thereto; provided, that insurance carriers as defined in said act and also all companies writing such insurance shall be subject to the tests of solvency and maintain the reserves required by sections six hundred two a of the Political Code for insurance carriers and companies doing liability insurance or insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable.

10. **Common carrier liability.** Common carrier liability insurance, which is hereby defined to be all insurance against loss or damage, resulting from accident to, or injury, fatal or nonfatal, suffered either by an employee, or other person, and for which any common carrier is liable, except workmen's compensation insurance; provided, that companies writing such insurance shall be subject to the tests of solvency and maintain the reserves required by section six hundred two and six hundred two d of the Political Code for companies doing liability insurance.

11. **Boiler and machinery.** Boiler and machinery insurance, including within its meaning insurance upon steam boilers and pipes, flywheels, engines and machinery connected therewith or operated thereby, against explosion and accident, and against loss and damage to life or property resulting therefrom, and against loss of use and occupancy caused thereby.

12. **Burglary.** Burglary insurance, including within its meaning insurance against loss by burglary or theft or both.

13. **Credit.** Credit insurance, including within its meaning insurance of merchants, traders, and those engaged in business and giving credit for loss and damage by reason of giving and extending credit to their customers and those dealing with them, and insurance or guarantee either by agreement to purchase uncollectible debts or otherwise, against loss or damage from the failure of persons indebted or to become indebted to the insured, or to meet existing or contemplated liabilities.

14. **Sprinkler.** Sprinkler insurance, including within its meaning insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus placed for extinguishing fires, and of water pipes, against accidental injury to such sprinklers, pumps, or other apparatus.

15. **Team and vehicle.** Team and vehicle insurance, including within its meaning insurance against loss or legal liability for loss because of damage to property caused by the use of teams or vehicles whether by accident or collision or by explosion of any engine or tank or boiler or pipe or tire of any vehicle, and also including insurance against theft of the whole or any part of any vehicle; the term vehicle as here used does not include ships or vessels, nor boats nor any railroad rolling stock.

16. **Automobile.** Automobile insurance, including within its meaning the insurance of the owners of or dealers in automobiles against any and all hazards incident to ownership, maintenance, operation and use of such automobiles, except the hazard or liability against loss or damage resulting from an accident to or physical injury, fatal or nonfatal, suffered by any person as a result of the ownership, maintenance, operation or use of such automobile. No company shall assume any hazard or risk upon an automobile unless authorized to assume hazards or risks of that character by its charter or articles of incorporation. Nothing herein contained shall be construed to prevent a fire insurance company from issuing a policy of insurance upon an automobile covering the fire hazard only, nor be construed to prevent a marine insurance company from issuing a policy of insurance upon an automobile covering the marine hazard of transportation only.

17. **Mortgage.** Mortgage insurance, including within its meaning the guaranteeing of the payment of the principal, interest and other sums agreed to be paid under the terms of any note or bond secured by mortgage or trust deed, or other sums secured under the terms of any such mortgage or trust deed, in its entirety, or of an undivided or other partial interest in any such mortgage or trust deed, or in a group of such mortgages or trust deeds, and the guaranteeing or insuring, directly or indirectly, against loss thereon.

18. Miscellaneous. Requirements to do business. Capital stock required. Capital stock must be paid up. Miscellaneous insurance, including within its meaning lightning, windstorm, tornado and earthquake insurance; and any and all casualty insurance not included in any of the foregoing kinds, and which is a proper subject of insurance.

No company shall do any of the foregoing eighteen kinds of insurance unless authorized to do so by its charter; provided, however, that companies heretofore authorized to write liability insurance may continue to write workmen's compensation insurance and common carrier liability insurance in the same manner as if the said last two kinds of insurance were expressly permitted in their charter.

No company having a capital stock shall do life insurance in California without having a capital stock of at least two hundred thousand dollars, nor shall any such company do in California any other of said kinds of insurance, except the sixth, eighth, and ninth, and tenth classes; provided, that any such insurance company desiring to do either the sixth, eighth, or ninth and tenth class, must have in addition to such two hundred thousand dollars of capital stock at least fifty thousand dollars of capital stock for each permitted class it desires to do except that an additional capital stock of fifty thousand dollars shall be sufficient capital stock to enable such company to do the eighth, ninth, and tenth classes of insurance. No company having a capital stock shall do in California any fire insurance without having a capital stock of at least two hundred thousand dollars, nor shall any such company do in California any other kinds of insurance except the third, eleventh, fourteenth, sixteenth and eighteenth classes. To do both fire and marine insurance such company must have a capital stock of at least four hundred thousand dollars, and to do any other permitted class of insurance, such company must have an additional capital stock of at least fifty thousand dollars for each such additional class it desires to do, in addition to the two hundred thousand dollars required if it does fire insurance, or the four hundred thousand dollars if it does both fire and marine insurance. No company having a capital stock shall do in California marine insurance without having a capital stock of at least two hundred thousand dollars, nor shall any such company do in California any other of said kinds of insurance, except the second, fifteenth, sixteenth and eighteenth classes. To do both fire and marine insurance, such company must have a capital stock of at least four hundred thousand dollars, and to do any other permitted class of insurance, such company must have an additional capital stock of at least fifty thousand dollars for each such additional class it desires to do, in addition to the two hundred thousand dollars required if it does marine insurance, or the four hundred thousand dollars if it does both fire and marine insurance. No company having a capital stock shall do in California any of the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth or eighteenth of said kinds of insurance without having a capital stock of at least one hundred thousand dollars for the first class of insurance such company desires to do, nor do any other of such classes without having in addition thereto of at least fifty thousand dollars capital stock for each additional permitted kind of insurance it desires to do; provided, however, that any company having a capital stock of at least one hundred thousand dollars may do the eighth, ninth,

and tenth classes of insurance, or having qualified to do any of the fifth, sixth, seventh, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, or eighteenth classes of insurance may do the eighth, ninth, and tenth class of insurance upon having an additional capital stock of at least fifty thousand dollars. Except as above prescribed, no company doing either the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth or eighteenth classes of insurance shall do any of the first, second, or third classes of insurance. No company doing the fourth class of insurance shall do any other class of insurance. No company doing the seventeenth class of insurance shall do any other class of insurance. No company doing any other class of insurance shall do either the fourth class or seventeenth class of insurance. No company shall do in California any title insurance without having at least one hundred thousand dollars of capital stock fully paid in, in cash, previous to the issuance of any policy. No company shall do in California any mortgage insurance without having at least two hundred fifty thousand dollars of capital stock fully paid in, in cash, previous to the issuance of any policy.

Such capital stock required must be fully paid up before doing any such business in California. The capital stock required must be unimpaired and shall be exclusive of all liability for losses reported, expenses, taxes and reinsurance of all outstanding risks as provided in sections six hundred two and six hundred two *a* of the Political Code. Every company organized or formed under the laws of any other state or country as a mutual or as a joint stock and mutual company having a capital stock less than as above prescribed must have in lieu of such capital stock available cash assets of at least two hundred thousand dollars above all liabilities for losses reported, expenses, taxes and reinsurance of all outstanding risks as provided in section six hundred two and six hundred two *a* of the Political Code. [Amendment approved May 27, 1919; Stats. 1919, p. 1266.]

§ 594. Religious corporations, etc., may receive grants on condition to pay annuity. Any charitable, religious, benevolent or educational society, corporation, institution or association (pecuniary profit not being its object or purpose) which shall have been in active operation for at least ten years and which has obtained from the insurance commissioner a permit or certificate of authority so to do, may receive grants of property, real or personal, conditioned upon its agreement to pay an annuity to the grantor, or any other person or persons designated by the grantor.

Upon granting to such society, corporation, institution or association a permit or certificate of authority to receive such grants, the insurance commissioner shall require such society, corporation, institution or association to establish and maintain a reserve fund in such amount as he may deem sufficient to safeguard such annuities and for any failure so to do he shall revoke such permit or certificate of authority; but such society, corporation, institution or association shall be otherwise exempt from the insurance laws of this state. [New section approved May 23, 1919; Stats. 1919, p. 823.]

§ 596. Transaction of insurance business in state. Certificate not to be renewed if company is in arrears for taxes. Surplus line broker. No company shall transact any insurance business in this state without first

complying with all the provisions of the laws of this state and thereafter procuring from the insurance commissioner a certificate of authority and continuing to comply with the laws of this state. Every such certificate of authority shall expire on the first day of July after its issuance unless sooner revoked. No certificate of authority shall be granted or renewed to any company in arrears to the state, or to any county, city and county, city or town in the state, for fees, licenses, taxes, assessments, fines, or penalties, accrued on business previously transacted in the state, nor while said company is otherwise in default for failure to comply with any of the laws of this state regarding the governmental control of such company by the state.

No person, firm or corporation shall in this state act as agent, in any transaction of insurance on property located in this state, for any insurance company not authorized to transact such insurance in this state.

No person, firm or corporation within this state shall solicit, negotiate or effect any insurance of the kinds described in section five hundred ninety-four, marine insurance and insurance on the property of steam railroads or of other common carriers engaged in interstate trade excepted, on any property located in this state with companies not authorized to transact such business in this state, except by and through a surplus line broker upon the terms and conditions hereinafter stated.

When and only when the total amount of insurance, of kinds hereinbefore prohibited from being placed with unauthorized companies, desired on any property located within the state can not be procured from a majority of companies authorized to transact such kinds of insurance within the state, such remaining part of the insurance as can not be procured from a majority of such authorized companies may be procured from unauthorized companies by a surplus line broker, and by no other person.

License for surplus line broker. The insurance commissioner may issue a license authorizing any person, firm or corporation applying therefor, who is trustworthy and is competent to transact an insurance brokerage business in such manner as to safeguard the interest of the assured, to act as a surplus line broker from the date of such license until the first day of July succeeding, on the following conditions:

(a) Payment in advance to the insurance commissioner of a fee of twenty-five dollars.

(b) Delivery to the insurance commissioner of a bond to the state of California in the sum of five thousand dollars with sureties having the qualifications mentioned in section one thousand fifty-six and one thousand fifty-seven of the Code of Civil Procedure, conditioned that said licensee will fully and faithfully comply with the requirements of section five hundred ninety-six of the Political Code.

Duties of surplus line broker. The following are the duties of a surplus line broker with which he is required to comply:

1. To maintain in good faith an office in this state.

2. To keep in said office a complete book of record of the business transacted by him, under his license as a surplus line broker, with unauthorized companies showing: The dates of such insurance going into effect; the names of the insurers and of the insured; the gross premium payable therefor; the terms and character of insurance and location of the insured property. Such book of record shall also contain state-

ments in the same detail of all such insurance canceled, or on which premiums have been increased or reduced and the amounts of additional or of return premiums thereon. Such books are to be open at all times for the inspection of, and examination by, the insurance commissioner or any one appointed by him for said purpose.

Before any insurance as hereinbefore provided may be so procured or placed by a surplus line broker under authority of his license with unauthorized companies, such broker shall satisfy himself that the insurance to be placed by him with unauthorized companies is only such part of the insurance required as cannot be procured from a majority of such authorized companies.

Whenever required so to do by the insurance commissioner, such surplus line broker shall furnish to said commissioner a list comprising a majority of the authorized companies from which the entire amount of insurance desired was not obtainable.

The surplus line broker shall within one week or as soon thereafter as practicable, after receipt by him of the complete information as to with what companies or other insurers and at what rate the insurance has been placed, file with the insurance commissioner a true report showing the names of the insured and of the insurers, the character of the insurance, location of the property, gross premium payable therefor and the date such insurance takes effect and the terms thereof. As soon as practicable after any such insurance has been canceled, or any premium thereon has been increased or reduced, such surplus line broker shall file with the insurance commissioner a report thereof in the same detail as required in the case of the report above referred to.

On or before the first day of March of each year the surplus line broker shall file with the insurance commissioner a sworn statement of all business transacted under his license during the last preceding calendar year ending December thirty-first. Such statement shall contain true accounts of the gross amount of insurance procured from and placed with unauthorized companies during the calendar year, the gross premium charged therefor, including additional insurance premiums, the gross amount of all insurance canceled during said year, and the gross return premiums thereon. Such statement shall also include any additional premiums charged, and the gross premium returned during said calendar year on insurance previously effected. All such reports and statements shall be made on blanks to be furnished to the surplus line broker by the insurance commissioner on application therefor.

Every surplus line broker shall on or before the first day of April of each year pay to the insurance commissioner for the use of the state of California a tax of three per cent upon the amount of gross premiums upon all insurance placed under authority of such license, less three per cent of all return premiums on policies canceled, or upon which premiums have been reduced during the year ending December thirty-first last preceding.

Any surplus line broker who willfully fails or refuses to report to the insurance commissioner any insurance on property located within this state placed under his name with unauthorized companies, or who shall by willful omission from the records required to be maintained by him for such purpose, attempt to evade the payment of taxes on any such insurance, shall upon conviction thereof in addition to being required to pay the tax thereon, be further penalized by a fine of not exceeding one

hundred dollars for each offense and the insurance commissioner shall further forthwith revoke the license of any such surplus line broker.

The insurance commissioner shall also revoke the license of any surplus line broker who willfully fails or refuses to perform any of the other duties hereinbefore specified as required of said broker.

Revoking license. Examination of policies, etc., by insurance commissioner. If in the opinion of the insurance commissioner the solvency of any surety on a bond hereby required has become impaired or doubtful, he shall notify the surplus line broker in writing, and unless within ten days after receipt of such notice the solvency of such surety is proved to the satisfaction of the insurance commissioner, or a new bond is substituted therefor, said insurance commissioner shall revoke the license of the surplus line broker. The removal of the office of the surplus line broker from this state, or the removal therefrom of his accounts of his business as such, or the closing of his said office for a period of more than twenty consecutive days, shall constitute a termination of the authority of said surplus line broker, and shall be tantamount to an express revocation of his license, whether or not the insurance commissioner thereafter revokes the same. No new license shall be issued to any surplus line broker whose license has been revoked for any reason other than the insufficiency of his sureties, within the period of one year after such revocation, and until all indebtedness of said surplus line broker on former business has been paid to said insurance commissioner. Every insured for whom insurance has been effected with unauthorized companies shall produce for examination by the insurance commissioner, whenever requested by him, in writing so to do, all policies, contracts, and other documents evidencing such insurance and disclose to him the true amount of the gross premiums paid or agreed to be paid therefor, or upon refusal so to do, he shall forfeit to the state of California the sum of two hundred dollars for each refusal. Nothing in this section shall be construed to deprive any citizen of this state of the right to negotiate and effect insurance on his own property with any unauthorized company. Nothing in this section shall be construed to permit any broker to solicit or place marine insurance or insurance on property of railroads or other common carriers engaged in interstate trade with nonadmitted insurers until three-quarters of the companies duly authorized to transact such class of insurance in this state shall have first been given a refusal of such insurance at equal rates and same conditions as may be bona fide obtainable from insurance companies admitted to do the same character of insurance under the laws of the state of New York. [Amendment approved April 20, 1917; Stats. 1917, p. 147.]

Repealed. Section four hundred thirty-nine of the Penal Code, in so far as it is inconsistent with the provisions hereof, is hereby repealed. [Repealed by act approved April 20, 1917; Stats. 1917, p. 147.]

§ 596b. Suspension of certificate of authority of insurance company.

Hearing. Whenever the insurance commissioner ascertains that any company engaged in insurance business in this state is conducting its business fraudulently, or is not carrying out its contracts in good faith, and habitually and as a matter of ordinary practice and custom compels claimants under policy contracts to either accept less than the amount

due under the terms of such contract, or to resort to litigation against such company to secure the payment of the amount due, the insurance commissioner may revoke or suspend the certificate of authority of such company, such suspension to be for a period of not exceeding one year, as may be prescribed by the commissioner in the order of suspension.

No action shall be taken by the commissioner under this section unless he has first given notice to such company and cited it to appear at a time and place to be fixed in such notice, and show cause why its certificate of authority should not be suspended or revoked. If at such hearing the facts warranting the same are established to the satisfaction of the commissioner, he may deal with the certificate of authority of such company as hereinbefore provided. Any company proceeded against by the commissioner under this section which shall be dissatisfied with his determination may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy, and for the purpose of obtaining relief, or canceling the act of the insurance commissioner. In any such action the court shall have full power to investigate all the facts de novo without regard to the determination previously made by the insurance commissioner. All of the provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals shall be applicable to such action. [New section approved May 27, 1919; Stats. 1919, p. 1265.]

§ 597. Examination of insurance companies. Company organized in other state. Access to books. Inspection of books. State compensation insurance fund. The commissioner, whenever he deems necessary, or whenever he is requested by verified petition, signed by twenty-five persons interested, either as stockholders, policy-holders, or creditors of any company engaged in insurance business in this state, showing that such company is insolvent under the laws of this state, must make an examination of the business and affairs relating to the insurance business of such company, and must make such an examination whenever any company is organized to do insurance business in this state, and before issuing a certificate of authority other than renewals to such company; provided, the insurance commissioner shall have no authority to issue, and no certificate of authority shall be issued, to any insurance company or corporation hereafter organized or incorporated in this state, whether the same be organized and promoted directly or by means of a holding company or corporation, one of the purposes of which is the organization and promotion of such insurance company or corporation, where such examination shows the expense of organization and promotion to be in excess of fifteen per cent of the total amount actually paid on its capital stock exclusive of surplus.

Whenever any company, not organized under the laws of this state, applies for a certificate of authority to do business in this state, the insurance commissioner may make, or cause to be made, by the insurance department of the state where such company is organized, an examination of the business and affairs relating to the insurance business of such company. The company organized or existing under the laws of any country outside of the United States, shall be deemed to be organized within the meaning of this act in any state wherein such company maintains the deposits required by the laws of this state.

For the purpose of making such examination the insurance commissioner shall have free access to all the books and papers of such company, and must thoroughly inspect and examine all its affairs, and ascertain its condition and ability to fulfill its engagements, and that it has complied with all the provisions of law applicable to its insurance transactions.

Every company examined under the provisions of this section must open its books and papers for the inspection of the commissioner, and otherwise facilitate such examination; and the commissioner may administer oaths and examine under oath any person relative to the business of such company; and if he finds the books to be carelessly or improperly kept or posted, he must employ sworn experts to rewrite, post, and balance the same at the expense of such company. Such examination must be conducted in the county where such company has its principal office, and must be private, unless the commissioner deems it necessary to publish the result of such investigation, in which case he may publish the same in two of the public newspapers of this state, one of which must be published in the city of San Francisco and the other in the city of Los Angeles. All examinations must be at the expense of the company, such expense to be paid in advance, and, if any such company refuses to pay such expenses in advance, the insurance commissioner may refuse to issue any such certificate of authority and must revoke any existing certificate of authority authorizing such company to do business.

The insurance commissioner shall have the same powers and authority to make examination of the state compensation insurance fund as are conferred upon him by law relative to the examination of other insurance carriers. [Amendment approved May 29, 1917; Stats. 1917, p. 1320.]

§ 602a. Liabilities of insurance companies. Computation of reserve. In estimating the condition of any insurance corporation, mutual company, association, the state compensation insurance fund, interinsurance exchange or other insurance carriers engaged in the business of liability insurance and licensed to transact business in this state, the insurance commissioner shall charge as liabilities, all outstanding indebtedness of such carrier, and the premium reserve on policies in force, equal to the unearned portions of the gross premiums charged for covering the risks, computed on each respective risk from the date of the issuance of the policy.

The reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable shall be computed as follows:

(1) **Liability suits.** For all liability suits being defended under policies written more than—

(a) Ten years prior to the date as of which the statement is made, one thousand five hundred dollars for each suit.

(b) Five and less than ten years prior to the date as of which the statement is made, one thousand dollars for each suit.

(c) Three and less than five years prior to the date as of which the statement is made, eight hundred fifty dollars for each suit.

(2) **Liability policies.** For all liability policies written during the three years immediately preceding the date as of which the statement is made, such reserve shall be sixty per centum of the earned liability premiums of each of such three years less all loss and loss expense pay-

ments made under the liability policies written in the corresponding years; but in any event, such reserve shall, for the first of such three years, be not less than seven hundred fifty dollars for each outstanding liability suit on said year's policies.

(3) **Claims under policies written three years prior.** For all compensation claims under policies written more than three years prior to the date as of which the statement is made, the present values at four per centum interest of the determined and the estimated future payments.

(4) **Claims under policies written three years preceding.** For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, such reserve shall be seventy per centum of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years; but in any event in the case of the first year of any such three-year period such reserve shall be not less than the present value at four per centum interest of the determined and the estimated unpaid compensation claims under policies written during such year.

"Earned premiums." The term "earned premiums," as used herein, shall include gross premiums charged on all policies written, including all determined excess and additional premiums, less return premiums, other than premiums returned to policy-holders as dividends, and less reinsurance premiums and premiums on policies canceled, and less unearned premiums on policies in force.

"Compensation." The term "compensation" as used in this act, shall relate to all insurance effected by virtue of statutes providing compensation to employees for personal injuries irrespective of fault of the employer. The term "liability" shall relate to all insurance except compensation insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable.

"Loss payments." The terms "loss payments," and "loss expense payments," as used herein, shall include all payments to claimants, including payments for medical and surgical attendance, legal expenses, salaries and expenses of investigators, adjusters and field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses, and all other payments made on account of claims, whether such payments shall be allocated to specific claims or unallocated.

Distribution of unallocated liability loss expense payments. All unallocated liability loss expense payments made in a given calendar year subsequent to the first four years in which an insurer has been issuing liability policies, shall be distributed as follows: Thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding, ten per centum to the policies written in the third year preceding, and five per centum to the policies written in the fourth year preceding, and such payments made in each of the first four calendar years in which an insurer issues liability policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the

policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year; in the third calendar year forty per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, and twenty per centum to the policies written in the second year preceding, and in the fourth calendar year thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, fifteen per centum to the policies written in the second year preceding, and ten per centum to the policies written in the third year preceding, and a schedule showing such distribution shall be included in the annual statement.

Distribution of unallocated compensation loss expense payments. All unallocated compensation loss expense payments made in a given calendar year subsequent to the first three years in which an insurer has been issuing compensation policies shall be distributed as follows: Forty per centum shall be charged to the policies written in that year, forty-five per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding and five per centum to the policies written in the third year preceding, and such payments made in each of the first three calendar years in which an insurer issues compensation policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year, in the third calendar year forty-five per centum shall be charged to the policies written in that year, forty-five per centum to the policies written in the preceding year and ten per centum to the policies written in the second year preceding, and a schedule showing such distribution shall be included in the annual statement.

Additional reserves. Whenever, in the judgment of the insurance commissioner, the liability or compensation loss reserves of any insurer under his supervision, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require such insurer to maintain additional reserves based upon estimated individual claims or otherwise.

Schedule of experience. Each insurer that writes liability or compensation policies shall include in the annual statement required by law a schedule of its experience thereunder in such form as the insurance commissioner may prescribe. [Amendment approved May 26, 1917; Stats. 1917, p. 1178.]

§ 611. Publication of statements of insurance companies. Supplemental report. All insurance companies doing business in this state must make and file with the insurance commissioner, on or before the first day of March of each year, statements, which must exhibit the condition and affairs of every such company, on the thirty-first day of December then next preceding, a synopsis of which statements, as adjusted by the commissioner upon proper examination of the same, must be published by such company in the city or city and county where the principal office in this state is located, said publication to be daily for the period of one

week in some daily newspaper of general circulation or four consecutive times in some weekly newspaper of general circulation; provided, further, that the companies engaged in the business of compensation insurance shall at such intervals as may be prescribed by the insurance commissioner file statements supplemental to such annual statements and covering such matters dealt with in said annual statements as may be designated by the insurance commissioner; neither such supplemental report nor any synopsis thereof shall be required to be published. [Amendment approved April 21, 1919; Stats. 1919, p. 127.]

§ 618. When laws of other states require trust deposit from insurance companies. Duty of insurance commissioner. Deposit of mortgages, stocks or bonds. Whenever the laws of any state of the United States, or of any country foreign to the United States, require any insurance company organized under the laws of this state, to deposit with some officer of this state securities in trust for, and for the benefit of, the policy-holders of such company, as a prerequisite to transacting insurance business in such other state or foreign country, and whenever under any laws of this state any insurance company is required to deposit with any officer of this state securities in trust for, and for the benefit of policy-holders of such company, the insurance commissioner of this state must receive from such company securities in the amount required by the law under which such deposit is made on deposit and in trust for the policy-holders of such company. None of such securities so deposited must be estimated above the par value of the same, nor above their market value. The insurance commissioner must, upon the receipt of such securities, forthwith make a special deposit of the same in the state treasury, in packages marked with the name of the company from whom received, where they must remain as security for policy-holders in the company to whom they respectively belong; but so long as the company continues solvent he must permit it to collect the interest or dividends on the securities so deposited, and from time to time to withdraw any such securities on depositing other securities in the stead of those to be withdrawn. Such new securities to be of the same value and character mentioned in this section, but such securities must not be withdrawn from the state treasury unless upon the written order of the company making the deposits, which order must be indorsed by the commissioner, or upon the order and authority of some court of competent jurisdiction. If the deposit is of mortgages, it shall be accompanied by full abstracts of title or policies of title insurance or certificates of title issued by a duly organized title insurance company authorized to transact business under the laws of California, and the fees for examination of title, unless accompanied by such certificates of title or policies of title insurance, and the fees for appraisal of property shall be paid by the company making the deposit. If the deposit is of stocks or bonds, it shall be accompanied by the fees necessary for the appraisal thereof. If the deposit is of notes or bonds secured by mortgages, or trust deeds, covering property which has been brought under the operation of the land title law, commonly called the Torrens title law, it shall be accompanied by a certificate of a registrar of titles as to the condition of the title to the lands covered. [Amendment approved May 15, 1919; Stats. 1919, p. 540.]

§ 633. License for insurance agents. Agent defined. Application for license. Revocation or suspension of. Action may be brought by agent. Term of license. Violation. Exemption from provisions of act. No person shall within this state act as the agent of any insurance or surety company or society until such person shall have first obtained a license from the insurance commissioner authorizing him or it so to act.

Any person duly appointed and authorized by an insurance or surety company or society to solicit applications for insurance or surety bonds, or effect insurance or surety bonds in the name of such company, shall be an agent within the meaning of this section. The insurance commissioner shall upon written notice from any insurance or surety company or society, authorized to transact business in this state, of its appointment of any person to act as its agent and upon payment of the fee provided for in section six hundred five of the Political Code, issue to such person a license in such form as may be prescribed by the insurance department; provided, however, that such proposed licensee shall first file with the insurance commissioner of the state of California upon a form to be prescribed and furnished by said insurance commissioner, an application in writing, duly verified under oath, reciting,

First—The applicant's full name and address;

Second—The name of the company for which the applicant is to act as agent;

Third—The applicant's experience in the insurance or surety business;

Fourth—If the applicant is engaged in any business other than insurance or surety, the nature of such business and the name under which such business is conducted;

Fifth—That the applicant intends to carry on in good faith the occupation of an insurance or surety agent, and that said applicant does not seek such appointment for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

If it shall be brought to the attention of the insurance commissioner that any agent licensed hereunder has willfully misstated any material fact in his application, or that the purpose or principal use of such license as an insurance or surety agent is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, or that such agent conducts his business in a dishonest manner or misrepresents the policies or contracts he sells or misrepresents the policies or contracts of other agents or companies, or is conducting his business in such a manner as to cause injury to the public or those dealing with him, then the insurance commissioner shall give notice to such agent and cite him to appear before such insurance commissioner and show cause why his license as an insurance or surety agent should not be suspended or revoked. If at the hearing of said order to show cause it shall appear that said agent has willfully misstated any material fact in his application to the insurance commissioner, or that the purpose or principal use of such license is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, or that such agent conducts his business in a dishonest manner or misrepresents policies or contracts he sells or misrepresents the policies or contracts of other agents or companies, or is conducting his business in such a manner as to cause injury to the public or those dealing with him, then the insur-

ance commissioner shall either revoke or suspend the license of such agent, and shall notify both the agent and the company of such revocation or suspension.

If at any time the insurance commissioner revokes or suspends the license theretofore granted to any agent, such applicant or agent may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy, and for the purpose of obtaining relief, or canceling the act of the insurance commissioner. In any such action the court shall have full power to investigate all the facts de novo without regard to the determinations previously made by the insurance commissioner. All of the provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals shall be applicable to such actions.

Such action shall be commenced and tried in the superior court of the county in which such agent resides, unless the parties thereto stipulate otherwise.

Unless revoked by the commissioner, or unless the company by written notice to the commissioner cancels the agent's authority to act for it, such license, or any renewal thereof, shall expire on the first day of July next after its issue or renewal. Any license issued after this section takes effect may in the discretion of the insurance commissioner be renewed for a succeeding year by a renewal certificate without the commissioner requiring the detailed information required by this section.

Any person who shall act or offer to act or assume to act as an insurance or surety agent unless licensed by the insurance commissioner as provided in this section, or after such license granted to him or it has been suspended or revoked, shall be guilty of a misdemeanor, but any policy issued on an application, thus procured, shall bind the insurance company if otherwise valid.

Nothing in this section shall be construed to apply to, refer to, or affect county mutual fire insurance companies, or their agents, or title insurance business, or fraternal benefit societies, or agents or employees of reciprocal or interinsurance exchanges.

Nothing herein contained shall in any manner limit the fees provided for in section six hundred five of the Political Code. [Amendment approved May 27, 1919; Stats. 1919, p. 1263.]

This section was also amended in 1917. See Stats. 1917, p. 1617.

§ 633a. License to act as insurance broker. Who are insurance brokers. License issued. Application. Revocation or suspension of license. Action to review facts. Nonresident brokers. Penalty. Title insurance, etc., not affected. Fees. No person, firm or corporation shall within this state act as an insurance broker until such person, firm or corporation shall have first obtained a license from the insurance commissioner authorizing him or it so to act.

Any person, firm or corporation, other than an insurance or surety company, or society, or agent of such company or society, or employee compensated by salary only and acting on behalf of such company or society or agent, or a medical examiner for a life insurance company or society, who, for compensation acts or aids in any manner in negotiating contracts of insurance or surety bonds or reinsurance or placing risks, or

effecting insurance or reinsurance for a party other than himself or itself, shall be an insurance broker within the meaning of this section.

The insurance commissioner shall upon the payment of a fee provided for in section six hundred five of the Political Code, issue to a person, firm or corporation a license to act as an insurance broker to negotiate contracts of insurance or surety bonds, or reinsurance, or place risks, or effect insurance or surety bonds or reinsurance, with any insurance or surety company or society authorized to transact such business within this state, or with its agent, or with another broker; provided, however, that such proposed licensee shall first file with the insurance commissioner of the state of California, upon a form to be prescribed and furnished by said insurance commissioner, an application in writing duly verified under oath, reciting:

First—The applicant's full name and address;

Second—The applicant's experience in the insurance business;

Third—If the applicant is engaged in any other business than insurance, the nature of such business and the name under which such business is conducted;

Fourth—If the applicant be a copartnership, the names of the partners comprising such copartnership, or if the applicant be a corporation, the names of the officers thereof;

Fifth—That the applicant intends to carry on in good faith the occupation of an insurance broker, and that said applicant does not seek a license as an insurance broker for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

An insurance broker's license so issued shall remain in force until July first of any year after the date of the issuance thereof unless sooner revoked by the insurance commissioner. Such broker's license issued on an application as hereinbefore provided may in the discretion of the insurance commissioner be renewed upon expiration for a succeeding year upon the payment of a fee, provided for in section six hundred five of the Political Code, without requiring anew the details required in the original application.

If it shall be brought to the attention of the insurance commissioner that any insurance broker licensed hereunder has willfully misstated any material fact in his application, or that the purpose or principal use of such license as an insurance broker is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, or that such broker conducts his business in a dishonest manner or misrepresents the policies or contracts he negotiates or misrepresents the policies or contracts of any insurance or surety company, or is conducting his business in such a manner as to cause injury to the public and those dealing with him, then the insurance commissioner shall give notice to such insurance broker and cite him to appear before such insurance commissioner and show cause why his license as an insurance broker should not be suspended or revoked. If at the hearing of said order to show cause it shall appear that said insurance broker has willfully misstated any material fact in his application to the insurance commissioner, or that the purpose or principal use of such license is to avoid or prevent the operation or enforcement of any anti-rebate law or other insurance law of this state, or that such broker conducts his business in a dishonest manner or misrepresents the policies or contracts he nego-

tiates or misrepresents the policies or contracts of any insurance or surety company, or is conducting his business in such a manner as to cause injury to the public and those dealing with him, then the insurance commissioner shall either revoke or suspend the license of such insurance broker and shall notify such broker of such revocation or suspension, and shall publish a notice of the revocation or suspension of said insurance broker's license in such a manner as he deems proper for the protection of the public.

If at any time the insurance commissioner revokes or suspends the license theretofore granted to a broker, such broker may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy, and for the purpose of obtaining relief, or canceling the act of the insurance commissioner. In any such action the court shall have full power to investigate all the facts de novo without regard to the determination previously made by the insurance commissioner. All of the provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals shall be applicable to such action.

Such action shall be commenced and tried in the superior court of the county in which such broker resides, unless the parties thereto stipulate otherwise.

The insurance commissioner may upon application issue to nonresident insurance brokers a license to transact insurance in this state subject to the same qualifications, requirements, restrictions and fees as provided for resident brokers.

Any person, firm or corporation, who shall act or offer to act or assume to act as an insurance broker, unless licensed by the insurance commissioner as provided in this section, or after such license granted to him or it has been revoked, shall be guilty of a misdemeanor, but the policy issued on an application thus procured, shall bind the insurance company, if otherwise valid.

Nothing in this section shall apply to or in any way affect title insurance business, fraternal benefit societies or county mutual fire insurance companies.

Nothing herein contained shall in any manner limit the fees provided for in section six hundred five of the Political Code. [Amendment approved May 15, 1919; Stats. 1919, p. 1195.]

This section was added to the Political Code June 1, 1917. See Stats. 1917, p. 1615.

§ 633b. Policy must contain true statement of premium and risk. No insurance or surety company or society, nor any agent, shall insure any risk in this state, nor shall any agent or broker assist in arranging any such insurance, the policy or contract for which does not contain a true and correct statement of the premium consideration paid or to be paid therefor, and of the risk covered for such premium consideration; provided, however, that if the insurance be of a character where the exact premium is only determinable upon the expiration of the policy or contract, such policy or contract must contain a true and correct statement of the basis and rates upon which the said final premium or consideration is to be determined and paid, and of the risk covered for such premium consideration.

Covering notes. This section shall not be construed to prohibit the use of covering notes to temporarily bind insurance or surety bonds pending the issuance of the policy or contract; provided, that for every such covering note so used, within ninety days thereafter a policy or contract shall be issued in lieu thereof, including within its terms the identical insurance protected under said covering note and the premium consideration paid or to be paid therefor.

Rebates prohibited. No insurance or surety company or society, by itself or by any other party, and no agent, or insurance broker, personally or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, as an inducement to insurance on any risk in this state, now or hereafter to be written, any rebate of or part of the premium payable on the policy or contract of insurance or surety bond, or of the agent's or broker's commission thereon; nor shall any such company, or society, agent, or broker, personally or otherwise, offer, promise, allow, give, set off, or pay, directly or indirectly as an inducement to such insurance any earnings, profits, dividends, or other benefit, founded, arising, accruing, or to accrue on such insurance or surety bond, or therefrom, or any other valuable consideration which is not clearly specified, promised or provided for in the policy or contract of insurance, or in the application for such surety bond; provided, however, that nothing in this section shall be construed to prevent a mutual fire insurance company from returning any portion of the premium as a dividend, at the expiration of the term covered by such premium.

Commission. Discount on marine insurance. Nothing in this section shall be construed to prohibit any insurance or surety company or society, or agent for such company or society, or broker, from paying commission to another company, society, agent, or insurance broker, nor shall this section be construed to prohibit any marine insurance company, agent, or broker from allowing any insured, such usual discount as is sanctioned by custom amongst marine insurers as being additional to the agent's or broker's commission, but this exemption shall in no wise operate to relieve marine insurance in any other respect from the full operation of this section.

Agent's commission on own insurance. This section, except as hereinbefore specifically provided, shall not be construed to prevent any insurance or surety company from paying to another insurance or surety company, or to an agent or broker, or to prevent any insurance or surety company or such an agent or broker from receiving a commission in respect to any policy under which it, itself, or he, himself, is insured.

Bonuses. Nothing in this section shall be so construed as to prohibit any company issuing nonparticipating life insurance from paying bonuses to policy-holders or otherwise abating their premiums, in whole or in part out of surplus accumulated from nonparticipating insurance; nor to prohibit any company transacting industrial insurance on the weekly payment plan from returning to policy-holders who have made premium payment for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the weekly collection of such premiums. This section shall not be construed to prevent any life insurance company paying, or contract holders receiving special compensa-

tions, or allowing and receiving credits already agreed upon in contracts now in force.

Producing books, etc. No person shall be excused from testifying or from producing any books, papers, contracts, agreements or documents at the trial or hearing of any person or company, association or society charged with violating any provisions of this section, on the ground that such testimony or evidence may tend to incriminate himself, but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Responsibility of company. Every insurance company or society shall be charged with full responsibility to exercise reasonable diligence for the observance of this section by its agents and it shall be unlawful for any insurance or surety company to appoint as its agent any person, firm or corporation, or the employee or nominee of said person, firm or corporation, for the purpose of enabling such person, firm or corporation to obtain a policy or contract of insurance at a cost less than that specified in any policy or contract of insurance issued to such person, firm or corporation, or at a cost less than that specified in any application for any surety bond issued in behalf of such person, firm or corporation.

Penalty. Certificate of authority suspended. An officer or employee of any insurance or surety company or society, or any agent or broker, or any officer or employee of such agent or broker who violates any of the provisions of this section shall be guilty of a misdemeanor. Upon it being proven to the insurance commissioner after a hearing upon reasonable notice to the accused of the time and place of such hearing that any insurance or surety company or society shall knowingly have violated any of the provisions of this act, or shall knowingly have permitted any officer, managerial agent, or managerial employee, to violate any of the provisions of this act, he shall have authority to suspend the certificate of authority of such insurance or surety company or society to do the kind of business in which the violation of the provisions of this act occurred.

Agent's license revoked. And the insurance commissioner shall have authority to suspend or revoke the license issued to any agent or broker on its being proven to him, after hearing, that such agent or broker has knowingly and willfully violated any of the provisions of this act.

Action to review facts. If at any time the insurance commissioner suspends the certificate of authority theretofore granted to any insurance or surety company, or revokes or suspends the license theretofore granted to any broker or agent, or refuses to grant a certificate of authority to any insurance or surety company, or license to any broker or agent, any interested person or company may commence an action against the insurance commissioner for the purpose of reviewing the facts and the law pertinent to the controversy and for the purpose of obtaining the relief refused or for canceling the action of the commissioner. In any such action the court shall have full power to investigate all of the facts de novo, without regard to the determinations previously made by the commissioner. In the trial of such actions all of the provisions of the Code of Civil Procedure, shall be applicable. Such action

shall be commenced and tried in the superior court of the county in which such insurance or surety company or society has its principal place of business in this state, or in which such broker or agent resides, unless the parties thereto stipulate otherwise.

Title insurance, etc., not affected. Nothing in this act shall apply to, or in any way affect reciprocal or interinsurance contracts, title insurance business, fraternal benefit societies, or county mutual fire insurance companies. [New section added June 1, 1917; Stats. 1917, p. 1612.]

§ 633c. Officers of life insurance companies not to receive commissions on policies. No life insurance company transacting business in this state shall pay or contract to pay, directly or indirectly, to its president, vice-president, secretary, treasurer, actuary, medical director or other physician charged with the duty of examining risks or applications for life insurance or to any officer of the company other than an agent or solicitor, any commission or other compensation contingent upon the writing or procuring of any policy of life insurance in such company or procuring an application therefor, by any person whomsoever, or contingent upon the payment of any renewal premium, or upon the assumption of any life insurance risk by such company, and should any company violate the provisions of this section, it shall be the duty of the insurance commissioner to revoke its certificate of authority to transact business in this state. [New section added May 20, 1919; Stats. 1919, p. 775.]

§ 678. Notice to state board of control and treasurer of bond sale. Whenever, under the provisions of law, the board of supervisors, trustees, common council or other governing boards or bodies of any city or county, city or town or school district of this state shall advertise the sale of bonds voted for any purpose, the clerk of such board of supervisors, trustees, common council or other governing board or body shall forthwith by mail, postage prepaid, notify the state board of control and state treasurer at the capitol of such issuance and sale of bonds and shall specify the purposes for which such bonds were voted, the amount of the total issue for each purpose, the denomination of each bond showing date of issuance and date of maturity, the rate of interest showing when and where payable, the assessed value of the property upon which such bonds are a lien, the total amount of other bonded indebtedness which is a lien upon said property, and shall upon request of the state board of control furnish a full description of the proceedings leading up to such issue; provided, that no certified check, bond or other assurance in law shall be required from the state upon its bid to purchase bonds. [Amendment approved May 14, 1917; Stats. 1917, p. 466.]

§ 686. Department of public accounting. Superintendent. Bond. Additional accountants. Department of public accounting. Superintendent, etc. There is hereby established in connection with and under the supervision of the state board of control a department of public accounting. The board shall appoint a superintendent of accounts at an annual salary of three thousand six hundred dollars, and two assistants at an annual salary of two thousand seven hundred dollars each. Such appointees shall be skillful accountants and well versed in public accounting. They shall (each) execute a bond to the state in the sum of ten thousand dollars. They shall be civil executive officers and their

salaries shall be paid in the same manner and at the same time as the salaries of state officers are paid. The board may also appoint such additional accountants as may be necessary to carry on the work of the department at salaries not to exceed for any one of such appointees the sum of two thousand four hundred dollars per annum. Such salaries, upon authority of the board, shall be paid out of money appropriated for the use of the department at the same time and in the same manner as the salaries of state officers are paid. Such accountants shall be chosen from persons who have successfully taken an open competitive examination given along practical lines showing their fitness for the work required. They shall each execute to the state a bond in the sum of five thousand dollars. All of the appointees in this section are empowered to administer oaths in the furtherance of their official duties. [Amendment approved May 14, 1917; Stats. 1917, p. 467.]

§ 718. Employees of superintendent of capitol building and grounds. The superintendent of capitol building and grounds may appoint one head gardener at an annual salary of two thousand one hundred dollars and one assistant head gardener at an annual salary of one thousand three hundred twenty dollars. He may appoint seven special policemen for the building and grounds at annual salaries of one thousand four hundred forty dollars each, who shall have the power of peace officers, and the same power of arrest as is herein given to the superintendent. None of said policemen shall be required to work more than six days in any one week. He may appoint one clerk for his office at an annual salary of one thousand eight hundred dollars, who shall be a civil executive officer; one head porter for the building at an annual salary of one thousand three hundred twenty dollars; one general mechanical expert at an annual salary of one thousand five hundred dollars. He may appoint one engineer at an annual salary of one thousand eight hundred dollars; one fireman at an annual salary of one thousand three hundred twenty dollars; one electrician at an annual salary of one thousand eight hundred dollars; provided, however, that the superintendent is hereby empowered to employ an additional electrician for emergency purposes. The superintendent may also appoint two elevator attendants at an annual salary of one thousand two hundred dollars each; three telephone exchange operators at an annual salary of one thousand eighty dollars each. He may appoint to serve from January first until May first in each legislative year one engineer at a monthly salary of one hundred fifty dollars; one fireman at a monthly salary of one hundred ten dollars; one electrician at a monthly salary of one hundred fifty dollars; two elevator attendants at a monthly salary of one hundred dollars each; two telephone exchange operators at a monthly salary of ninety dollars; ten porters at a monthly salary of one hundred dollars each. He may also appoint one telephone exchange operator at a monthly salary of seventy-five dollars to serve six weeks each year while the legislature is not in session. The salaries of all such appointees shall be paid at the same time and in the same manner as other state officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1333.]

Section 718 was also amended in 1917. See Stats. 1917, p. 925.

§ 719. Employees of superintendent of capitol building and grounds. The superintendent may employ such competent assistant gardeners at

a salary of one hundred dollars each per month, and such regular and temporary laborers, porters and other help for the proper conduct and care of the capitol and grounds, as may be deemed necessary by said superintendent and the state board of control; said laborers, porters and other help shall receive as compensation for their services from three dollars and fifty cents to four dollars per diem each; said wages shall be paid only from money appropriated for such purposes. Such assistant gardeners and regular laborers, porters, appointees and employees shall have the power of peace officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1358.]

§ 737b. Salaries of superior judges of Imperial County. The annual salaries of the judges of the superior court in the county of Imperial are four thousand dollars, one-half of which shall be paid by the state, and the other half thereof by the county for which the judges are elected or appointed. The provisions of this section shall not apply to the present incumbent during his present term of office. [New section added May 27, 1919; Stats. 1919, p. 1295.]

§ 737c. Salary of superior judge of Ventura County. The annual salary of the judge of the superior court of the county of Ventura is five thousand dollars per annum, one-half of which shall be paid by the state and the other half thereof by the county for which the judge is elected or appointed. [New section added May 27, 1919; Stats. 1919, p. 1289.]

§ 737d. Salary of superior judge of San Mateo County. The annual salary of each of the judges of the superior court of the county of San Mateo is five thousand dollars, one-half of which shall be paid by the state and the other one-half thereof by the county in which the judge is elected or appointed. [New section added May 27, 1919; Stats. 1919, p. 1301.]

§ 737e. Salaries of superior judges in Santa Cruz County. The annual salaries of the judges of the superior court in the county of Santa Cruz are five thousand dollars, one-half of which shall be paid by the state and the other half thereof by the county for which the judge is elected. [New section added May 27, 1919; Stats. 1919, p. 1301.]

§ 737f. Salaries of superior judges in Orange County. The annual salaries of the judges of the superior court in the county of Orange are five thousand dollars each, one-half of which shall be paid by the state and the other half thereof by the county for which the judge is elected. [New section added May 27, 1919; Stats. 1919, p. 1289.]

§ 737g. Salary of superior judge of San Luis Obispo County. The annual salary of the judge of the superior court in the county of San Luis Obispo is five thousand dollars, one-half of which shall be paid by the state and the other half thereof by the county for which the judge is elected, or appointed. [New section added May 27, 1919; Stats. 1919, p. 1241.]

§ 737h. Salary of superior judge of Santa Barbara County. The annual salary of the judge of the superior court of the county of Santa

Barbara is five thousand dollars, one-half of which shall be paid by the state and the other half thereof by the county. [Amendment approved May 27, 1919; Stats. 1919, p. 1241.]

§ 737n. Salary of superior judge in Butte County. The annual salary of the judge of the superior court of the county of Butte, five thousand dollars; one-half of which shall be paid by the state and the other half thereof by the county of which the judge is elected or appointed. [New section added May 27, 1919; Stats. 1919, p. 1296.]

§ 737o. Salary of superior judge of Inyo County. The annual salary of the judge of the superior court in the county of Inyo is four thousand dollars; one-half of which shall be paid by the state and the other half thereof by the county in which the judge is elected or appointed. [Amendment approved May 27, 1919; Stats. 1919, p. 1300.]

§ 738a. Salaries of superior judges in Lassen and Plumas Counties. The annual salaries of the judges of the superior court of the county of Lassen are four thousand two hundred dollars and of the county of Plumas four thousand dollars, one-half of which shall be paid by the state and the other half thereof by the county of which the judge is elected or appointed. [New section approved May 27, 1919; Stats. 1919, p. 1290.]

§ 738c. Salaries of superior judges of Monterey County. The annual salaries of the judges of the superior court in the county of Monterey are five thousand dollars, one-half of which shall be paid by the state and the other half thereof by the county for which the judge is elected. [New section added May 27, 1919; Stats. 1919, p. 1300.]

§ 739. Salaries of officers of supreme court. The annual salaries of the officers connected with the supreme court are as follows: The reporter of the decisions of the supreme court and of the district courts of appeal, two thousand five hundred dollars; the assistant reporters of the decisions of the supreme court and of the district courts of appeal, not exceeding three in number, one at two thousand four hundred dollars and two at one thousand two hundred dollars each; two phonographic reporters, each, three thousand dollars; two secretaries of the court, each, three thousand dollars; each bailiff, one thousand eight hundred dollars; the librarian, one thousand five hundred dollars. [Amendment approved May 27, 1919; Stats. 1919, p. 1240.]

§ 758. Salaries of officers of district courts of appeal. The third district court of appeal may employ and appoint the following officers of the court, whose salaries shall be as follows:

One clerk at two thousand seven hundred dollars per annum; one deputy clerk at two thousand dollars per annum; one phonographic reporter as provided in section seven hundred fifty-nine, and one bailiff at one thousand six hundred dollars per annum. Each of the first and second district courts of appeal may appoint the following officers of their respective courts whose salaries shall be as follows: One clerk at two thousand seven hundred dollars per annum; two deputy clerks at two thousand dollars each per annum; two phonographic reporters as provided in section seven hundred fifty-nine; and two bailiffs at one

thousand six hundred dollars each per annum; one deputy clerk, one phonographic reporter and one bailiff to be assigned to each division of said courts. [Amendment approved May 25, 1919; Stats. 1919, p. 1140.]

§ 759. Phonographic reporters in district courts of appeal. The district court of appeal of the third appellate district, and each division of the district courts of appeal of the first and second appellate districts, may employ and appoint a phonographic reporter, who shall be competent to write in shorthand at the rate of at least one hundred and fifty words per minute and to transcribe the same correctly. His duties shall be to take down in shorthand the proceedings of the court, and to act as secretary to the judges in the discharge of their official duties. His compensation shall be at the rate of two thousand four hundred dollars per annum. The official reporter shall hold office during the pleasure of the court making the appointment. [Amendment approved May 25, 1919; Stats. 1919, p. 1206.]

This section was also amended in 1917. See Stats. 1917, p. 784.

§ 791. Notaries public in counties of second class. The governor may appoint and commission such number of notaries public for the several counties, and cities and counties of this state, as he shall deem necessary for the public conveniences, except that in counties of the second class the number shall not exceed one hundred thirty. [Amendment approved April 11, 1917; Stats. 1917, p. 92.]

§ 995. Resignations of officers. Resignations must be in writing, and made as follows:

1. By the governor and lieutenant-governor to the legislature, if it is in session; and if not, then to the secretary of state;

2. By all officers commissioned by the governor, to the governor;

3. By senators and members of the assembly, to the presiding officers of their respective houses, who must immediately transmit the same to the governor;

4. By all county and township officers not commissioned by the governor, to the clerk of the board of supervisors of their respective counties;

5. By all other appointed officers, to the body or officer that appointed them;

6. By members of the board of trustees, and other officers of a municipal corporation, to the clerk of the board of trustees of their respective corporation.

7. In all cases not otherwise provided for, by filing the resignation in the office of the secretary of state. [Amendment approved April 5, 1917; Stats. 1917, p. 38.]

§ 1094. Registration every two years. Transfers. Elections held between January 1 and April 1 of even-numbered years. Affidavits of registration deemed canceled. Registration outside of main office. List of lodgers. Challenge of voters not on certified list of lodgers. There shall be, commencing January 1, 1918, and every two years thereafter, except as hereinafter provided, in each county and city and county of the state, a new and complete registration of the voters of such county or city and county, who are entitled thereto. Such registration shall be

in progress at all times except during the thirty days immediately preceding any election, when it shall cease for such election as to electors residing in the territory within which such election is to be held; and transfers of registration for such election may be made from one precinct to another precinct in the same county or city and county at any time when such registration shall be in progress in the precinct to which the elector seeks to transfer; provided, that where any general or special municipal election, or any other special election, including any primary election and all special elections to vote for officers, or upon or for or against any proposition or question authorized to be submitted to a vote, is held on or after the first day of January and before the first day of April of any even-numbered year, the original affidavits of registration and indexes used in the last general state election in any county or city and county in this state, together with the original affidavits of registration since the last election, and supplemental indexes, showing all additional registrations, changes and corrections made since the registration for the last general election, completed to and including the thirty-first day prior to said election then being held, may be used at such election to determine the persons entitled to vote thereat. All affidavits of registration made prior to the first day of January of any even-numbered year shall be deemed canceled upon said day except for the sole purpose of being used as hereinbefore stated at elections held thereafter and before the first day of April of that year, and shall on said last-mentioned day be deemed canceled for all purposes. The board having charge and control of elections in each county or city and county, may provide by resolution, for the registration of voters in their respective precincts, by the officer charged with the registration of voters, and may also provide by resolution for the registration of voters at specified times and places, other than the office of the county clerk or registrar of voters, deemed most convenient to large numbers of voters, without reference to respective or particular precincts, in such a manner that the affidavits of registration as provided by law may be taken at such time and place, of any voter within the county who is entitled to register therein; provided, however, that in any city and county no registration outside of the main office of the officer charged with the registration of voters shall be had except that which is without reference to particular precincts as last specified herein; and provided, also, that any registration which may be made at the main office for registration in any such city and county may be made and taken in any place in said city and county in such manner as may be provided by rules and regulations made by the board having control of registration in any such city and county. Upon the written request of the officer charged with the registration of voters, which request said officer shall make upon petition from any ten electors of the county, such petition to specify the premises from which lists are desired, every landlord or keeper of premises where lodgers abide, shall furnish said officer a list of all lodgers occupying rooms, or sleeping apartments, or beds in the premises under his or her or its control. Such lists shall be furnished upon blanks provided by said officer. Any landlord or keeper of premises where lodgers abide, who neglects or refuses to comply promptly with the provisions of this section or who furnishes a false list of such lodgers, shall be guilty of a

misdeemeanor. All lists so returned shall be kept on file in the office of the officer receiving same, open to public inspection. It shall be the duty of said officer to compile a list of such persons, if there are any, who are registered as residing in any of these premises and whose names are not returned in the lists furnished by the landlord or keeper thereof. At least three days before the date of the next succeeding election, in any precinct where such premises are located, said officer shall send by registered mail to the inspector of election in said precinct a certified copy of the list he has thus prepared, with instructions to challenge the vote of each and all such persons if offered at the election, under subdivision five of section one thousand two hundred thirty of the Political Code. Whenever in the laws of this state the word "register" or "great register" is used with relation to elections, it shall be deemed to mean and include the relative and proper affidavits of registration, or both thereof, prepared and bound by the county clerk or registrar of voters. [Amendment approved May 21, 1917; Stats. 1917, p. 798.]

§ 1096. Qualifications for registration. Additional facts to be shown. The affiant making the affidavit of registration must be at least twenty-one years of age at the time of the next succeeding election; a citizen of the United States ninety days prior to such election; a resident of the state one year, of the county ninety days, and of the precinct thirty days next preceding such election and the affidavit must show such facts. It shall also show:

1. The name at length, including Christian or given name, and middle name, or initial, if any, said Christian or given name, if the name of a woman, to be preceded in all cases by the designation of Miss or Mrs., as the case may be.

2. The place of residence and postoffice address with sufficient particularity to identify the same and determine therefrom the voting precinct of such affiant. If the elector be not the proprietor or head of the house, or the wife or husband of such proprietor, then it must show upon what floor thereof, and what room such elector occupies in such house.

3. The occupation of affiant.

4. The height of affiant in feet and inches.

5. The country or state of nativity of affiant.

6. If foreign born, how citizenship was acquired; whether by citizenship of father, by provisions of a treaty or act of congress, by order of a court of naturalization, by marriage to a citizen, by naturalization of a parent or husband, or otherwise. The date or year when, and the place or state where affiant became a citizen, shall be shown, except in the case of citizenship acquired by citizenship or naturalization of parents, by treaty, or by act of congress. When citizenship depends upon the citizenship or naturalization of parent or husband the name of such parent or husband shall appear.

7. The fact whether or not the elector desiring to be registered is able to read the constitution in the English language and to write his or her name, and whether or not the elector has any physical disability, by reason of which he or she can not mark the ballot; and if he or she can not mark the ballot by reason of physical disability, then the nature of such disability must be entered. The affiant, if able to write, shall

sign such affidavit with his or her customary signature and the county clerk or registrar before whom such affidavit is made shall insert therein the date of such affidavit, which shall be the date of the jurat. The affiant may state in such affidavit the name of any political party or organization with which he intends to affiliate at the ensuing primary election, whether or not such party or organization is a party or organization qualified, at the time of such registration, to participate in such primary election according to the provisions of the direct primary law. [Amendment approved May 29, 1917; Stats. 1917, p. 1334.]

§ 1096a. Declaration of political party. Change of political affiliation. Affidavit. At the time of registering and of transferring registration, in all places where the primary election law is in force, each elector shall declare the name of the political party with which he intends to affiliate at the ensuing primary election or elections, and the name of such political party shall be stated in the affidavit of registration and the index thereto. If the elector declines to state the fact, the fact of such declination shall likewise be stated and no person shall be entitled to vote the ticket of any political party at any primary election, by virtue of such registration, unless he has stated the name of the political party with which he intends to affiliate at the time of such registration. Nor shall he be permitted to vote on behalf of any party or for delegates to the convention of any party other than the party so designated in the registration.

In case any elector shall have declined to designate or shall have changed his political affiliation prior to the close of registration for primary elections he is entitled to have such change recorded prior to the close of said registration upon application to the county clerk or registrar of voters as hereinafter provided. In case any elector shall have declined to designate or shall have changed his political affiliations prior to the close of registration, he may appear in person before the county clerk or registrar of voters, or any registration deputy of said county clerk or registrar of voters, and make affidavit substantially in the following form:

State of California, } ss.
County of ——— }

— being duly sworn, deposes and says that he is registered on the great register of the said county of — as a — (insert former party affiliation, or that he had declined to designate his party affiliation); that since the date of such registration he has changed his political views and in good faith declares his affiliation with — party.

Subscribed and sworn to before me, this — day of —, 19—.

The county clerk or registrar of voters shall take such affidavit without charge and shall file the same. [New section added May 29, 1917; Stats. 1917, p. 1335.]

§ 1097. Affidavit of registration. If elector is absent from residence. Subdivision 1. No person shall be registered as an elector except by affidavit of registration. Such affidavit must be made before the county clerk or officer charged with the registration of voters, or their deputy or registration clerk and shall set forth all the facts required to be shown in sections one thousand ninety-six and one thousand ninety-seven of the Political Code. If an elector is absent from the county in which

he or she claims residence, he or she may appear before any judge or clerk of any court of record, or notary public, or if in a foreign country, before any minister, consul, or vice-consul of the United States, and may make and subscribe an affidavit as to his or her residence, specifying in what ward or precinct he or she claims residence; that he or she will be necessarily and unavoidably absent from said county, or city and county, on all the days allowed by law for general registration of electors, and setting forth in such affidavit each and all the matters required by sections one thousand ninety-six and one thousand ninety-seven of the Political Code of the state of California, and forward such affidavit, in duplicate, duly authenticated as above, by mail, inclosed in an envelope addressed to the county clerk of any county, or the registrar of voters in any county or city and county in which he or she claims to be an elector. Upon receipt of such affidavit by such clerk or registrar of voters within the time allowed by law for registration, the said affidavit shall be entered and bound by the clerk in the proper register in such precinct.

Subd. 2. Conditions of registering foreign born. No foreign-born person shall be registered unless:

(a) If a naturalized citizen upon the production of his or her certificate of naturalization or upon the production of a certificate of registration in the county of his or her last residence in the state, showing the date and place of naturalization, or upon his or her affidavit stating date and place of naturalization; provided, that any person registering for the first time in the state must produce his or her certificate of naturalization.

(b) If a citizen by virtue of his or her father being a citizen at the time of his or her birth, upon his or her sworn statement that his or her father was a citizen of the United States at the time of his or her birth and has been a resident thereof. Such statement need not be noted in full upon the affidavit of registration, but the words "I acquired citizenship by the citizenship of my father (naming him)" shall be sufficient.

(c) If a citizen by virtue of the naturalization of his or her parent, upon his or her affidavit that he or she became a citizen by such naturalization of his or her parent, naming such parent, that such naturalization took place during his or her minority and that he or she began to reside permanently in the United States while such minor child. Such statement need not be noted in full upon the affidavit, but the words "I acquired citizenship by my father's, or mother's, naturalization," as the case may be, naming him or her, shall be sufficient.

(d) If a citizen by virtue of marriage to a citizen, the date and place of such marriage shall be entered upon the affidavit of registration together with the name of the husband.

(e) If a citizen by virtue of the naturalization of her husband the date or year and place of such naturalization together with the name of the husband shall be entered.

Subd. 3. Affidavit must show all facts required. Substitutions permitted. Manner of printing. Width. Type. Form. In every case the affidavit of the party must show all the facts required to be stated. The clerk or registrar of voters may cause to be written or printed upon the margin of the affidavit, in addition to any matter hereinafter provided for, all such words as are deemed necessary or convenient for the pur-

pose of designating the precinct, district or political subdivision for which such affidavit is taken, or deemed necessary or convenient to indicate any removal or transfer of registration, and also any date or memorandum deemed necessary or convenient to indicate the number of the ballot voted by an elector as provided by section one thousand two hundred four of the Political Code, or any other reasonable memoranda deemed necessary or convenient for the purpose of enabling such clerk or registrar of voters to perform his duties in the assorting or classification or handling of such affidavits with correctness and dispatch. Wherever in the following form of affidavit the word "county" is inserted, if the affidavit is for use in a city and county, such last mentioned words may be printed or written in lieu of said word "county." In connection with the place of residence the affidavit may have printed either the word "precinct" or the word "street" or the word "avenue," or any or all of such words as the clerk or registrar of voters shall deem most convenient in practical use for the territory in which such affidavits are to be used. In designating the residence of the voter or the postoffice address it shall not be necessary in either case to repeat the county or city and county or state where the name of said county or city and county or state previously appear. In connection with the statement regarding the citizenship of affiant, the affidavit may have printed in brackets statements of the various methods of acquiring citizenship, and it shall be sufficient to underline, or otherwise mark, with pen and ink, or indelible pencil, that statement applicable to the particular affiant. The words printed in the body of the affidavit, which by reason of statement of the voter are not applicable to such registration, shall not be deemed a portion of such affidavit of registration. The lines to indicate the separation between the margin of the affidavit of registration and the said margin shall be at the top and on the right side of such affidavit, and may be double or single lines in the discretion of the clerk or registrar of voters of the county or city and county or territory for which the affidavit is to be used. The affidavit shall be printed in horizontal lines. Wherever any blank space is left in any line for the entry of any matter the lines shall not be less than one-third of an inch apart vertically. Commencing with the first statement of the affidavit proper each statement shall be numbered immediately at the left of such statement in a numerical sequence, the first statement commencing with number one, and so on to the end, but the jurat and space for the signature of the voter need not be numbered. The horizontal width of the affidavit, separate from any and all margin, shall not be less than seven inches, and the margin upon all sides and at top and bottom shall be of such width as may be determined by the clerk or the registrar of voters. The words "affidavit of registration" shall be not less than twenty-four point black-face type. Pen and ink or indelible pencil must be used in making the portions of the affidavit which are not printed. The matter in the body of the affidavit, where the size of type is not otherwise specified, shall be not less than ten-point plain-face type, save that words inserted in parentheses, which are for the information or instruction of the deputies or registration clerks, may be in smaller type at the discretion of the county clerk or registrar of voters. Subject to the foregoing provisions the body of said affidavit shall be substantially in the following form:

STATEMENT OF TRANSFER OR CHANGE OF NAME.

I am registered under the name of _____
 _____ from the following precinct or address

_____ in this county:

NAME OR NUMBER OF PRECINCT.

I, _____, county, and I hereby authorize the cancellation

of my present registration in said _____ county).

STATE OF CALIFORNIA

) COUNTY OF ()

} ss.

AFFIDAVIT OF REGISTRATION.

The undersigned affiant, being duly sworn, says: I will be at least twenty-one years of age at the time of next succeeding election, a citizen of the United States ninety days prior thereto, and a resident of the State a year, of the County ninety days, and of the Precinct thirty days next preceding such election, and I will be an elector of this County at the next succeeding election.

I have not (have) registered from any other precinct in the state since January 1, 1916.*
 *In all words "have not" or "have" as the case may be, and if applicant has so previously registered, or has previously registered under another name, fill out the appropriate blanks at the top of the affidavit, under "statement of transfer or change of name."

My full name is _____
 (Including Christian or given name, and middle name or initial, and in the case of women, the prefix Miss or Mrs.)

My residence is _____

between _____ and _____ Streets _____ Floor, Room _____

Post office address at _____

My occupation is _____

My height is _____ feet _____ inches

I was born in _____

(State or Country.)

I acquired citizenship by { a. Decree of Court. d. Marriage to a citizen.
 (Indicate method of acquiring citizenship.) b. Father's naturalization. e. Naturalization of my husband.
 c. Citizenship of father f. Act of Congress. g. By treaty.

when _____ (where) _____

My father's name is (was) _____
 (To be filled out when citizenship depends on citizenship or naturalization of parent or husband.)

I can read the Constitution in the English language; I can _____ write my name; I am entitled to vote by reason of having been on November 6, 1894 { a. An elector.
 b. More than sixty years of age.

I can mark my ballot by reason of _____
 (State physical disability, if any.)

I intend to affiliate at the ensuing primary election with the _____ Party.
 (If affiliation is not given, write or stamp "Declines to State.")

Subscribed and sworn to before me this

day of _____ 1916

(Affiant signs here.)

County Clerk (or Registrar of Voters).

To be put on the registration commission.

Supp.—18

Subd. 4. **Change of name by marriage.** Whenever any elector, between the time of her last registration and the time for the closing of registration for any given election in the same county or city and county, shall have lawfully changed her surname by a change or assumption of marital relation she shall be entitled to reregister under her new or changed name, upon an additional statement made at the time of such reregistration, giving the name under which she was so last registered in said county or city and county, and the residence given and contained in said last affidavit of registration, which additional statement shall be printed or written upon the margin of such affidavit of reregistration before the said affidavit is signed, and shall be deemed a part thereof. Upon such registration the last previous registration of such elector shall be canceled. And in case any elector shall reregister or transfer his or her registration from one precinct to another the former address or precinct shall be noted in the margin of such affidavit, and the former registration shall thereupon be canceled.

Subd. 5. **Registration otherwise than above.** No person shall be registered except as above provided unless upon the production and filing of a certified copy of the judgment of the superior court directing such entry to be made. [Amendment approved May 29, 1917; Stats. 1917, p. 1338.]

§ 1115. **Index to registration books. Number of copies. Index furnished to candidates. Indexes for primaries. One copy to state librarian.** Within five days after the binding of said books by precincts the clerk shall prepare an index of each book, said index to contain the numbers, names, occupations and addresses, as they appear in said books. Such names shall include Christian or given names, the middle name or initial, if any; and, if the name be that of a woman, the Christian name shall be preceded by the designation of "Miss" or "Mrs." as the case may be. The clerk shall have at least forty copies of said index printed for the use of said county, and he shall have printed and shall furnish to the municipalities within said county, such additional number of copies thereof, not exceeding twenty, as the governing body of such municipalities shall by resolution require. The county clerk shall furnish upon written or oral demand of every candidate, who is to be voted for in said county, city, or city and county or any political subdivision of said county, city, or city and county or upon written demand of his campaign committee, one copy of a printed index of the registration, for such primary and general elections in which said candidate will participate, at a cost of fifty cents per thousand names. All such moneys collected shall be deposited in the county treasury, to the credit of the general fund. The number of copies of said index necessary to be printed shall apply only to the index prepared for use at general elections. In counties where indexes are prepared for primary elections, a smaller number of such indexes may be printed. The clerk shall have bound together in one or more volumes, a general index of said books arranged alphabetically by precincts, and shall keep at least one copy of said general index in his office for public reference. He shall also transmit one copy of said general index to the state librarian at Sacramento. [Amendment approved May 18, 1919; Stats. 1919, p. 720.]

This section was also amended in 1917. See Stats. 1917, p. 436.

§ 1131. Notice of election in county clerk's office. Election officers designated. Polling place not to be saloon. Copy of notice posted. The county clerk or registrar of voters in each county or city and county shall at least twenty-five days prior to any election, or primary election, file in his office a notice of the date of such election and the offices to be filled, naming and numbering them in numerical order, unexpired terms or short terms being designated next after the full terms or long terms. He shall also designate in such notice the election officers who have been appointed for each precinct and the polling place therein where the voting for such election shall be had, but in no event shall such polling place be a saloon or other place where intoxicating liquor is sold or dispensed, nor shall such polling place be connected by a door, window or other opening with a saloon or other room or place where such liquor is sold or dispensed. He shall immediately thereafter cause one copy of such notice to be posted in a prominent place in his office. The duties imposed by this section and by section one thousand one hundred forty-two, one thousand one hundred forty-two a and one thousand one hundred fifty-one of this code upon the county clerk or registrar of voters shall in all municipal elections and in all elections in which only the electors of one municipality or a portion thereof vote, be performed by the city clerk, registrar of voters or similar office of such municipality. [Amendment approved May 7, 1919; Stats. 1919, p. 332.]

§ 1132. Proceedings where election officers not designated. Where polling places cannot be used. If the election officers for any precinct in any county or city and county, or the polling place therein have not been designated by the tenth day prior to any election the county clerk or registrar of voters in such county or city and county shall immediately make an order in writing designating the election officers for that precinct or the polling place therein, as the case may require, and notify such officers of their appointment. He shall cause copies of his order to be posted in three public places in the precinct and send one copy thereof to the inspector appointed for that precinct who shall cause the same to be posted at or near such polling place. If the said county clerk or registrar of voters fails to perform the duty herein imposed upon him, the inspector, if one shall have been appointed, shall perform such duty. If any of the members appointed on an election board do not attend at the opening of the polls on the morning of an election, those qualified electors present, including members of the board, shall appoint a qualified elector to fill the vacancy, and if none of the members appointed appear at such time the qualified electors of the precinct present at that time may appoint a board. If for any valid reason the polling place designated for any precinct cannot be used, the board of election acting for that precinct on the day of the election shall designate another polling place as near thereto as possible, post notice of the change on or near the place first designated and conduct the election at the place last designated. [Amendment approved May 6, 1919; Stats. 1919, p. 292.]

§ 1133. Precincts for municipal elections. The board or governing body charged with the conduct of carrying on any of the elections mentioned in section one thousand forty-four of this code may precinct, or subdivide, the municipality or territory within which such election is to

be held, into special election or consolidated election precincts for the holding of such elections, and change and alter such precincts for such elections, as often as occasion may require. In establishing such election precincts referred to in this section, such board or governing body having control of such elections may consolidate the precincts to a number not exceeding six for each special election or consolidated election precinct, and shall number such precincts so established, consecutively, and each precinct so established shall for the purpose of such election be known by the number so designated. [Amendment approved May 27, 1919; Stats. 1919, p. 1230.]

§ 1142. (a) Boards of election. At each general election, and at each election, where other provisions are not made by law or charter, the election officers appointed for each precinct shall constitute a board of election for such precinct. Such board shall consist of one inspector, two judges and three clerks; provided, that in any precinct in which the total registration does not exceed one hundred electors or at any special election where other provision as to election officers is not made by law, the board shall consist of one inspector, one judge and two clerks. Each of such officers shall be a registered qualified elector of the precinct for which he is appointed and in which he acts and shall serve only in such precinct; provided, that in the case of consolidated election precincts the election officers appointed therefor and who act therein shall be registered qualified electors of one of the precincts of which such consolidated precinct is composed.

(b) Appointment of election board. The board of supervisors, or other board having charge or control of elections in each of the counties, and cities and counties, must, at least thirty days prior to an election, issue its order appointing the members of the several boards of election unless otherwise provided herein or by law.

(c) Failure to designate officers. If the election officers for any precinct, or the polling place therein, have not been designated by the fifteenth day prior to any election, the county clerk or registrar of voters shall immediately appoint the election officers for that precinct, or designate the polling place therein, as the case may require.

(d) Failure to serve as election officer. Application for appointment. Form. Any person who, having been regularly appointed as an election officer, shall without lawful excuse fail to act as such, shall be guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days or by both such fine and imprisonment. Any person serving as an election officer at any election, shall, on the day of such election, be entitled to absent himself from any service or employment in which he, or she, is then engaged or employed; and such voter shall not, because of so absentsing himself, or herself, be liable to any penalty, nor shall any deduction be made on account of such absence, from his or her usual salary or wages, nor shall such person be suspended or discharged from any service or employment because of so absentsing himself or herself. In appointing election officers preference shall so far as possible be given to any person, otherwise qualified, who has passed a civil service examination involving a test for a clerical position, or who has previously

rendered satisfactory service as an election officer if otherwise qualified. Any person may file an application for the position of an election officer on blanks prepared by the officer in charge of registration, which shall be substantially as follows: .

Application to Serve as Election Officer.

State of California, } ss.
County of —, }

My name in full is _____;

My actual residence is _____;

My age is —; my occupation is _____;

I am employed at _____;

(Give place of employment.)

I am not, and have not been, within the last ninety days, employed in any capacity, other than that of election officer or as a clerk engaged in the registration of voters, by the county, city and county, or incorporated city or town in which I now reside.

I have — acted as an election officer at an election —

(If applicant has previously acted as an election officer state the time and place when so acting and the nature of the office held, otherwise insert the word "not" after the word "have.")

I have — passed a civil service examination.

(If applicant has previously passed such examination state the time and place thereof and the position for which it was held; otherwise insert the word "not" after the word "have.")

My experience in clerical work has been as follows:

(State briefly.)

For further information, I would refer to the following:

(Names and addresses of two or three well-known citizens of the community, who are acquainted with the qualifications of applicant; to be filled out if applicant is not, through previous service or otherwise, already known to the appointing board.)

I am now registered as an elector in this county (or city and county).

I can read and write the English language and all of the matter written in the foregoing answers is in my own handwriting.

_____,
Signature of applicant.

In a city and county, the registrar of voters may require such applications to be sworn to and such registrar or his deputy shall take such oath without charge.

(c) **Persons eligible as election officers.** No person shall be eligible to act as an officer of election who is not actually a resident of the precinct in which he, or she, acts and a registered and qualified elector thereof, or who has, within ninety days preceding such election, been employed in any capacity, other than that of an election officer, or as a clerk en-

gaged in the registering of electors, by the county, city and county, or incorporated city and town in which he resides.

(f) **Notice of appointment. Form. Oath of office of inspector.** Upon filing a list of the names and addresses of those who have been appointed election officers the county clerk or registrar of voters shall immediately mail or deliver to each person appointed a notice that he, or she, has been appointed, stating therein the position to which he or she has been assigned, and the penalty for failure to serve, also such other matter as the county clerk or registrar of voters may determine. He shall also publish the names of the election officers appointed and polling places designated for each election precinct in some daily newspaper published in the county or city and county where the election is to be held, for three successive issues, the last publication to be at least one week before the day such election is to be held. He shall also mail or deliver to each person appointed as inspector for any precinct immediately after such appointment a notice of the persons appointed to serve as election officers in that precinct. Said notice shall be substantially in the following form:

Office of the County Clerk (or Registrar of Voters)
County of —.

Notice to Election Officers.

To —, inspector for — precinct.

The polling place for the — precinct at the election to be held on — the — day of — is — and the board of election for said precinct is composed of the following persons:

Position.	Name.	Address.
—	—	—
—	—	—
—	—	—

You, as inspector, must, before the polls are opened, see that each of these persons have taken the oath required by law and that no person is permitted to act as election officer unless he or she has taken such oath and actually resides in the precinct and is registered as an elector thereof and is not and has not been employed in any capacity, other than that of election officer, or as clerk engaged in the registering of electors, within ninety days of the election, by the county or city and county or by the incorporated city and town in which he, or she, resides. If any of these persons is not qualified to act or in case any of them do not appear at the opening of the polls, the qualified electors present, including members of the board, shall appoint in his or her place one who is qualified who shall take the required oath of office which will be found set forth in the poll list.

— — —,
County clerk (or other official).

Accompanying said notice shall be an oath of office in blank which shall be immediately sworn to by the inspector free of charge before any officer authorized to administer oaths, and before performing any of the duties required of him, and which oath shall be returned to the county

clerk or registrar of voters within twenty-four hours after receipt thereof. Said oath shall be substantially in the following form:

State of California, }
County of ——— } ss.

I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of California, and that I will faithfully discharge the duties of the office of inspector on the board of election for ——— precinct according to the best of my ability.

Subscribed and sworn to before me this ——— day of ——— 191—.

(Name and designation of official before whom taken.)

(g) **Oath of office of election board.** On the day of election and before entering upon the performance of their duties, each of the other election officers shall take a similar oath before said inspector, or in case he is not present, before any other of themselves, each of whom is for this purpose authorized to administer an oath. Such oaths shall be taken and subscribed upon a form which shall be provided for that purpose in the poll list for that precinct.

(h) **Persons eligible as members of election board. Extra duties. Canvassing ballots.** No person shall be eligible to act as a member of any election board who cannot read and write the English language, nor shall any person be appointed an election officer or act as such who is not at the time in every respect qualified to act as such election officer, except as hereinbefore provided, nor shall any person so appointed serve as such until he has taken the oath required. The inspector, judges and clerks upon each board of election shall distribute the extra duties devolving upon such board of election, in addition to their own duties, in such a manner as they themselves shall deem most advantageous, and such extra duties assigned to the several officers or clerks of boards of election by other sections of this code shall be performed by the members of each board as the said duties have been distributed in accordance with this provision.

Not more than two members of any board of election shall be absent from the polling place at any one time. Such board of election shall canvass the votes for such precinct, and must be present at the closing of the polls. The members of said board shall relieve each other in the duties of canvassing the ballots, which may be conducted by at least four members of the board; provided, that there shall always be two members simultaneously keeping the tally sheets, and always two members looking at the vote on the ballot from which one of said two members is reading; and provided, further, that the final certificate shall be signed by a majority of the whole.

(i) **Powers and duties of registrar of voters.** In any city and county having a registrar of voters all preliminary or other lists of persons qualified to act as election officers and all appointments of election officers shall be made by said registrar of voters and he shall have power to excuse persons appointed from serving whenever he is satisfied any such person ought to be excused, and to substitute new appointees in all

cases when any person appointed shall be excused or found disqualified or deemed incompetent down to a time when said registrar of voters shall send a final or amended list of such election officers to the inspector, for the precinct, which list shall be the registrar's final order of appointment for such precinct; such appointments shall be in the form prescribed in subdivision (f) of this section, and in addition shall have at the head thereof the words in capitals "Final precinct list of election officers."

In a city and county having such a registrar of voters he may require inspectors of election who have been appointed, to take the oath of office at the office of said registrar of voters at least ten days before the day of election, and if such inspector shall refuse or fail to so take such oath of office said registrar may substitute and appoint an inspector and administer such oath of office to such newly appointed inspector. In a city and county the publication of the list of election officers referred to in this section, may, in the discretion of the registrar of voters, be made only once. [Amendment approved May 7, 1919; Stats. 1919, p. 333.]

§ 1142a. Digest of election laws. On or before the first day of January of each even-numbered year, the secretary of state and the attorney general shall prepare a brief digest of election laws in so far as such laws affect the duties of election officers during the casting and the canvassing of the vote, and the secretary of state shall send a copy of said digest to each county clerk or registrar of voters in each county or city and county. Such digest shall be in such form as will readily indicate to election officers the substance of such provisions of the Political Code or other election laws as they may find it most important to know in the performance of their duties, and shall contain in each case a reference to the section of the said code or laws, by reference to which further examination of said provisions may be made. A copy of this digest, together with such further instructions as the county clerk or registrar of voters may desire to make, shall be prepared by him and furnished to each election officer at the time of his appointment according to the provisions of section one thousand one hundred forty-two of this code. [Amendment approved May 6, 1919; Stats. 1919, p. 292.]

§ 1151. Board for municipal elections. Under freeholders' charter. One poll list, etc. The city council or other board having charge and control of the elections of any municipality shall appoint a board of election for each election or consolidated election precinct, to consist of one inspector, two judges and three clerks for each municipal election provided for by section one thousand forty-four of this code, held within that municipality, and the board of supervisors or other board having charge or control of elections shall appoint a board of election to consist of one inspector, one judge and two clerks for every other election provided for by said section, who shall apportion among themselves the work required in the conduct of such election within their respective election precincts; provided, that at any nominating or general municipal election held under the provision of a freeholders' charter, the board or governing body charged with the conduct of such elections, may by majority consent, appoint a board of elections for each election pre-

inct, to consist of one inspector, one judge and two clerks. The members of such boards shall be appointed, and when appointed shall act, as provided for by section one thousand one hundred forty-two of this code. But one poll list, one tally list and one copy of such tally list, as provided for in section one thousand two hundred sixty-one of this code, need be kept, and but one book of original affidavits of registration need be furnished for use at each precinct, which shall be returned to the proper officers with the official returns in the manner provided for the returns at a general election. [Amendment approved May 7, 1919; Stats. 1919, p. 338.]

§1188. Nomination of candidates otherwise than by primary election. A candidate for any public office for which no nonpartisan candidate has been nominated at any primary election may be nominated subsequent to said primary election, or in lieu of any primary election, in the manner following: A nomination paper containing the name of the candidate to be nominated, with other information required to be given in the nomination papers provided for in the direct primary law then governing primary elections, shall be signed by electors residing within the district or political subdivision for which the candidate is to be presented, equal in number to at least one per cent of the entire vote cast at the last preceding general election in the state, district or political subdivision for which the nomination is to be made subject to the restrictions contained in said direct primary law. The provisions of said direct primary law as therein applied to nonpartisan offices, when the nomination to be made under this section is for an office for which nominations are made at the August primary election, and the provisions of that law as therein applied to primaries other than the August primary election and the May presidential primary election, when the nomination to be made under this section is for a municipal office or for any office to which that law does not apply, shall substantially govern as to the manner of the appointment of verification deputies, the form of nomination papers and the securing of signatures thereto, and fastening together of sections of the nomination paper containing such signatures, and the filing thereof with the county clerk, or the certification thereto by the county clerk and transmission thereof to the secretary of state or to the city clerk or secretary of the legislative body of any municipality, as the case may be, the filing of the candidate's affidavit, the payment of a filing fee, and all other things necessary to get the name of a candidate under this section upon the ballot, except that such provisions shall be directed toward getting the candidate's name on the ballot for a general or municipal election or a special election and not on the ballot for nomination at a primary election. In addition to the other matter required to be set forth on the candidate's nomination paper, it must also be set forth that each signer thereof did not vote at the primary election immediately preceding at which a candidate was nominated for the public office mentioned in said nomination paper; provided, that this statement shall be omitted in case no candidate was nominated at said primary election for the public office mentioned in said nomination paper.

Upon the filing of a sufficient nomination paper and affidavit by any candidate nominated under the provisions of this section and the pay-

ment of the filing fees as hereinbefore provided, the name of such candidate shall go upon the ballot at the ensuing general or municipal election according to the provisions of section one thousand one hundred ninety-seven of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1336.]

§ 1192. Time for filing nomination papers. Nomination papers required to be filed with the secretary of state, or with the county clerk, shall be filed not more than sixty days, nor less than thirty-five days before the day of election, when the nomination is made by electors as provided in section one thousand one hundred eighty-eight of this code. Nomination papers required to be filed with the clerk or secretary of the legislative body of any city or town, shall be filed not more than forty days nor less than twenty days before the day of election, when the nomination is made by electors as provided in section one thousand one hundred eighty-eight of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1336.]

§ 1195b. Pamphlets regarding constitutional amendments, etc., to be mailed to county clerks. Copy mailed to each voter. The secretary of state shall duly, and not less than thirty days before the election next ensuing at which such amendments, propositions, measures or questions are to be voted on, certify such pamphlet and the matters contained therein and furnish each county clerk in the state with not more than one and one-twentieth times as many copies of such pamphlets as there are registered voters in his county. The clerk of each county shall not more than twenty-five days, nor less than fifteen days prior to said election cause to be mailed to each voter a copy of such pamphlet and no other publication of such amendments, propositions, measures, questions or statements shall be necessary or authorized. Three copies of such pamphlets, to be supplied by the secretary of state, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the electors. [Amendment approved May 7, 1919; Stats. 1919, p. 388.]

§ 1196. County clerks to provide ballots. Separate ballots. Size. Water-mark. Secret design. When changed. Voter may write in name. Except as in this code otherwise provided, it shall be the duty of the county clerk of each county to provide printed ballots for every election of public officers, except elections for city or town officers, in which electors, or any of the electors, within the county, participate, and to cause to be printed in the appropriate ballot the name of every candidate whose name has been certified to or filed with the county clerk, in the manner provided for by law, together with the names certified by the secretary of state to have received in the respective parties, the highest number of votes for United States senator. Ballots other than those printed by the respective county clerks, or the clerk or secretary of the legislative body of any incorporated city or town, according to the provisions of this code, shall not be cast nor counted at any election. It shall be the duty of the county clerk of any consolidated city and county to provide separate ballots for every election for city and county officers in which the electors, or any of the electors, of such city and county, participate, and to cause to be printed on such separate

ballots the name of every candidate for a city and county office whose name has been filed with the proper officer in the manner provided by law. It shall be the duty of the clerk or secretary of the legislative body of any incorporated city or town to provide separate ballots for every election for city or town officers in which the electors, or any of the electors, of such city or town, participate, and to cause to be printed in such separate ballots the name of every candidate whose name has been filed with such clerk or secretary in the manner provided for by law. All ballots shall be not to exceed twenty-four inches in length, and shall be of sufficient width to contain in parallel columns three inches in width the names of all candidates nominated, and below the printed list of candidates for each office, the necessary blank space or spaces to permit an elector to write in the names of persons whose names are not printed on the ballot, and to contain in a separate column or columns of sufficient width statements of all questions, propositions or constitutional amendments to be submitted to vote of the electors, and shall be printed on tinted paper furnished by the secretary of state. It shall be the duty of the secretary of state to obtain and keep on hand, a sufficient supply of paper for ballots, and to furnish the same in quantities ordered, to any county clerk, or clerk or secretary of the legislative body of any incorporated city or town, upon payment by them of the cost of such paper. Such paper shall be water-marked with a design to be furnished by the secretary of state, in such manner that the said water-mark shall be plainly discernible on the outside of such ballot when folded according to law. Such design shall be kept secret from all persons not engaged in the preparation, printing or distribution of the paper or ballots, until the day of election. Such design shall be changed for each general election, and the same design shall not be used again at any general election within the space of fourteen years; but at any special or separate local election, paper marked with the design used at the previous election may be used. Nothing in this code contained shall prevent any voter from writing upon his ballot the name of any person for whom he desires to vote for any office and such vote shall be counted the same as if printed upon the ballot, and marked as voted for. [Amendment approved May 7, 1919; Stats. 1919, p. 371.]

§ 1197. **One form of ballot.** There shall be provided at each polling place, at each election at which public officers are voted for, but one form of ballot for all the candidates for public office, and every ballot shall contain the names of all the candidates whose nominations for any office specified on the ballot have been duly made and not withdrawn, as provided by law together with the title of the office arranged to conform as nearly as practicable to the plan hereinafter set forth.

2. Order of list of offices. The order in which the list of offices shall appear on the ballot shall, as to state offices and district offices, when the district includes more than one county, be determined by the secretary of state, and shall as nearly as may be practicable be the same for all counties. The order in which the list of county offices or district offices embracing one county or less, shall appear on the ballot, shall be determined by the county clerk.

The order in which the list of candidates for any office shall appear upon the ballot shall be determined as follows:

faced gothic capital type, not smaller than twelve point, each such word being separated from the names of the candidates beneath by a three-point line.

6. Borders. Perforations. Number. General ticket. Municipal ticket.

The left-hand side of each column of names on the ballot, and also the right-hand side of each column of voting squares, shall be bordered by a broad printed line one-twelfth of an inch wide. The ballot shall be so printed as to give each voter a clear opportunity to designate, by stamping a cross (X) in a blank inclosed space hereinbefore designated as the voting square on the right of and after the name of each candidate whose name is printed on the ballot, his choice of particular candidates, or his choice of each and all of a group of candidates as provided in subdivision 2 of this section. The binding or stitching of each package of ballots shall be on the left side thereof. The ballot shall be printed on the same leaf with a stub not over one and one-half inches in width and separated therefrom by a perforated line from top to bottom, one-half inch to the left of the broad printed line along the left border of the ballot. Upon this stub shall be printed the number of the ballot only. On each ballot a perforated line shall extend across the top of the ballot one inch from the top thereof. The same number as appears on the stub shall be printed above said perforated line within two inches of the perforated line on the left-hand side of the ballot, and above this number shall be printed in parentheses, in small type, as follows: (This number is to be torn off by inspector); and one-half inch to the right of this ballot number there shall be a short perforated line extended from the perforated line along the top of the ballot to the top edge of the ballot. Immediately above said perforated line shall be printed in black-face lower case type at least twelve point in size, and inclosed in a parenthesis, the following "(Fold ballot to this perforated line, leaving top margin exposed)." Above this printed direction, and midway between it and the top edge of the ballot, shall be printed in black-face capital type at least twelve point in size, and with the four middle words underlined or otherwise made prominent, the following: "Mark Crosses (X) on Ballot Only With Rubber Stamp; Never With Pen or Pencil." The number on each ballot shall be the same as that on the corresponding stub, and the ballots and stubs shall be numbered consecutively in each county. All ballots printed by county clerks or registrars of voters other than the separate ballots containing the names only of candidates for city and county offices, printed by the county clerks or registrars of voters of consolidated cities and counties, shall have printed immediately below the perforated line along the top of the ballot, and above the instructions to voters, the words in capital type at least twelve point in size the words "General Ticket," followed by the respective number of the congressional, senatorial, and assembly district in which the ballot is to be voted; and all ballots printed by county clerks or registrars of voters of consolidated cities and counties containing the names of city and county offices, and also all ballots printed by the clerk, registrar of voters, or secretary of a legislative body of any incorporated city or town, shall have printed in the same manner below the perforated line the words "Municipal Ticket." All

municipal ballots shall be printed upon paper of a different tint from that of the general ballot.

7. Ballots of same size. All of the ballots of the same sort prepared by any county clerk or registrar of voters, or clerk or secretary of a legislative body, or other person having charge of the preparing of such ballots, for the same polling place, shall be precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that without the numbers on the stubs it shall be impossible to distinguish any one of the ballots from the other ballots of the same sort; and the names of all candidates printed upon the ballot shall be in type of the same size and character.

8. Two officers for different terms. If two or more officers are to be elected for the same office for different terms, the terms for which each candidate for such office is nominated shall be printed on the ballot as a part of the title of the office. If at a general election an office is to be filled for a full term, and also for a vacancy in another term the list of candidates for the full term shall be placed on the ballot under the designation of the office with the words "Full Term" printed immediately thereafter, and the list of candidates to fill the vacancy shall be placed on the ballot under the designation of the office with the words "Short Term" printed immediately thereafter.

9. Propositions column. Whenever any question, proposition or constitutional amendment is to be submitted to the vote of the electors, there shall be printed at the right of the last column of names of candidates, another column, or columns of sufficient width, with voting squares, in which such question, proposition or constitutional amendment shall be designated, which designation shall consist of a statement prepared as herein provided for, and opposite such question, proposition or constitutional amendment to be voted on, in separate lines, the words "Yes" and "No" shall be printed. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes," his vote shall be counted in favor of the adoption of the question, proposition or constitutional amendment; if he shall stamp a cross (X) after the printed word "No," his vote shall be counted against the adoption of the same.

10. Instruction to voters. On the top of the face of the ballot the following directions shall be printed:

INSTRUCTIONS TO VOTERS:

To vote for a candidate of your selection, stamp a cross (X) in the voting square next to the right of the name of such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (X) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however, the number of candidates who are to be elected. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank space left for that purpose.

To vote on any question, proposition or constitutional amendment, stamp a cross (X) in the voting square after the word "Yes" or after

the word "No." All marks, except the cross (X) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void.

In elections when electors of president and vice-president of the United States are to be chosen, there shall be placed upon the ballot in addition to the instructions to voters as above provided, an additional instruction as follows: "To vote for all or a group of persons, stamp a cross (X) in the square opposite such group," this instruction appearing immediately before the words: "To vote for a person not on the ballot."

If you wrongly stamp, tear or deface this ballot, return it to the inspector of election and obtain another.

10. **Form of ballot.** Except as to the order of the names of candidates, the ballots shall be printed substantially in the following form: [Form of ballot on pages 291, 292.] [Amendment approved May 7, 1919; Stats. 1919, p. 372.]

MARK CHOICES (X) ON BALLOT ONLY WITH RUBBER STAMP: NEVER WITH PEN OR PENCIL

(Fold Ballot to this Perforated Line, leaving Top Margin exposed)

GENERAL TICKET—7th CONGRESSIONAL, 20th SENATORIAL, 72nd ASSEMBLY DISTRICT

INSTRUCTIONS TO VOTERS:

INSTRUCTIONS TO VOTERS:

[illegible]

3347

(This number to be torn off
by Registrar)
3347

MARK CROSSES (X) ON BALLOT ONLY WITH RUBBER STAMP; NEVER WITH PEN OR PENCIL

reproducible form

(Fold Ballot to this Perforated Line, leaving Top Margin exposed)

GENERAL TICKET—7th CONGRESSIONAL, 30th SENATORIAL, 72nd ASSEMBLY DISTRICT

INSTRUCTIONS TO VOTERS:

To vote for a candidate of your selection stamp a cross (X) in the voting square next to the right of the name of such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (X) after the names of the candidates for that office for whom you desire to vote, not to exceed the number of candidates who are to be elected. To vote for a person not on the ballot, write the name of such person under the voting square in the blank space left for that purpose. To vote on any question, proposition or constitutional amendment, stamp a cross (X) in the voting square after the word "Yes" or after the word "No." All marks, except the cross (X) are forbidden. All distinguishing marks or initials are forbidden and make the ballot void. If you wrongly stamp, tear or deface this ballot, return it to the Inspector of Election and obtain another.

STATE		LEGISLATIVE	
Governor <small>Yes to No</small>	Attorney General <small>Yes to No</small>	State Auditor, Fifty-sixth Senatorial District <small>Yes to No</small>	
JOHN C. KELLY, Republican	JOHN MASTERS, Socialist	H. C. CHAPIN, Democrat, Probationer	
THOMAS G. ADAMS, Democrat		C. S. COLBY, Socialist	
FRANK K. BROWN, Prohibition	Surveyor General <small>Yes to No</small>	T. K. JONES, Republican	
	HENRY SULLIVAN, Democrat		
Lieutenant Governor <small>Yes to No</small>	JOHN BENSON, Republican	Member of the Assembly, Twenty-second District <small>Yes to No</small>	
I. G. STEVENS, Republican, Prohibition	WILLIAM FULLER, Prohibition	T. J. KERR, Republican, Probationer	
M. DEAN, Democrat, Socialist	Superintendent of Public Instruction <small>Yes to No</small>	A. R. SPAULDING, Democrat	
M. DUFFY, People's Party	C. C. THOMPSON		
Chief Justice of the Supreme Court <small>Yes to No</small>	I. W. MASON	COUNTY	
JOHN LAW	A. L. SMITH	Judge of the Superior Court <small>Yes to No</small>	
HENRY McBRIDE	Member State Board of Supervisors, Fourth District <small>Yes to No</small>	LUCIEN EARLE	
	FRANK MATTHEWS, Republican	VILAS MACKY	
Associate Justice of the Supreme Court <small>Yes to No</small>	JAMES HANDLEY, Democrat		
ARTHUR COREY	FRANK MARK, Socialist, Prohibition	Sherriff <small>Yes to No</small>	
JOHN WHITE		M. C. CONNELLY	
	CONGRESSIONAL	L. MIND, Democrat	
Secretary of State <small>Yes to No</small>	United States Senator <small>Yes to No</small>		
CLINTON STOLZ, Democrat, Republican	JOHN McCULLOUGH, Republican, Probationer		
ARCH DENNY, Socialist	T. H. BERNHART, Democrat		
CLAUDE PIERSON, Labor Party	A. L. CURTIS, Socialist		
Comptroller <small>Yes to No</small>	Representative in Congress, Twenty Congressmen District <small>Yes to No</small>		
HENRY SIMPSON, Democrat	ALLEN WHITE, Republican		
TOMES JONES, Socialist, Republican	GEORGE MURRAY, Democrat		
JOHN MADISON, People's Party	EDGAR SHANNON, Prohibition		
Treasurer <small>Yes to No</small>			
EDGAR ALLEN, Prohibition			
FREDERICK LUBENS, Republican, Democrat			

PROVIDENCE, R. I. 1900

§ 1203. Ballot-boxes. Booths for voters. Supplies. Names may be written in on printed ballot. All officers upon whom is imposed, by law of the state, the duty of designating polling places, shall cause such polling places to be suitably provided with a ballot-box, to be marked on the outside "General Tickets," and when any city, city and county, or town officers are to be elected, a second ballot-box, to be marked on the outside "municipal tickets"; and shall also provide a sufficient number of places, booths, or compartments, at or in which voters may conveniently mark their ballots, so that in the marking thereof they may be screened from the observation of others, and a guard-rail shall be so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot-boxes, and of such booths or compartments. The arrangement shall be such that neither the ballot-boxes nor the box-booths or compartments shall be hidden from the view of those just outside the said guard-rail. The number of such voting booths or compartments shall not be less than one for every forty electors qualified to vote in the precinct. No person other than electors engaged in receiving, preparing, or depositing their ballots shall be permitted to be within said rail before the closing of the polls, except by authority of the board of election, and then only for the purpose of keeping order and enforcing the law. Each of said voting booths or compartments shall be kept provided with proper supplies and conveniences for marking the ballots; provided, that no such supplies or conveniences shall be furnished other than the ink-pads and stamps by which a cross (X) may be made as herein provided for. And the election officers shall especially see that the stamps and ink-pads required are at all times in such booths and in condition for proper use; and all officers upon whom is imposed, by the law, the duty of designating polling places shall supply each polling place with several stamps and several ink-pads for each booth, and such stamps shall be so made that a cross (X) may be made with either end of such stamp, and the same must be so constructed that the portion with which such cross (X) is to be made shall not be fastened on by any glue or like substance which may loosen when wet, but the said stamp shall be one solid piece; provided, however, that nothing herein contained shall prevent an elector from using a pencil for the purpose of writing in on the ballot the name of any candidate for whom he desires to vote. [Amendment approved May 5, 1919; Stats. 1919, p. 319.]

§ 1206. Occupancy of booths. Names may be written in on ballot in pencil. No more than one person shall be permitted to occupy any one booth, at one time, and no person shall remain in or occupy a booth longer than necessary to prepare his ballot, and in no event longer than ten minutes. The board having charge and control of elections shall not furnish for use in the voting compartments any other or additional means or method by which a ballot may be marked than the ink-pads and rubber stamps by which a cross (X) may be made as provided for in this code; provided, however, that nothing herein contained shall prevent an elector from using a pencil for the purpose of writing in on the ballot the name of any candidate for whom he desires to vote. [Amendment approved May 5, 1919; Stats. 1919, p. 320.]

§ 1239. Rules for determining place of residence. The board of election, in determining the place of residence of any person, must be governed by the following rules, as far they are applicable:

1. That place must be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning;

2. A person must not be held to have gained or lost residence by reason of his presence or absence from a place while employed in the service of the United States, or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum, or prison;

3. A person must not be considered to have lost his residence who leaves his home to go into another state, or precinct in this state, for temporary purposes merely, with the intention of returning;

4. A person must not be considered to have gained a residence in any precinct into which he comes for temporary purposes merely, without the intention of making such precinct his home;

5. If a person remove to another state with the intention of making it his residence, he loses his residence in this state;

6. If a person remove to another state with the intention of remaining there for an indefinite time, and as a place of present residence, he loses his residence in this state, notwithstanding he entertains an intention of returning at some future period;

7. The place where a man's family resides must be held to be his residence; but if it be a place for temporary establishment for his family, or for transient objects, it is otherwise;

8. If a man have a family fixed in one place, and he does business in another, the former must be considered his place of residence; provided, that any man having a family, and who has taken up his abode with the intention of remaining, and whose family does not so reside with him, must be regarded as a resident where he has so taken up his abode;

9. The residence of the husband is the residence of the wife except in the case mentioned in the provision in subdivision eight hereof;

10. The mere intention to acquire a new residence, without the fact of removal, avails nothing, neither does the fact of removal, without the intention. [Amendment approved May 10, 1917; Stats. 1917, p. 416.]

§ 1253. Canvass commenced. The canvass must be commenced by taking out of the box the ballots, unopened, except so far as to ascertain whether each ballot is single, and counting the same to ascertain whether the number of ballots corresponds with the number of names on the list of voters kept by the clerks. [New section added May 7, 1919; Stats. 1919, p. 338.]

§ 1258. Tally of votes. Each clerk must write down each office to be filled, and the name of each person marked in each ballot as voted for to fill such office, and keep the number of votes by tallies, as they are read aloud. Such tallies must be made with pen and ink or indelible pencil as the name of each candidate voted for is read aloud from the respective ballot, and immediately upon the completion of the tallies the clerks who respectively complete the same must draw two heavy lines

in ink or indelible pencil from the last tally mark to the end of the line in which such tallies terminate, and also write the initials of the person making the last tally in such line. The ballot so read and the tally sheet so kept, must, during the reading and tallying, be within the clear view of watchers of the count. [Amendment approved May 7, 1919; Stats. 1919, p. 338.]

§ 1483. Rights of students under diplomas from Hastings College of the Law. [Repealed May 23, 1917; Stats. 1917, p. 880.]

§ 1489. Powers and duties of normal school trustees. The powers and duties of each board of trustees of the state normal schools of California are as follows:

1. To prescribe rules for their government and the government of the school;

2. To prescribe rules for the reports of officers and teachers of the school and for visiting other schools and institutions;

3. To provide for the purchase of school apparatus, furniture, equipment, stationery, and text-books for the use of students;

4. To establish at their discretion, and maintain model and training schools of the primary, grammar and intermediate grade, including the ninth year grade, and, in their discretion, of the kindergarten grade, and to require the students of the normal schools to teach and instruct classes therein;

5. To establish at their discretion courses for the training of teachers of drawing, music, physical culture, and commercial, technical, or industrial subjects in the elementary and secondary schools of the state and upon the satisfactory completion of these courses to grant diplomas of graduation therefrom;

6. To elect the president of the school, who shall be ex-officio secretary of the board, and an assistant secretary who shall receive such salary as may be allowed by the board; and to elect the teachers, upon their nomination by the president of the school, fix their salaries, and prescribe their duties; provided, that after the president or a teacher has served successfully and acceptably in the school for the period of two years prior to or after the passage of this act, his or her appointment thereafter may, at the discretion of the board of trustees, be made for a term not to exceed four years, unless removed for cause; and provided, further, that in case a teacher employed in a California state normal school is engaged to instruct in normal extension work, evening work, special Saturday work, or summer school work, he may receive such additional compensation for the same as may be agreed upon by the employing board of trustees;

7. To control and expend all moneys appropriated for the support and maintenance of the school, and all moneys received for tuition or donations;

8. To cause a record of all their proceedings to be kept, which shall be open to public inspection at the school;

9. To keep open to public inspection an account of receipts and expenditures;

10. To annually report to the state superintendent of public instruction a statement of their transactions, and of all matters pertaining to the school;

11. To transmit with such report a copy of the president's annual report;

12. To revoke any diploma by them granted, on receiving satisfactory evidence that the holder thereof is addicted to drunkenness, is guilty of gross immorality, or is reputedly dishonest in his dealings, or is guilty of persistent defiance of, and refusal to obey the laws regulating the duties of teachers; provided, that such person shall have at least thirty days' previous notice of such contemplated action, and shall, if he asks it, be heard in his own defense;

13. On recommendation of the faculty and president of the school, to exclude students, who, because of poor scholarship or other evidences of unfitness, are judged incapable of becoming successful teachers in the public schools of the state;

14. To establish and maintain courses of study only in accordance with the rules and regulations prescribed by the state board of education as provided in section one thousand five hundred nineteen of the Political Code;

15. To detail one or more regular teachers of the normal school for normal school extension service in the rural schools of the state and to pay the salary and transportation expenses of any such teacher; provided, that the normal school extension service in any county shall be given only with the approval of the county superintendent of schools. Such normal school extension service may include a special study of rural school conditions and problems, and supervision and instruction of classes in the rural schools. [Amendment approved May 31, 1917; Stats. 1917, p. 1651.]

§ 1505. Supervision by superintendent of public instruction. [Repealed May 31, 1917; Stats. 1917, p. 1419.]

§ 1519. Powers. The state board of education shall have power and it shall be its duty:

Adopt rules. Rules for normal schools. First—to adopt rules and regulations not inconsistent with the laws of this state for its own government, for the government of its appointees and employees, for the government of the day and evening elementary schools, the day and evening secondary schools, the technical and vocational schools of the state, for the government of the several normal schools of the state as hereinafter provided, and for the government of such other schools, excepting the University of California, as may receive in whole or in part financial support from the state. Such rules and regulations shall be published for distribution as soon as practicable after adoption.

At the joint meeting of this board and the representatives of the normal schools of the state provided for in section one thousand five hundred eighteen of the Political Code, matters affecting the normal schools may be presented by members of the board, by the superintendent of public instruction and the commissioners of education, and by the representatives of the normal schools, and, after due presentation and consideration, the board may adopt rules and regulations for the government of the normal schools in the following matters:

(a) **Standardizing course of instruction.** The standardizing, as far as the board shall deem it wise and necessary, of the courses of instruction offered in the several normal schools for the preparation of teachers for the public schools of the state.

(b) **Courses for special teachers.** The establishing and conducting in any or all of the normal schools of the state of such courses of instruction as shall prepare for the public schools of the state special teachers in any or all of the subjects of drawing, music, physical education, and commercial, technical or industrial branches.

(c) **List of text-books.** The compiling and publishing of a list of text-books for use by the students of the several normal schools of the state; provided, that the state series of text-books shall be used in the grades and classes for which they are adapted, and that all other regular text-books shall be selected by the various normal school authorities from said list.

(d) **Standards of admission.** The prescribing of the standards of admission for students entering the normal schools, and the rules for transfer of pupils from one normal school to another; provided, that a student for good cause, may, upon recommendation of the president of the school from which he seeks to be transferred, enter any other normal school and without examinations be admitted to classes corresponding to those in the school which he has left.

(e) **Graduation.** The determination of the time and standards for graduation from the state normal schools.

Assistant superintendents of public instruction. Second—To appoint three assistant superintendents of public instruction, who shall not be subject to the provisions of any civil service law of the state, and who shall be known and designated as follows:

(a) One commissioner of elementary schools, who shall be experienced in teaching in and supervising elementary schools.

(b) One commissioner of secondary schools, who shall be experienced in teaching and who has been principal or supervisor of secondary schools.

(c) One commissioner of industrial and vocational education who has had experience as a supervisor of industrial or vocational education.

Subpoenas for witnesses before board. Third—to issue subpoenas to compel the attendance of witnesses before the board or any member thereof, in the same manner that any court in this state may; and whenever the testimony of any witness upon any matter pending before it is material, the president must cause the attendance of the witness before such board, or a member thereof, to testify concerning such matter, and the board may make a reasonable allowance therefor, not exceeding the fees of witnesses in civil cases, which must be paid for out of the appropriation for the contingent expenses of the board, but in no instance can an allowance be made in favor of a witness who appears in behalf of a claimant.

Seal. Fourth—To adopt and use, in authentication of their acts, an official seal.

Printing. Fifth—To have done by the state printer, or other officer having the management of the state printing, any printing required by

it; provided, that all orders for printing shall first be approved by the state board of control.

General duties. Sixth—The state board of education shall study the educational conditions and needs of the state; shall make plans for the improvement of the administration and efficiency of the public schools of the state; shall have power to conduct educational investigations and shall employ educational and business experts, within the limits of its appropriation therefor; shall annually require reports as to the activities of the superintendent of public instruction and the assistant superintendents, and such other employees as it may direct to report, for submission to the governor, and the same shall submit biennially to the governor, on or before the fifteenth day of September next preceding the regular session of the legislature, a report of its transactions for the preceding two years, together with recommendations of its needs for the coming biennium, and such recommendations as to changes in laws or new educational legislation as may seem to it to be necessary.

Acting secretary. Seventh—To appoint an acting secretary, who shall also act as executive officer of the board in the absence of the superintendent of public instruction from his office or in case of his incapacity for duty. [Amendment approved May 18, 1917; Stats. 1917, p. 699.]

§ 1519a. Powers of state board of education. The state board of education shall have power and it shall be its duty:

Credentials for high school certificates. First—To prescribe by general rule the credentials upon which persons may be granted certificates to teach in the high schools of this state. No credentials shall be prescribed or allowed, unless the same, in the judgment of said board, are the equivalent of a diploma of graduation from the University of California, and are satisfactory evidence that the holder thereof has taken an amount of pedagogy equivalent to the minimum amount of pedagogy prescribed by the state board of education of this state, and include a recommendation for a high school certificate from the faculty of the institution in which the pedagogical work shall have been taken.

Applicants without credentials. Second—To consider the cases of individual applicants who have taught successfully for a period of not less than seventeen school months, and who are not possessed of the credentials prescribed by the board under the provisions of this section, and where the evidence submitted by the applicant does not satisfy the board it may, in its discretion, provide for his examination. The said board, in its discretion, may issue to such applicants high school credentials upon which they may be granted certificates to teach in the high schools of the state. In such special cases, the board may take cognizance of any adequate evidence of preparation which the applicants may present. The standard of qualification in such special cases shall not be lower than that represented by the other credentials named by the board under the provisions of subdivision first of this section.

Qualifications for special certificates. Third—To establish and prescribe by general regulations the qualifications upon which county boards of education may grant to any person a special certificate to teach any special subject or subjects in such grades as are mentioned therein; provided, that no qualification shall be prescribed for certification to teach

In any grade whatever a vocational subject unless the candidate shall have had, as a minimum, three years' experience as a journeyman, or, where this terminology does not apply, its equivalent, in the vocation in which he desires certification.

Credentials for attendance officers. Third *a*—To establish and prescribe by general regulations the qualifications upon which county or city and county boards of education may grant to any person a special credential to serve as attendance officer or assistant attendance officer.

Applicants without above qualifications. Fourth—To consider the cases of individual applicants who are not possessed of the qualifications prescribed in subdivision third of this section, or in the general regulations of the state board of education, and where the evidence submitted by any applicant who meets the academic requirements of the board does not satisfy the board of his knowledge of the special subject and methods of teaching the same, it may, in its discretion, provide such examination as it may deem expedient and wise. When the state board of education is satisfied that any applicant possesses qualifications equivalent to those so specified, it may issue to such applicant a state board credential upon which county boards of education may grant to him a special certificate to teach such special subject or subjects as are listed in said credential in such grades and for such length of time as therein specified.

Applicants without credentials for kindergarten certification. Fourth *a*. —To consider the cases of individual applicants, who are not possessed of the credentials accredited by the board for kindergarten certification. When the state board of education is satisfied that any applicant possesses qualifications equivalent to those represented by credentials so accredited, it may issue to such applicant a state board credential upon which county boards of education may grant a certificate to teach in the kindergartens of the county and in such other grades as the legislature may prescribe by general law; provided, the standard for such special credential shall not be lower than that represented by credentials accredited by the board.

Applicants for elementary school credentials. Fourth *b*—To consider the case of any applicant for an elementary school credential, who is a graduate of a normal school or college, or who holds a life diploma or life certificate of another state. When the state board of education is satisfied that any such applicant possesses the qualifications which fit him for elementary school teaching as well as does graduation from a California state normal school, it may issue to such applicant a state board credential upon which any county board of education may grant to him an elementary school certificate.

Life diplomas. Fifth—To grant life diplomas for four grades, valid throughout the state, as follows:

(1) High school, authorizing the holder to teach in any primary or grammar or high school.

(2) Elementary school, authorizing the holder to teach in any elementary school.

(3) Kindergarten-primary, authorizing the holder to teach in the kindergarten class of any primary school.

(4) Special, authorizing the holder to teach in any school such special branches and in such grades as are named in such diploma.

Qualifications for life diplomas. Fee. Sixth—To issue, except as provided in sections one thousand five hundred three and one thousand seven hundred seventy-five of this code, life diplomas only to such persons as have held for one year, and still hold, a valid county, or city and county, certificate, corresponding in grade to the grade of diploma applied for, and who shall furnish satisfactory evidence of having had a successful experience in teaching of at least forty-eight months. Not less than twenty-one months of said experience shall have been in the public schools of California. Every application must be accompanied to the state board of education by a certified copy of a resolution adopted by at least a three-fourths vote of all the members composing a county, or city and county, board of education, recommending that the diploma be granted, and also by an affidavit of the applicant, specifically setting forth the places in which, and the dates between which, said applicant has taught. The application for any credentials or document mentioned in this chapter must be accompanied by a fee of two dollars, and in addition thereto each applicant permitted to take an examination shall, before he is so permitted, pay a fee of ten dollars. Each applicant for a life diploma shall pay a fee of three dollars, the same to cover the cost of the credential and accompanying portfolio. All of the above fees must be paid into the state treasury to the credit of the contingent fund of the state board of education and applied by said board in defraying or in partially defraying the expense of investigating the qualifications of candidates, issuing credentials, documents or diplomas, and providing for the employment of professional experts to conduct examinations for special credentials and high school credentials, as specified in subdivisions second and fourth of this section.

Revocation or suspension of life diplomas. Seventh—To revoke or suspend for immoral or unprofessional conduct, or for evident unfitness for teaching, life diplomas, documents issued under the provisions of sections one thousand five hundred three and one thousand seven hundred seventy-five of this code, or credentials issued in accordance with the provisions of this section; and to adopt such rules for said revocation as they may deem expedient or necessary.

Commission of credentials. Eighth—The state board of education is hereby authorized to create a commission of credentials, to consist of the superintendent of public instruction, the commissioner of elementary schools, the commissioner of secondary schools and the commissioner of industrial and vocational education. This commission, when directed by the board, shall have authority to review the cases of applicants for any of the credentials specified in subdivisions second, third *a*, fourth, fourth *a* and fourth *b* of this section, and when said commission is satisfied that any candidate fully meets the standard maintained by the state board it may issue the proper credentials; provided, that said credentials to be valid must be issued upon the regular form used by the state board of education and must be signed by the secretary and president of said state board. The state board of education is further authorized to assign to the commission of credentials such duties relating to life diplomas,

certificates, certification, and the accrediting of institutions for purposes of certification, as it may see fit.

Provision for physical education. Appropriation. Ninth—The state board of education shall have power and it shall be its duty to provide for the organization and supervision of courses in physical education in the public schools of this state in accordance with "An act to provide for the organization and supervision of courses in physical education in the elementary, secondary and normal schools of the state and appropriating ten thousand dollars therefor," approved May 26, 1917. The sum of thirty thousand dollars is hereby appropriated out of any moneys belonging to the state not otherwise appropriated for the use of the state board of education during the seventy-first and seventy-second fiscal years in carrying out the provisions of this paragraph. [Amendment approved May 27, 1919; Stats. 1919, p. 1214.]

This section was also amended in 1917. See Stats. 1917, p. 701.

§ 1519b. **Powers of state board of education.** The state board of education shall have power and it shall be its duty:

Compile text-books. First—To compile in whole, or in part, and to manufacture such text-books as are now in use; to compile, or cause to be compiled, and manufacture such other additional text-books or books, as it may deem necessary or proper for use in the elementary schools of the state, as provided by section one thousand six hundred sixty-five of the Political Code; to purchase books when necessary, or lease plates, maps, engravings or copyright matter for use in manufacturing such text-books; contract for, or lease copyrights for use in compiling, printing or publishing such books; to provide for the payment of royalties or for the leasing of plates or making the whole or any part of a book, and to do any or all things that may be necessary for the purpose of procuring a uniform series of text-books for use in the elementary day and evening schools of the state.

Contract for use of plates, etc. Second—Whenever any plates, maps, or engravings of any publisher or author are adopted for use, or whenever any books have been purchased, as hereinbefore provided, the state board of education shall enter into a contract for not less than four years nor more than eight years for the use of the same in the elementary day and evening schools of the state, and shall require a good and sufficient bond of the owner or owners of such books, plates, maps or engravings under a written guaranty that the same shall be kept revised and free from all errors and up to date as may be required by the state board of education.

Copyrights. Uniform use of text-books. Third—The state board of education may secure copyrights in the name of the people of the state of California, to any book that may be compiled. Whenever any one or more of the state text-books shall have been compiled or purchased, published and adopted, the superintendent of public instruction, on the order of the state board of education shall issue an order to all county, city, city and county school superintendents by sending notices by registered mail to said superintendents who in turn shall notify the secretaries of all boards of education in the cities and the clerk of the board of school trustees and the teacher or principal in each school district,

requiring the uniform use of such book, in the grades of the elementary day and evening schools for which they have been adopted, and when such order has thus been given and published, the same shall remain in force and effect for a term of not less than four nor more than eight years; provided, that such order for the uniform use of such book, shall not take effect until the beginning of the next fiscal year; namely, the first of July next following the issue of the order, or at such time thereafter as may be fixed by the state board of education; provided, that the book shall go into use at the beginning of a fiscal year.

When a book has been adopted, the state board of education shall enforce the uniform use of such book, in the elementary day and evening schools for which said book has been adopted.

Refusal to use state text-books. Fourth—Any teacher, or city, county, or city and county superintendent of schools or any board of education, refusing or neglecting to use said series of state text-books at the time required in the last preceding subdivision of this act, shall be guilty of a misdemeanor, and upon proof thereof of such refusal or neglect, shall be subject to a fine not exceeding one hundred dollars for each offense; provided, that nothing herein contained shall in any way restrict the additional use of such books as are now provided in section one thousand seven hundred twelve of the Political Code.

Duties of superintendent of state printing. Fifth—The superintendent of state printing shall have supervision of all of the mechanical work connected with the printing of such books as may be compiled and adopted subject to the approval of the state board of education or such representative of the state board of education as may be appointed to supervise such work. The superintendent of state printing shall print and bind such books in lots of not less than five thousand and turn them over to the state board of education at the warehouse, and receive payment therefor on the approval of the items of said cost by the state board of education or the duly authorized agent of said board, and upon the approval of the bill by the board of control. He shall furnish one copy of a cost-finding report showing items of work and the materials and the exact cost of each item for each of said lot of books, to the state board of education and one copy to the board of control. The superintendent of state printing shall on the first day of each month furnish to the state board of education a detailed statement showing the name and number of books published by him during the preceding month, and the number then in course of publication.

Board of education to fix cost price of books. Sixth—On receiving a copy of the cost-finding report and estimated cost of the publishing of any book, the state board of education thereupon shall determine and fix the cost price of such books by adding to the cost of manufacture, the contract price to be paid as royalty or for the use of plates, maps, or engravings or copyrighted matter, and said price, to which has been added ten per cent of such price to cover overhead expense, shall be deemed to be the whole cost of publication of such book at Sacramento. The state board of education may provide for the sale at not less than cost price of state text-books to private schools, individuals, or dealers under such rules and regulations as may be adopted by said board of education; provided, that such books be not sold by dealers for more than the cost price at Sacramento, plus the postage, packing and cartage

on such books, which prices shall be established by said board of education.

The state board of education may provide for the disposition of such text-books as are no longer in a fit condition to be used for purposes of instruction; provided, that whenever in its judgment it would be practicable to sell such old text-books for use in the manufacture of paper pulp or similar substances, the highest price obtainable shall be secured therefor, and the money so obtained deposited in the state school-book fund. [New section added May 18, 1917; Stats. 1917, p. 704.]

§ 1519c. State school book fund. The appropriation heretofore made, known as the "text-book appropriation," shall be subject to the draft of the state board of education for necessary expenses incurred by it for office supplies, the hiring of expert assistants, and for other necessary expenses; provided, that all claims shall be presented to the board of control for its approval. All moneys that have been received or may hereafter be received from the sale of said series of state text-books to private schools or to dealers or persons or that may be appropriated by the legislature for publishing said series of state text-books, shall be kept by the state treasurer in a fund known as the "state school book fund." This fund shall be subject to the order of the state board of education for all expenses incurred by the superintendent of printing for all material, labor, and other expenses necessary for publishing state school text-books, and for all books purchased, for the cost of shipping free text-books, and for necessary employees in connection with such shipment as may be determined by the state board of education. All claims to be drawn, after being certified by the claimant and the items approved by the secretary of the state board of education shall be presented to the board of control for its approval, and upon the approval of said board of control, the state controller is hereby authorized and directed to draw his warrant on the state treasurer, who is hereby directed to pay the same. [New section added May 18, 1917; Stats. 1917, p. 706.]

§ 1519d. Order from head of state institution. The president or principal of any state institution in which instruction is given in the elementary branches, may order such state text-book, as may be used to advantage, for use in said institution, on blanks supplied by the superintendent of public instruction; provided, such orders shall be subject to revision by said superintendent of public instruction. Such books shall be delivered free of cost to such institution on the order of the superintendent of public instruction, in the usual method of shipment. [New section added May 18, 1917; Stats. 1917, p. 707.]

§ 1521. Compensation, members of state board of education. First—The members of the state board of education shall receive as compensation fifteen dollars per day when the board is in session. They shall also receive ten dollars per day while engaged in committee work at the Sacramento or Los Angeles offices of the board or elsewhere under the direction of the state board of education; provided, that the total amount of such per diem for committee work, for all members of the board, shall not exceed two thousand five hundred dollars for any fiscal year. They shall also receive their actual and necessary traveling expenses.

Salaries, assistant superintendents of public instruction. Second—Each assistant superintendent of public instruction provided for in section one thousand five hundred nineteen of the Political Code shall receive a salary of four thousand dollars per annum, payable at the same time and in the same manner as the salary of state officers is paid. They shall also receive their actual and necessary traveling expenses while on official business.

Clerical help. Third—Within their appropriation, the state board of education may appoint such clerical and other help as may from time to time be necessary. [Amendment approved May 19, 1917; Stats. 1917, p. 750.]

§ 1532. Duties of superintendent of public instruction. It is the duty of the superintendent of public instruction:

Superintending schools. First—To superintend the schools of this state.

Report to governor. Second—To report to the governor, on or before the fifteenth day of September preceding each regular session of the legislature, a statement of the condition of the public elementary and secondary schools, the state normal schools and other educational institutions supported in whole or in part by the state.

Tabular statements accompanying report. Third—To accompany his report with tabular statements, showing the number attending public schools, and the average attendance; the amount of state school fund apportioned, and the sources from which derived; the amount raised by county, city and county and district taxes, or from other sources of revenue, for school purposes; and the amount expended for salaries of teachers, for building schoolhouses, for district school libraries, and for incidental expenses.

Apportion school funds. Fourth—To apportion the state school fund; and to furnish an abstract of such apportionment to the state controller, the state board of control, and to the county and city and county auditors, county and city and county treasurers and to the county and city and county school superintendents of the several counties of the state. In apportioning said fund he shall apportion to every county and to every city and county three hundred fifty dollars for every teacher determined and assigned to it on average daily attendance by the county or city and county school superintendent for the next preceding school year, as required of the county or city and county school superintendent by the provisions of section one thousand eight hundred fifty-eight of this code, and after thus apportioning three hundred fifty dollars on teacher basis, he shall apportion the balance of the state school fund to the several counties or cities and counties according to their average daily attendance as shown by the reports of the county or city and county school superintendents for the next preceding school year.

Draw orders for school funds. Fifth—To draw his order on the controller in favor of each county or city and county treasurer for school moneys apportioned to the county or city and county.

Prepare blanks. Sixth—To prepare, have printed, and furnish all officers charged with the administration of the laws relating to the

public schools, and to teachers, such blank forms and books as may be necessary to the discharge of their duties, including blank teachers' certificates to be used by county and city and county boards of education.

Compile school laws. Seventh—To have the laws relating to the public schools printed in pamphlet form, and to supply school officers and school libraries with one copy each.

Visit asylums. Eighth—To visit the several orphan asylums to which state appropriations are made, and examine into the course of instruction therein.

Visit schools. Ninth—To visit the schools in the different counties, and inquire into their condition; and the actual traveling expenses thus incurred, provided that they do not exceed one thousand eight hundred dollars per annum, shall be allowed, audited and paid out of the general fund in the same manner as other claims are audited and paid.

Authenticate orders. Tenth—To authenticate with his official seal all drafts or orders drawn by him, and all papers and writings issued from his office.

Bind documents. Eleventh—To have bound, at the state bindery, all valuable school reports, journals, and documents in his office, or hereafter received by him.

Report daily attendance. Twelfth—To report to the controller, on or before the tenth day of September of each year, the total average daily attendance in the elementary day and evening schools including the special day and evening elementary school classes, the average daily attendance in the day and evening high schools including the special day and evening high school classes, as shown by the annual reports of the county superintendents of the several counties on file in his office for the school year immediately preceding, and the average daily attendance of pupils upon each of such part-time vocational courses as are established and maintained by each high school district under the provisions of section one thousand seven hundred fifty c of this code, and as are shown by these reports and approved by the commissioner of vocational education.

Deliver records to successor. Thirteenth—To deliver over, at the expiration of his term of office, on demand, to his successor, all property, books, documents, maps, records, reports, and other papers belonging to his office, or which may have been received by him for the use of his office.

Inspect state normal schools. Fourteenth—To visit and inspect each state normal school from time to time, inquire into its condition and management, require such reports as he may deem proper from the teachers of the school and exercise general supervision over the same. [Amendment approved May 25, 1919; Stats. 1919, p. 1009.]

This section was also amended in 1917. See Stats. 1917, p. 1417.

§ 1533. School superintendents' convention. Expenses. He shall have power to call, annually, a convention of the county and city super-
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intendents, to assemble at such time and place as he shall deem most convenient, for the discussion of questions pertaining to the supervision and administration of the public schools, the laws relating thereto, and such other subjects affecting the welfare and interest of the public schools as shall properly be brought before it. It is hereby made the duty of all county and city superintendents to attend and take part in the proceedings of such convention when it is called. The actual expenses of the county superintendents attending the convention shall be allowed by the board of supervisors and paid out of the general fund; the actual expenses of the city superintendents attending the convention shall be allowed and paid out of the same fund as the salary of such city superintendents is paid. [Amendment approved May 8, 1919; Stats 1919, p. 402.]

§ 1534. Orders for text-books. All orders for text-books shall be forwarded to the superintendent of public instruction on blanks furnished by him. He shall investigate such orders and make necessary changes and forward the same to the person in charge of the warehouse and shipment of books with definite orders for shipment. He shall keep an accurate account of the amount of money received from the sale of text-books for each month and report to the controller on or before the fifth of the succeeding month, the number of books sold, or distributed, and the amount of money collected therefor, and shall pay such money into the treasury to the credit of the "school text-book fund." The amount fixed for royalty and costs of plates or copyright matter in favor of any company, or individual, shall be presented by the superintendent of public instruction to the state board of education for its approval. Said claim shall be paid quarterly, in the same manner as other claims upon the state treasury, on the approval of the board of control.

On receiving orders from the superintendent of public instruction for text-books the person in charge of the warehouse and shipment of books shall forward by freight, express or mail, as directed by the superintendent of public instruction, to the nearest freight depot, express or postoffice, in the name of the clerk of the school district or the city superintendent of schools in cities, the number of books called for in said order. [New section added May 18, 1917; Stats. 1917, p. 706.]

§ 1543. Duties of county superintendent of schools. It is the duty of the superintendent of schools of each county:

Superintending schools. First—To superintend the schools of his county.

Apportion school moneys. Second—To apportion the school moneys to each school district as provided in section one thousand eight hundred fifty-eight of this code, at least four times a year. For this purpose he may require of the county auditor a report of the amount of all school moneys on hand to the credit of the several school funds of the county not already apportioned; and it is hereby made the duty of the auditor to furnish such report when so required; and whenever an excess of money has accumulated to the credit of a school district beyond a reasonable amount necessary to maintain a school for eight months in such district for the year, the superintendent of schools shall place said

excess of money to the credit of the unapportioned school funds of the county, and shall apportion the same as other school funds are apportioned.

Requisitions. Third—(a) On the order of the board of school trustees, or board of education of any city or town having a board of education, to draw his requisition upon the county auditor for all necessary expenses against the school fund of any district. The requisitions must be drawn in the order in which the orders therefor are filed in his office. Each requisition must specify the purpose for which it is drawn, but no requisition shall be drawn upon the order of the board of school trustees or board of education against the funds of any district except the teachers' or janitors' salaries, unless such order is accompanied by an itemized bill showing the separate items, and the price of each, in payment for which the order is drawn; nor shall any requisition for teachers' or janitors' salaries be drawn unless the order shall state the monthly salary of teacher or janitor, and name the months for which such salary is due. Upon the receipt of such requisition the auditor shall draw his warrant upon the county treasurer in favor of the parties for the amount stated in such requisition. The order of the board of school trustees, or board of education, shall be made only on the form of blank approved by the superintendent of public instruction; provided, that said blanks shall be printed and furnished to the school districts by the board of supervisors of the respective counties of the state, and when signed by at least two members of the board of trustees, or the officials authorized to sign orders for the board of education, shall be transmitted to the superintendent, who shall, in case he approve such demand, indorse upon it, "examined and approved," together with the number and date when approved, and shall, in attestation thereof, affix his signature thereto, and deliver the same to the claimant, or his order, who shall transmit the same to the auditor, who shall, in case he allows said demand, indorse upon it "allowed," together with the number and date when allowed, and shall, in attestation thereof, affix his signature thereto, and deliver the same to the claimant and make a proper record thereof and charge against the particular fund of the particular district against which such demand was allowed; and said demand when so approved and signed by the superintendent, and when so allowed and signed by the auditor, shall constitute the requisition on the auditor, and the warrant on the treasury within the meaning of this act; and provided, further, that the county superintendent of schools, after examining and approving any demand, may transmit the same directly to the county auditor, who after allowing such demand shall return the same to the county superintendent of schools, who shall thereupon return said demand to the governing board of the school district, which shall issue said demand to the claimant or to his order.

(b) **Transfer of funds for pupils of intermediate school course.** On the order of the board of trustees or board of education of any elementary school district located within, or having the same boundaries as, a high school district which has established an intermediate school course as provided for in section one thousand seven hundred fifty *a* of the Political Code, to transfer from the school funds of such elementary school district to the fund of the board having control of such intermediate school course, such sum as may be agreed upon, as provided in section one thousand six hundred seventeen *d* of the Political Code,

by said board of trustees or board of education and said board having control of such intermediate school course, for the tuition of pupils residing in such elementary school district and attending such intermediate school course; provided, that all of the funds so transferred shall be applied exclusively to the support of the grades of such intermediate school course corresponding to the seventh and eighth grades of the regular elementary schools.

Register of requisitions. Fourth—To keep, open to the inspection of the public, a register of requisitions, showing the fund upon which the requisitions have been drawn, the number thereof, in whose favor, and for what purpose they were drawn, and also a receipt from the person to whom the requisition was delivered.

Examine schools. Fifth—To visit and examine each school in his county at least once in each year. For every school not so visited the board of supervisors must, on proof thereof, deduct ten dollars from his salary.

Teachers' institutes. Sixth—To preside over teachers' institutes held in his county, and to secure the attendance thereat of lecturers competent to instruct in the art of teaching, and to report to the county board of education the names of all teachers in the county who fail to attend regularly the sessions of the institute; to enforce the course of study, the use of state text-books, and of high school text-books regularly adopted by proper authority, and the rules and regulations for the examination of teachers prescribed by the proper authority.

Temporary certificates. Seventh—When he finds that the service makes it necessary and desirable, to issue temporary certificates as follows:

(a) A temporary kindergarten certificate to the holder of a valid kindergarten certificate issued by a county board of education of California, or to the holder of a credential issued by a school authorized by the state board of education to recommend teachers for kindergarten certificates in the state of California.

(b) A temporary elementary school certificate to the holder of a valid county certificate issued by a county board of education of California, or to the holder of a diploma issued by a California state normal school or other state normal school accredited by the state board of education.

(c) A temporary secondary school certificate to the holder of a valid county certificate of secondary grade granted by a county board of education of California, or to the holder of a valid credential of secondary grade issued by a university authorized by the state board of education to recommend candidates for the high school certificate in California or to the holder of a state board high school credential.

(d) A temporary special certificate of elementary grade or of secondary grade to the holder of a special certificate of like grade issued by a county board of education in California, or to the holder of a recommendation of like grade in special subjects issued by an institution authorized by the state board of education to recommend persons for special certificates in the state of California, or to the holder of a credential of like grade in special subjects issued by the state board of education of California; provided, that a temporary special certificate

may be issued only in such subjects as are listed in the certificate, recommendation, or credential upon which it is granted.

A temporary certificate issued between July first and December first shall expire on the January first following, and a temporary certificate when issued between December first and June twenty-ninth shall expire on the July first following; provided, that no person shall be entitled to receive a temporary certificate more than once in the same county.

Preliminary certificates. Eighth—To issue to persons in training for the teaching service "preliminary certificates" of a temporary character as follows:

(a) Upon a recommendation signed by the president, principal or director of a California school authorized by the state board of education to train teachers for kindergarten teaching, a preliminary certificate of kindergarten grade which shall authorize the holder thereof to do cadet-teaching without salary in any kindergarten school of the county.

(b) To a person holding a recommendation from a California state normal school a preliminary certificate of elementary grade which shall authorize the holder thereof to do cadet-teaching without salary in any subject in any elementary school of the county.

(c) To the holder of a recommendation from a university in this state authorized by the state board of education to issue recommendations for high school certificates, a preliminary certificate of secondary grade which shall authorize the holder thereof to do cadet-teaching without salary in any elementary or secondary school of the county.

(d) To the holder of a recommendation from a California institution authorized by the state board of education to issue credentials for teachers of special subjects, or to the holder of a recommendation from the secretary of the state board of education, under regulations prescribed by said board, a preliminary special certificate of elementary or secondary grade as specified in said recommendation. Said preliminary special certificate shall authorize the holder thereof to do cadet-teaching without salary in the special subjects listed in the recommendation upon which the preliminary certificate has been granted, in any school of like grade in the county.

No such preliminary certificate shall be granted for a period exceeding two years, nor shall the superintendent of schools collect a fee therefor.

Distribute laws, etc. Ninth—To distribute all laws, reports, circulars, instructions, and blanks which he may receive for the use of school officers.

Reports of superintendents. Tenth—To keep in his office the reports of the superintendent of public instruction.

Record of acts. Eleventh—To keep a record of his official acts and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants examined, which shall be open to the inspection of any applicant or his authorized agent.

Approval of plans for schoolhouses. Twelfth—Except in incorporated cities having boards of education, to pass upon and approve or reject all plans for schoolhouses. To enable him to do so, all boards of trustees,

before adopting any plans for school buildings, must submit the same to the county superintendent for his approval.

Appoint trustees. Thirteenth—To appoint trustees to fill all vacancies in elementary school districts as provided in section one thousand five hundred ninety-three of the Political Code or as may be otherwise provided by law; to appoint trustees to fill all vacancies in high school districts as provided in section one thousand seven hundred thirty-one of the Political Code or as may be otherwise provided by law; to appoint trustees in new elementary school districts to hold office until the first day of May next succeeding their appointment. In case of the failure of the board of school trustees to appoint a clerk of the district on the proper date or in case of a vacancy in the position of clerk of the district, the superintendent shall appoint a member of the board of school trustees clerk of the district. In case of the failure of the trustees to employ a janitor, as provided in section one thousand six hundred seventeen, subdivision seventh, of this code, he shall appoint a janitor, who shall be paid out of the school fund of the district. Should the board of school trustees of any district fail or refuse to issue an order for the compensation of such service, the superintendent is hereby authorized to issue, without such order, his requisition upon the county school fund apportioned to such district.

Reports. Fourteenth—To make reports, when directed by the superintendent of public instruction, showing such matters relating to the public schools in his county as may be required of him.

Preserve reports. Fifteenth—To preserve carefully all reports of school officers and teachers, and, at the close of his official term, deliver to his successor all records, books, documents, and papers belonging to the office, taking a receipt for the same, which will be filed in the office of the county clerk.

Grade schools. Sixteenth—The county superintendent shall, unless otherwise provided by law, in the month of July of each year grade each school, and a record thereof shall be made in a book to be kept by the county superintendent in his office for this purpose. And no teacher holding a certificate below the grade of said school shall be employed to teach the same.

Contract for Indian children. Seventeenth—On the recommendation of the county superintendent of schools, boards of school trustees and city boards of education are hereby empowered to enter into contract with the national government to receive money from said national government for the Indian children in attendance in the schools under the jurisdiction of said boards, in addition to any money that may be appropriated for such schools by the state and the county. Any money received on such contract shall be transmitted to the county superintendent of schools to be by him paid into the county treasury to the credit of the special school fund of such school district. On the receipt of such money the superintendent shall notify the clerk of the board of school trustees of the receipt of the money. [Amendment approved May 29, 1917; Stats. 1917, p. 1289.]

§ 1543b. Jurisdiction of county superintendents over joint districts. Whenever any school district is situated partly within two or more

counties, jurisdiction over such district is hereby conferred upon the county superintendent of schools of the county where the greater number of school children of such district reside, but jurisdiction now or hereafter exercised over any such district under any law of this state shall not be changed to the superintendent of another county by reason of this section or by reason of any change in the number of school children residing in the district unless a majority of the electors of the district vote in favor of such change at an election called for such purpose by the board of trustees of the district. When a new district is formed the board of supervisors of each county in which any part of the district is situated shall designate, in the order creating the district, the county superintendent which shall have jurisdiction thereover, and such determination shall be final until changed by vote of the electors of the district as hereinbefore provided. [New section added May 18, 1917; Stats. 1917. p. 712.]

§ 1548. Expenses of superintendent of schools. The expenses of the office of superintendent of schools for its stationary, blank books, postage, expressage, freight, telephone, telegraphing, and other necessary office expenses shall be allowed by the supervisors of the county, and paid out of the general fund of the county in the same manner as other claims against the county are paid. [Amendment approved May 20, 1919; Stats. 1919, p. 777.]

§ 1551. County superintendent's annual report. Every school superintendent in this state must, on or before the first day of August in each year, report to the superintendent of public instruction, and to the board of supervisors of his county, the average daily attendance in the day and evening elementary schools and the special day and evening elementary school classes, the average daily attendance in the day and evening high schools and the special day and evening high school classes and the average daily attendance of pupils upon part-time vocational courses maintained by high school districts for persons engaged three or more hours each in academic and in educative occupational work, as provided for in section one thousand seven hundred fifty c of this code, as appears by the teachers' reports on file in his office for the school year immediately preceding. It shall be the duty of every county superintendent to inquire and ascertain whether the boundaries of the school districts in his county are definitely and plainly described in the records of the board of supervisors, and to keep in his office a full and correct transcript of such boundaries. In case the boundaries of districts are conflicting or incorrectly described, he shall report such fact to the board of supervisors, and the board of supervisors shall immediately take such steps as are necessary to change, harmonize and clearly define them. The county superintendent, if he deem it necessary, may order the description of the district boundaries printed in pamphlet form, and pay for the same out of the unapportioned county school fund of the county. [Amendment approved May 31, 1917; Stats. 1917, p. 1384.]

§ 1560. (1) Teachers' institutes. Teachers must attend. Joint institutes. Expenses of. The superintendent of every county in which there are twenty or more schools districts, and of every city and county, and of every city school district governed by a city board of education

and employing seventy or more teachers, must hold at least one teachers' institute in each year; and every teacher employed in the schools of the county, city and county, or city school district holding such institute must attend the same and participate in its proceedings; and shall be paid his regular salary for the time covered by such attendance; provided, that the superintendents of two or more adjoining counties, or city and county, or city school districts may unite for the purpose of holding a joint institute or convention and may direct the teachers of their respective counties, city and county, or city school districts to attend the same in lieu of all or of a designated part of the county, city and county, or city school district institute, under the same conditions and compensations as are herein provided for the county, city and county, or city school district institute; provided, that the expense of such joint institute shall be borne proportionately by the counties, city and county, and city school districts participating therein, and shall not exceed two hundred dollars (\$200) for each county, city and county, or city school district participating therein; and shall be paid in each county from the unapportioned county school fund, in each city and county from the city and county school fund, and in each city school district from such school district's county school fund.

(2) **Refusal to hold institute. Alternative plan in counties having more than twenty districts.** A county superintendent of schools who shall refuse or neglect to hold an institute for any calendar year as directed by this section shall forfeit the last month's salary of the calendar year in which he fails to hold said institute, and the county auditor whose duty it is to draw the warrant in favor of such superintendent is hereby directed to withhold said salary for December on proof of such neglect; provided, that in lieu of the institute of from three to five consecutive days, as provided in this section and in section one thousand five hundred sixty-two of the Political Code, the superintendent of any county in which there are twenty or more school districts, or of any city and county, or of any city school district governed by a city board of education and employing seventy or more teachers, may hold during the calendar year, at places in the county, or city and county, or city school district, chosen by the superintendent for their convenience and accessibility to teachers and patrons of neighboring schools, three or more series of local day or evening institutes which shall provide, at each of the chosen places, not less than ten hours of institute work; provided, that the superintendent may combine the annual institute plan with the local institute plan, by holding, during one or more days, not to exceed three, an annual meeting of all the teachers in the county, or city and county, or city school district, and also holding during the school year one or more series of evening institutes at local points in the county, or city and county, or city school district, the whole to provide not less than ten hours of institute work; provided, that in cities and counties one or more local day or evening institutes of not less than two hours each may be held on not less than three different dates during the year.

(3) **In case of epidemic.** In case of epidemic of unusual duration and prevalence in a city, county, or major portion of a county, or city, or city and county the superintendent of schools of the county, or city

and county, with the consent of the superintendent of public instruction may dispense with the holding of the institute or institutes for the calendar year of such epidemic. [Amendment approved April 21, 1919; Stats. 1919, p. 131.]

§ 1576. Each city separate school district. Annexation of territory. Deemed part of city for election purposes. Every city or incorporated town, except cities and towns of the sixth class, unless subdivided by the legislative authority thereof, shall constitute a separate school district which shall be governed by the board of education or board of school trustees of such city or incorporated town; provided, however, that in no instance shall the territory within an incorporated city of the sixth class be in more than one school district; and provided, further, that whenever a city or town shall be incorporated, except a city or town of the sixth class, the board of supervisors of the county may annex thereto, for school purposes only, the remainder, or any part of the remainder, of the district or districts from which such city or incorporated town was organized, whenever a majority of the heads of families residing therein, shall petition for such annexation; and provided, further, that the board of supervisors may include more territory than the remainder of the district or districts from which the city or incorporated town was organized, whenever a petition for such purpose is presented to them, signed by a majority of the heads of families residing in such additional territory. When said remainder or part thereof, or said additional outside territory, has been annexed to said city or incorporated town, it shall be deemed a part of said city or incorporated town for the purpose of holding the general municipal election, and shall form one or more election precincts, as may be determined by the legislative authority of said city or incorporated town, the qualified electors of which shall vote only for the board of education, or the board of school trustees; and such outside territory shall be deemed to be a part of said city or incorporated town for all matters connected with the school department thereof, for the annual levying and collecting of the property tax for the school fund of said city or incorporated town; and for all purposes specified in sections one thousand eight hundred eighty to one thousand eight hundred eighty-eight of this code, inclusive; provided, however, that the last assessment-roll made by the county assessor shall be the only basis of taxation for such school district on the property outside the corporate limits so annexed for school purposes. [Amendment approved April 26, 1917; Stats. 1917, p. 208.]

§ 1578. Duties of superintendent on receipt of petition. When a petition is presented under the foregoing section to the county superintendent of schools he shall examine the same and if he finds the same sufficient and signed as required by the section he shall set the same for hearing by the board of supervisors of his county at a regular meeting thereof and forthwith file the same with said board accompanied by his recommendations and a notice containing a general statement of the purpose of the petition and of the boundaries of the proposed new district, or the change of boundaries, as the case may be, and the time and place when and where the petition will be heard. At least ten days prior to said date of hearing he shall send by registered mail a copy of such notice to each of the trustees of each school district which

may be affected by the proposed change, if any, and shall post or cause to be posted for the same period copies thereof in at least three public places in the territory proposed to be included in the new district and in at least three public places in each of the districts affected thereby, if any, one of which shall be posted at the door of a schoolhouse, if any, of each of such districts. He shall attach to said original notice and submit therewith to said board of supervisors an affidavit of mailing and posting of said copies. Upon the filing with it of such petition, recommendations, notice and affidavit as herein required, the board of supervisors shall have jurisdiction to hear and determine said petition. [Amendment approved April 21, 1919; Stats. 1919, p. 134.]

This section was also amended in 1917. See Stats. 1917, p. 568.

§ 1579. Duty of board of supervisors. The board of supervisors must, at the time and place fixed in the notice mentioned in the preceding section, hear all persons interested in the petition and may continue the hearing thereof from time to time but for not more than two weeks in all. If it approves the petition it must, by an order entered upon its minutes, establish the district and define its boundaries, or order the change of boundaries, as the case may be, but no territory not included in the petition shall be included in any district until a notice and hearing has been given as required by the preceding section. A copy of such order, certified by the clerk of such board, shall be recorded in the office of the county recorder of each county in which any such new district is situated, or in each county where the district whose boundaries are changed is situated, and such order shall, after the expiration of one year from the date of the recording thereof, be conclusive evidence that such district has been legally organized, or the boundaries legally changed, as the case may be. After the expiration of such time no suit shall be maintained which calls in question the validity of such organization or change of boundaries. [Amendment approved May 14, 1917; Stats. 1917, p. 568.]

§ 1582. Suspension of school district. District declared lapsed. (a) If in any school district there has been an average daily attendance of only five or a number of pupils less than five during the whole school year, the superintendent shall, after giving due notice to all parties interested by sending notices by registered mail to each of the trustees, or, by causing notices to be posted in three public places in the district, one of which shall be at the door of the schoolhouse, for not less than ten days, report the fact to the board of supervisors at their first meeting in August. The board of supervisors shall investigate the matter, and, if in its judgment it would be better to temporarily suspend the school district they shall immediately so suspend it. If the board of supervisors find that there are other school facilities or that there is no reasonable chance to re-establish the district they shall declare the district lapsed, and shall attach the territory thereof to one or more of the adjoining districts in such manner as may be by them considered most convenient for the residents of said lapsed district.

(b) **Suspended school district re-established.** At the meeting of the board of supervisors in the months of July, August or September, the board of supervisors may re-establish a suspended school district upon proper showing of the people or board of school trustees of the district that there are eight or more pupils of the district ready to attend school.

(c) **Apportionment for suspended district.** After a district has been suspended, the county superintendent shall at the time of making the apportionment of school moneys as provided in section one thousand eight hundred fifty-eight of the Political Code, set aside for such suspended district, the sum of five hundred fifty dollars. This amount, with any unexpended balance to the credit of the district, shall be held for the use of the suspended district, in case it should be re-established, and so much of it as may be needed to keep the property of the suspended district insured may be expended by the trustees in the same manner as if the district were not suspended. But no subsequent apportionment shall be made to a suspended district, until it is re-established as provided in subdivision three of this section.

(d) **Trustees.** Trustees shall be elected or appointed in suspended districts just as if they were not suspended.

(e) **Notice that district lapsed.** The superintendent may at any time in the month of July of any year give notice as provided in subdivision two of this section, to any suspended district which has not maintained school during the year past, and at the first meeting of the board of supervisors in August ask that such district be declared lapsed.

(f) **Suspended district merged with adjoining district.** A suspended district may be merged with one or more adjoining districts whenever a petition signed by the majority of heads of families residing in each of said districts shall be presented to the board of supervisors. Such petition must be filed with the county superintendent and by him presented to the board of supervisors with such suggestions as he thinks best.

(g) **Disposition of property of lapsed district.** When any district has been declared lapsed, the board of supervisors shall sell or otherwise dispose of the property thereto belonging, and shall place the proceeds of such sale to the credit of the district. Thereupon the superintendent shall determine all outstanding indebtedness of said lapsed district, and shall draw his requisition upon the county auditor in payment thereof. Any balance of moneys remaining to the credit of said lapsed district after all indebtedness has been paid shall be transferred by the superintendent to the credit of the district into which the said lapsed district has been merged. If the lapsed district has been attached to more than one of the adjoining districts, the superintendent must apportion the moneys remaining to the credit of the lapsed district to the several districts pro rata according to the average daily attendance in the respective districts as shown by the teachers' reports for the preceding school year. Should there not be sufficient funds to the credit of the lapsed district to liquidate all of the outstanding indebtedness thereof, the superintendent shall draw his requisition upon the county auditor pro rata for the several claims. [New section added May 29, 1917; Stats. 1917, p. 1287.]

§ 1585. **Union school districts, how formed. Election. Canvass of votes. Meeting of electors. District representatives. Powers. Location of school. Election to determine location.** When a majority of the heads of families who reside in two or more contiguous school districts, and who have children attending school as shown by the teachers' registers in the school of the said districts in the same county, shall

unite in a petition to the county superintendent of schools for the formation of a union school district, to comprise the districts so petitioning, he shall, within twenty days after receiving said petition, call an election for the determination of the question, and shall appoint three qualified electors in each of the districts petitioning, to conduct the election therein. Said election shall be held separately and simultaneously at the public schoolhouse in each of the districts petitioning, and shall be called by posting notices thereof in three of the most public places in each district, one of which places shall be the public schoolhouse in each district at least ten days before said election. Said election shall be conducted by the officers appointed for that purpose, in the manner provided by law for conducting school elections. The ballots at such election, in each district, shall contain the words, "for the union school district," and the voter shall write or print after said words on his ballot the word "yes" or the word "no." It shall be the duty of said election officers in each district to canvass the vote at said election, and report the result to the county superintendent of schools within five days subsequent to the holding of said election.

If a majority of the votes cast at such election, in each and every of such districts, shall be in favor of such union school district, the county superintendent shall, except in the case of the formation of a union district consisting of but two districts, and as hereinafter provided for in section one thousand five hundred eighty-seven of this code, within fifteen days after receiving the returns of the election held therein, direct the board of trustees in each of said districts to call a meeting of the qualified electors of their respective districts, in the manner provided in this code for calling district meetings. At said meeting the qualified electors shall in each district select one representative, whose powers and duties shall be as hereinafter specified. The representatives so chosen shall name the union school district, and shall have power to make temporary arrangements for the location of one or more union schools therein, and, if satisfactory apartments or buildings in a suitable location are offered or can be procured, for a consideration or at a rental which would make it advisable to accept the same, they shall have the power to secure an option of a lease on such apartment or building for a period not to exceed three years from the first day of July next ensuing. Within forty days after their selection they shall notify the county superintendent of schools that they desire to meet to locate one or more union schools in and for such union district. Thereafter the representatives so chosen shall meet in conjunction with the county superintendent of schools at a time and place to be named by the superintendent, for the purpose of determining the location of such union school or schools. At such meeting the superintendent shall be the chairman and shall be entitled to vote and participate in all its proceedings. Should said representatives fail to unanimously agree upon a location for such school or schools, they shall propose in writing to the county superintendent then present, or, if he is not present, they shall transmit to his office, within ten days, the names of the locations which they, or any of them, favor. Within twenty days after receiving such notice, the superintendent shall call an election in the same manner as the election for the formation of the union school district, to determine the location of the union school or schools. At such election only such sites as have been named by the representatives and certified to

the county superintendent shall be voted upon. Any form of ballot by which the voter signifies his choice of location or locations shall be allowed. The result of said election shall be determined and certified to the county superintendent, within five days subsequent to the holding of said election. The location or locations which receive the largest number of votes shall be chosen as the location or locations of the school or schools. [New section approved May 13, 1919; Stats. 1919, p. 501.]

§ 1586. Joint union districts. How formed. Election. Meeting of electors. District representatives. Powers. A union school district formed of school districts not all in the same county, is designated a joint union school district.

When a majority of the heads of families residing in two or more contiguous school districts not all in the same county and who have children attending the schools in the districts petitioning as shown by the teachers' registers shall unite in a petition to the county superintendents of their respective counties for the formation of a joint union school district, to comprise the districts so petitioning, it shall be the duty of each of said superintendents, within twenty days after receiving said petition, to call an election in the district or districts in his county petitioning, for the purpose of determining the question, and appoint three qualified electors in each of such petitioning districts, to conduct the election therein. Said election shall be called and conducted in all respects as specified in section one thousand five hundred eighty-five of this code, except that the form of ballot shall be: "For the joint union school district," and the result thereof shall be reported by the election officers in each district to the superintendent of the county in which such district is situated, within five days subsequent to the holding of said election.

If a majority of the votes cast at such election, in each and every of such districts, shall be in favor of such joint union school district, the county superintendent in each county shall, except in the case of the formation of a joint union district consisting of but two districts, and as provided in section one thousand five hundred eighty-seven of this code, within fifteen days after receiving the returns of the election, direct the board of trustees in the district, or districts, in his county, to call a meeting of the qualified electors, as provided in section one thousand five hundred eighty-five of this code.

At said meeting the qualified electors, in each district shall select a representative, as provided in section one thousand five hundred eighty-five. The representatives so chosen shall meet at a time and place to be agreed upon among themselves, and name the joint union school district. The location of the joint union school, or schools, shall be determined by the joint action of the representatives chosen and the county superintendents of the counties, in manner and form as provided for the location of a union school or schools. [New section approved May 13, 1919; Stats. 1919, p. 503.]

§ 1587. Proceedings may begin at any time. Change on July 1st next succeeding. Union of but two districts. Representatives to act until election of board. Proceedings for the formation of, or for admission to, a union or joint union school district may be begun at any time, but

the schools in the district uniting to form, or that are admitted to, a union or joint union school district, shall remain under the control of their respective boards of trustees until the first day of July next succeeding the formation of the union or joint union district and the location of the union or joint union school, or schools, or of admission to a union or joint union district, on which first day of July the districts uniting to form the union or joint union school district, or the district admitted to such union, shall cease to exist, except for purposes specified in sections one thousand five hundred eighty-five to one thousand five hundred ninety-one c inclusive of this code, and the terms of office of the school trustees in said districts shall expire, and the district property of each district so uniting or admitted shall vest in such union or joint union district and pass to the control of the board of trustees of such district, to be held and disposed of by them, according to the provisions of this code relating to the powers and duties of boards of school trustees; provided, that in union or joint union school districts formed by the union of but two school districts, no selection of representatives, as provided for in section one thousand five hundred eighty-five is necessary, and the board of trustees for the original school districts shall act as the representatives, and shall constitute the board of trustees for the new union or joint union school district, and each of such trustees shall continue in office for the term for which he was elected, except as hereinafter provided; and provided, further, that the proceeds of any sale by the board of trustees of the union or joint union school district, of school property that originally belonged to any of the original districts, must first be applied to the discharge of any bonded indebtedness of such original district.

In the formation of union or joint union school districts, the representatives selected according to the provisions of section one thousand five hundred eighty-five shall act as a board of trustees for such union or joint union district, until the election or appointment and qualification of the regular board of trustees. [New section approved May 13, 1919; Stats. 1919, p. 504.]

§ 1588. Board of trustees. First—In every union or joint union school district, the governing board shall be composed of five members who shall be elected at large from the elementary school districts composing the union for the term of three years, excepting as hereinafter provided. When any union or joint union school district is formed, the superintendent or superintendents of schools who may have jurisdiction over the same shall, within fifteen days thereafter, appoint a board of school trustees of five members for the union or joint union school district. Each member so appointed shall hold office until the first day of May next succeeding such appointment.

Annual election. Vacancies. Second—The regular annual election of members of the union or joint union school district board shall be held at the same time as the regular annual election of school trustees as provided in section one thousand five hundred ninety-three of the Political Code; said election shall be called by the union school district board which shall designate a polling place in each of the elementary school districts composing the union or joint union school district at which the electors of such school district may vote. The union or joint union

school district board shall give the same notice of said election and appoint the same number of election officers in each elementary school district composing the union as are required for the election of school trustees in elementary school districts. Said election shall be held in the same manner as are elections of school trustees, and the returns thereof shall be at once sent to the clerk of the union or joint union district board. Said board shall meet on the seventh day thereafter at one o'clock P. M. and canvass said returns and issue certificates of election to the persons elected and file duplicates thereof with the superintendent of schools having jurisdiction over such union or joint union school district. After each member's term expires, his successor shall be elected in like manner for the term of three years and until his successor shall be elected or appointed and qualified. Vacancies on the board shall be filled by appointment by the superintendent of schools having jurisdiction over the union or joint union school district, the appointee to hold office for the remainder of the unexpired term.

Terms at first election. Third—At the first election for members of the board of school trustees of the union or joint union school district, one member shall be elected to hold office from the day of receiving his certificate of election until the first day of May, next succeeding; two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the second succeeding May; and two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the third succeeding May. Thereafter the successors shall be elected as hereinbefore provided. [New section approved May 13, 1919; Stats. 1919, p. 504.]

§ 1589. Erection or lease of building. Change of location. After the location of the union or joint union school, or schools, has been determined, the representatives, acting as a board of trustees, or their successors, may erect or lease a suitable building, as they may deem most advisable. A lease shall not be made for a longer period than three years. A building may be erected under the provisions of sections one thousand eight hundred thirty to one thousand eight hundred thirty-nine, inclusive, of this code, relating to a district tax, or sections one thousand eight hundred eighty to one thousand eight hundred eighty-nine, inclusive, of this code, relating to the issuance of bonds. In all cases the plans must be approved by the county superintendent of schools of the county in which the schoolhouse is to be located.

No change of location of any union or joint union school, when once established, shall be made, except upon a petition to the county superintendent of schools, or superintendents, in case of a joint union district, signed by two-thirds of the heads of families who reside in the school district and who have children attending the school as is shown by the teacher's register in the school, and then only in accordance with all the provisions for the original location of the school. [New section added May 11, 1919; Stats. 1919, p. 505.]

§ 1589a. Powers and duties of trustees. The powers and duties of boards of trustees in union or joint union school districts shall be such as are now, or may hereafter be assigned by law to boards of school trustees, except as otherwise provided in sections one thousand five hundred

the schools in the district uniting to form, or that are admitted to, a union or joint union school district, shall remain under the control of their respective boards of trustees until the first day of July next succeeding the formation of the union or joint union district and the location of the union or joint union school, or schools, or of admission to a union or joint union district, on which first day of July the districts uniting to form the union or joint union school district, or the district admitted to such union, shall cease to exist, except for purposes specified in sections one thousand five hundred eighty-five to one thousand five hundred ninety-one *c* inclusive of this code, and the terms of office of the school trustees in said districts shall expire, and the district property of each district so uniting or admitted shall vest in such union or joint union district and pass to the control of the board of trustees of such district, to be held and disposed of by them, according to the provisions of this code relating to the powers and duties of boards of school trustees; provided, that in union or joint union school districts formed by the union of but two school districts, no selection of representatives, as provided for in section one thousand five hundred eighty-five is necessary, and the board of trustees for the original school districts shall act as the representatives, and shall constitute the board of trustees for the new union or joint union school district, and each of such trustees shall continue in office for the term for which he was elected, except as hereinafter provided; and provided, further, that the proceeds of any sale by the board of trustees of the union or joint union school district, of school property that originally belonged to any of the original districts, must first be applied to the discharge of any bonded indebtedness of such original district.

In the formation of union or joint union school districts, the representatives selected according to the provisions of section one thousand five hundred eighty-five shall act as a board of trustees for such union or joint union district, until the election or appointment and qualification of the regular board of trustees. [New section approved May 13, 1919; Stats. 1919, p. 504.]

§ 1588. Board of trustees. First—In every union or joint union school district, the governing board shall be composed of five members who shall be elected at large from the elementary school districts composing the union for the term of three years, excepting as hereinafter provided. When any union or joint union school district is formed, the superintendent or superintendents of schools who may have jurisdiction over the same shall, within fifteen days thereafter, appoint a board of school trustees of five members for the union or joint union school district. Each member so appointed shall hold office until the first day of May next succeeding such appointment.

Annual election. Vacancies. Second—The regular annual election of members of the union or joint union school district board shall be held at the same time as the regular annual election of school trustees as provided in section one thousand five hundred ninety-three of the Political Code; said election shall be called by the union school district board which shall designate a polling place in each of the elementary school districts composing the union or joint union school district at which the electors of such school district may vote. The union or joint union

school district board shall give the same notice of said election and appoint the same number of election officers in each elementary school district composing the union as are required for the election of school trustees in elementary school districts. Said election shall be held in the same manner as are elections of school trustees, and the returns thereof shall be at once sent to the clerk of the union or joint union district board. Said board shall meet on the seventh day thereafter at one o'clock P. M. and canvass said returns and issue certificates of election to the persons elected and file duplicates thereof with the superintendent of schools having jurisdiction over such union or joint union school district. After each member's term expires, his successor shall be elected in like manner for the term of three years and until his successor shall be elected or appointed and qualified. Vacancies on the board shall be filled by appointment by the superintendent of schools having jurisdiction over the union or joint union school district, the appointee to hold office for the remainder of the unexpired term.

Terms at first election. Third—At the first election for members of the board of school trustees of the union or joint union school district, one member shall be elected to hold office from the day of receiving his certificate of election until the first day of May, next succeeding; two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the second succeeding May; and two members shall be elected to hold office from the day of receiving their certificates of election until the first day of the third succeeding May. Thereafter the successors shall be elected as hereinbefore provided. [New section approved May 13, 1919; Stats. 1919, p. 504.]

§ 1589. Erection or lease of building. Change of location. After the location of the union or joint union school, or schools, has been determined, the representatives, acting as a board of trustees, or their successors, may erect or lease a suitable building, as they may deem most advisable. A lease shall not be made for a longer period than three years. A building may be erected under the provisions of sections one thousand eight hundred thirty to one thousand eight hundred thirty-nine, inclusive, of this code, relating to a district tax, or sections one thousand eight hundred eighty to one thousand eight hundred eighty-nine, inclusive, of this code, relating to the issuance of bonds. In all cases the plans must be approved by the county superintendent of schools of the county in which the schoolhouse is to be located.

No change of location of any union or joint union school, when once established, shall be made, except upon a petition to the county superintendent of schools, or superintendents, in case of a joint union district, signed by two-thirds of the heads of families who reside in the school district and who have children attending the school as is shown by the teacher's register in the school, and then only in accordance with all the provisions for the original location of the school. [New section added May 11, 1919; Stats. 1919, p. 505.]

§ 1589a. Powers and duties of trustees. The powers and duties of boards of trustees in union or joint union school districts shall be such as are now, or may hereafter be assigned by law to boards of school trustees, except as otherwise provided in sections one thousand five hundred

eighty-five to one thousand five hundred ninety-one c, inclusive, of this code. [New section added May 13, 1919; Stats. 1919, p. 506.]

§ 1589b. Meetings. Special meetings. Boards of trustees of union or joint union school districts shall hold regular meetings at the school buildings, at such time as may be provided in the rules and regulations adopted by them for their own government. Such meetings shall not be held less frequently than quarterly. Special meetings may be held at the call of the president of the board. Upon the request, in writing, signed by a majority of any board, the president of said board shall call a meeting thereof, pursuant to such request. Of all special meetings of any board the members thereof shall have at least two days' notice, issued and served by the clerk thereof. At special meetings no business shall be transacted other than as specified in the call therefor; provided, that in union and joint union districts formed by the union of more than three school districts the boards may appoint an executive committee, consisting of the president and the clerk and one other member of the board, to attend to the routine business of the board, their action to be reported to the board for ratification at its first meeting ensuing. [New section added May 13, 1919; Stats. 1919, p. 506.]

§ 1589c. Supervising principal. Whenever in their judgment it may be deemed advisable, the board of trustees for any union or joint union school district may unite with the trustees of any other school district, single, union or joint, in the employment of a supervising principal, who shall devote such time to the supervision of instruction in the several school districts and shall receive such compensation from each board of trustees as may be agreed upon by them. [New section added May 13, 1919; Stats. 1919, p. 507.]

§ 1590. Transfer of funds to union district. Separate reports. Apportionment of money. On the first day of July next ensuing after the formation of a union or joint union school district, or the admission thereto of a school district, the county superintendent of schools, or superintendents in joint union school districts, shall transfer, by requisition upon the county auditor, all funds remaining to the credit of the different districts uniting to form the union or joint union district, or to the credit of the district admitted thereto, to the credit of such union or joint union district.

For the purposes of teachers' reports and for the estimating of the number of teachers and the amount of money to which each district is entitled, the several districts uniting to form the union school district shall continue their separate existence.

The teacher or teachers shall keep the enrollment and attendance of each district separate from that of the other districts composing the union. At the close of the term or year, a report shall be made of the attendance of each district composing the union separately. These separate reports shall be combined into a principal's report. In case of a joint union school district, the teacher or teachers shall send a copy of each report to the county superintendent in whose county parts of the district lie; and provided, further, that no moneys shall be apportioned directly to any of such several districts, while forming a part of an organized union or joint union school district, but there shall be appor-

tioned to such union or joint union district the aggregate of moneys that would be apportioned to the several school districts composing it, if such several districts were not united. [New section added May 13, 1919; Stats. 1919, p. 507.]

§1591. Annexation of other districts. Portion of district admitted.

Any school district may be admitted to a union or joint union school district by action of the board of supervisors of the county in which such school district is located, upon such terms as may be agreed upon between the board of trustees of the school district seeking admission and the board of trustees of the union or joint union school district, whenever a majority of the heads of families who reside in the district and who have children enrolled in the school as is shown by the teacher's report on file in the office of the superintendent of schools for the year or term immediately preceding, shall present to said board of supervisors a petition for such annexation, accompanied by a petition for such annexation signed by a majority of the members composing the board of trustees of the union or joint union district to which admission is desired. The county superintendent of schools shall then classify the newly admitted district, in class A, B, or C, as provided in section one thousand five hundred eighty-eight of this code, for the election of a trustee thereby. If such petitioning school district and such union or joint union school district be not wholly situated in the same county, then said petitions shall be presented in duplicate to the board of supervisors of each and every county in which any part of either of such districts is situated, and such annexation shall be made only by the concurrent action of all of such board of supervisors; and in that case the classification of the annexed district, for election of a trustee, shall be made by concurrent action of the county superintendents of each and all such counties.

A portion of a school district may be admitted to an adjacent union or joint union school district by action of the board of supervisors of the county in which such school district is situated, whenever a majority of the heads of families who reside in the district and who have children attending the school as shown by the teacher's register, shall present to said board of supervisors a petition for such annexation, accompanied by a petition for such annexation signed by a majority of the members composing the board of trustees of the union or joint union district to which admission is desired. The board of supervisors shall attach such annexed portion of a school district to a contiguous original school district forming part of the union or joint union district, for voting and other purposes, and such annexed portions shall thereafter be a part of the original district to which it is so attached, and cannot subsequently withdraw from the union or joint union district, except as the district to which it is so attached withdraws. Such annexed portion shall have no representation on the board of trustees of the union or joint union school district, except as a part of the district to which it is attached. If such portion of a school district and such union or joint union school district be not wholly situate in the same county, then said petition shall be presented in duplicate to the board of supervisors of each and every county in which any part of either of such districts is situated, and such an-

nexation, and such attachment of annexed portion to one of the original districts, shall be made only by the concurrent action of all such boards of supervisors. [New section added May 13, 1919; Stats. 1919, p. 507.]

§ 1591a. Withdrawal from union. Any school district contained in a union or joint union school district may, in like manner, withdraw from such union or joint union district by action of the board or boards, of supervisors of the county, or counties, in which the union or joint union district is located, upon such terms as may be agreed upon between the trustee of the school district seeking to withdraw and a majority of the other members of the board of trustees of the union or joint union district, whenever a majority of the heads of families residing in the union or joint union district, including two-thirds of the heads of families who reside in the district wishing to withdraw and who have children attending the school as shown by the teacher's register, shall present to such board or boards of supervisors a petition for such withdrawal, accompanied by a written consent to such withdrawal signed by a majority of the members composing the board of trustees of such union or joint union district. [New section added May 13, 1919; Stats. 1919, p. 508.]

§ 1591b. Suspension of district. If the average daily attendance from any one of the school districts composing a union or joint union school district shall fall to five or less for the entire year, the county superintendent shall report the facts to the board of supervisors under the provisions of this code relating to the lapsing and suspension of school districts, and the board of supervisors shall lapse or suspend the district. [New section added May 13, 1919; Stats. 1919, p. 509.]

§ 1591c. Dissolution of union district. Election. Two-thirds vote to prevail. Disposition of property. Original districts revived. Any union or joint union school district, formed under the provisions of section one thousand five hundred eighty-five, and which shall have been in existence three years or more, may be dissolved in the following manner: A petition signed by two-thirds of the heads of families who reside in the district and who have children who attend the school as shown by the teacher's register or as may be shown by a census of the district ordered by the board of school trustees, shall be presented to the county superintendent of schools of the county in which such district is situated, setting forth briefly the reasons for dissolution and praying that the question may be submitted to the voters in such district. Upon receiving such petition the superintendent shall, within twenty days, call an election in the district, submitting to the voters therein the question of dissolution of such district. If such petitioning district be not wholly situated within the same county, said petition shall be presented in duplicate to the superintendent of each county having territory within such district, and each superintendent so petitioned shall, within twenty days after receiving such petition, call an election in the territory situate within his county and forming part of such district, and appoint three electors resident within such territory to conduct such election therein. Notice of such election, which must be held throughout the district on the same day and during the same hours, shall be given by posting written or printed notice thereof in at least three of the most public places in such district for at least twelve days next before the day set for such

election; and if such district be not wholly situated in the same county, said notice shall be posted for said time in three of the most public places in the portion of the district in each county. Said election shall be conducted in the manner provided by law for conducting school elections. The ballots shall have printed on them the words "for dissolution," and the voters shall write or print thereafter the word "yes" or the word "no." The election officers shall report the result of such election within five days thereafter to the county superintendent of schools of the county of which they are residents. If a majority of all the votes cast at such election be opposed to dissolution, no further petition shall be entertained or election ordered for a similar purpose within three years next following such election. If the district in which such election is held be wholly situated in one county, and if two-thirds of all the votes cast at such election be in favor of dissolution, the county superintendent of such county shall forthwith certify the result of such election to the board of supervisors of such county, and such board shall, at its first regular meeting thereafter, make an order declaring such union district dissolved, such order to take effect at the end of the current school year, except as hereinafter provided. If the district in which such election is held be not wholly situated in one county, each of the county superintendents of the counties having territory therein shall immediately certify to the others the result of the election in his own county, and if two-thirds of all the votes cast at such election be in favor of dissolution, all of such county superintendents shall, jointly, forthwith certify the result of such election to the board of supervisors of each of such counties, and said boards, and each of them, shall, at the first regular meeting thereafter, make an order declaring such union or joint union district dissolved, such order to take effect at the end of the current school year, except as hereinafter provided. When a union or joint union school district has been thus dissolved, the property thereof shall be sold by the board of supervisors of the county in which such property is situated, and the proceeds of such sale, together with any moneys in the treasury to the credit of such dissolved district, shall be apportioned to and placed to the credit of the school districts that composed such dissolved district in proportion to the value of property in each of such school districts, as determined by the last previous assessment therein for school purposes, and the board or boards of supervisors of the county or counties in which such dissolved district is situated shall make such orders, and such transfers from county to county, as may be necessary or proper to effect such apportionment. From and after the time of making of the order or orders hereinbefore provided for, declaring a union or joint union school district dissolved, the original school districts composing the same, with such additional territory as shall have been annexed to them, shall be considered to be in existence again, as separate districts, and subject to the provisions of sections one thousand five hundred ninety-three to one thousand six hundred two of this code, relating to elections of school trustees, the first of such elections in each of such districts to be held as in the case of a newly formed district; but such order or orders shall not affect the continuance of the union or joint union board of trustees, or the maintenance of the union or joint union school, until the end of the current

school year, at the expiration of which time such board and school shall cease to exist. [New section added May 13, 1919; Stats. 1919, p. 509.]

§ 1593. Election of school trustees. First—An election for school trustees must be held in each school district on the last Friday of March of each year, at the district schoolhouse, if there is one, and if there is none, at the place to be designated by the board of trustees.

Number. Second—The number of school trustees for any school district, except where city boards are otherwise authorized by law, shall be three. No persons shall be deemed ineligible to the office of trustee on account of sex.

Trustees in new districts. Third—In new school districts the school trustees shall be elected on the last Friday of March subsequent to the formation of the district, to hold office for one, two and three years, respectively, from the first day of May next succeeding their election.

Vacancies. Fourth—When a vacancy occurs from any of the causes specified in section nine hundred ninety-six of this code, the county superintendent of schools shall appoint a suitable person to fill such vacancy to hold office for the remainder of the unexpired term.

One trustee elected annually. Fifth—Except as provided in subdivisions two and three of this section, one trustee shall be elected annually, to hold office for three years from the first day of May next succeeding his election, or until his successor shall be elected, or appointed, and qualified. [Amendment approved May 18, 1917; Stats. 1917, p. 734.]

§ 1598. Form of ballots for election of school trustees. Manner of voting. Secret ballot. Each county superintendent of schools shall furnish uniform ballots for the election of school trustees in his county, and no other form of ballot shall be used. The expense of printing and distributing such ballots to the various districts shall be paid as other current expenses of his office. The form of said ballots shall be as follows:

Official ballot provided by the office of the superintendent of schools to be used in the election of school trustees in — district, in the county of —.

Immediately following the above there shall be at least twelve spaces for the insertion of the names of candidates, each space with a blank square for the expression of the will of the voter.

The name of the county shall be printed in as a part of the official ballot.

The school trustees must provide for printing, stamping or writing into this ballot the designation of the district and the name of each candidate for office who has officially announced himself five days prior to the date of the election by filing or having filed with the clerk of the board of trustees a written statement signed by him that he is a candidate for the office of trustee.

In casting his vote the elector must stamp or write a cross in the square space immediately following the name of the candidate for whom he desires to vote, or, should the elector desire to vote for a candidate whose name does not appear on the ballot, he shall himself write the name of said candidate in the space provided for that purpose on the ballot. Where the elector writes the name of a candidate on the ballot

he may, but it shall not be necessary for him to, designate his vote by writing or stamping the cross after such name. After properly marking his ballot he shall hand it to the inspector who shall then, in his presence, deposit the same in the ballot-box and the judges shall enter the elector's name on the poll list.

The board of school trustees may arrange for secret ballot by providing a booth or private room in which the voter may prepare his ballot, and in districts employing two or more teachers they must arrange for such secret ballot in the manner prescribed above.

No electioneering shall be carried on within one hundred feet of the polls. [Amendment approved March 21, 1917; Stats. 1917, p. 15.]

§ 1603. Board of school trustees. Except when otherwise authorized by law, every school district shall be under the control of a board of school trustees, consisting of three members. [New section added May 18, 1917; Stats. 1917, p. 735.]

§ 1603a. Term. The term of office of school trustees is three years from the first day of May next succeeding their election. [New section added May 18, 1917; Stats. 1917, p. 735.]

§ 1604. When new district organized. First—When a new district is organized, such of the trustees of the old district as reside within the boundaries of the new shall be trustees of the new district until the expiration of the time for which they were elected.

When joint districts formed. Term. Second—When joint districts are formed, three trustees shall be elected at the regular school election next succeeding the formation thereof, to hold office for one, two, and three years respectively from the first day of May next succeeding their election.

The terms of the trustees in the districts uniting to form the joint district shall expire on the formation of such district, and the superintendent of the county, in which lies the district having the greatest average daily attendance, shall appoint two trustees, and the superintendent of the county in which the other district lies shall appoint one trustee, to hold office until the first day of May next succeeding the formation of the joint district. [New section added May 18, 1917; Stats. 1917, p. 735.]

§ 1605. Vacancies. First—Vacancies in the office of school trustee are caused by the happening of any of the events specified in section nine hundred ninety-six of the Political Code, or by failure to elect, as provided in section one thousand five hundred ninety-three of this code.

Resignations. Second—When a school trustee resigns, his resignation must be sent in writing to the county superintendent of schools. [New section added May 18, 1917; Stats. 1917, p. 736.]

§ 1606. City boards of education. Boards of education are elected in cities under the provisions of the laws governing such cities, and their powers and duties are as prescribed in such laws, except as otherwise in this chapter provided. [New section added May 18, 1917; Stats. 1917, p. 736.]

§ 1607. Powers. Boards of school trustees and city boards of education shall have power, and it shall be their duty:

Prescribe rules. First—To prescribe and enforce rules not inconsistent with law, or with those prescribed by the state board of education, for their own government and for the government of the schools under their jurisdiction, and to transact their business at regular or special meetings called for such purpose. The board shall fix the time for its regular meetings, and such action shall be proper notice to all members of the board of such meetings, but for any special meetings, written notice must be given to each member of the board at least twenty-four hours prior to the time for the meeting, unless at the time of the meeting each and every member of the board waives such written notice.

Enforce course of study. Second—To enforce in schools the course of study and the use of text-books prescribed and adopted by the proper authority.

Exclude sectarian books. Third—To exclude from school and school libraries all books, publications, or papers of a sectarian, partisan or denominational character.

Annual report. Fourth—To make an annual report, on or before the first day of July, to the superintendent of schools in the manner and form and on the blanks prescribed by the superintendent of public instruction.

Report of text-books. Fifth—To make a report, whenever required, directly to the superintendent of public instruction of the text-books used in their schools.

Visit schools. Sixth—To visit each school in their district at least once in each term and to examine carefully into the management, conditions and needs of those schools, except in school districts which employ district or city superintendents of schools, and in those districts to visit such schools or provide that they shall be visited by the district or city superintendent of schools or his assistants. [New section added May 18, 1917; Stats. 1917, p. 736.]

§ 1608. Powers. Boards of school trustees and city boards of education shall have power, and it shall be their duty:

Management of school property. First—To manage and control school property within their districts, and to pay all moneys received by them or collected by them from any source whatever, and all moneys apportioned to them from taxes levied and collected under the authority of city councils for school purposes, into the county treasury to be placed to the credit of the proper fund of their districts.

Purchase furniture, etc. Second—Except as otherwise provided in this code, to purchase school furniture, including musical instruments, and apparatus, and such other articles as may be necessary for the use of schools; provided, that except in city school districts governed by boards of education, they shall purchase such books and apparatus only as have been adopted by the county board of education.

Insure, etc., school property. Temporary quarters. Third—To furnish, repair, and insure and in their discretion, rent, the school property of

their respective districts, such insurance to be written in any solvent insurance company, doing business in this state, or in any mutual insurance company organized under the laws of this state. When the school enrollment of any school is such as to cause overcrowded schoolrooms, then boards of school trustees and city boards of education shall have power to make arrangements for the location of schools in temporary quarters. These quarters may be procured for a consideration, or at a rental, or by the construction of temporary buildings on school property. The boards of school trustees and city boards of education shall also have power to rent suitable quarters for administrative offices for a period not to exceed five years.

Build schoolhouses. Fourth—When directed by a vote of their districts to build schoolhouses or to purchase or sell school lots.

Receive and make conveyances. Fifth—To receive in the name of the district conveyances for all property received and purchased by them, and to make in the name of the district conveyances on all property belonging to the district and sold by them. [Amendment approved May 9, 1919; Stats. 1919, p. 479.]

This section was also amended in 1917. See Stats. 1917, p. 737.

§ 1609. Powers of. Boards of school trustees and city boards of education shall have power, and it shall be their duty:

Employ principal. City superintendent of schools. First—To employ a principal for each school under their control, and they may employ a district superintendent for one or more schools employing eight teachers or more under their control. In each city school district governed by a city board of education, such board may employ a city superintendent of schools and such deputy or assistant city superintendents as it may deem necessary and fix and order paid their compensation unless the same be otherwise prescribed by law. Any deputy city superintendent of schools, or assistant city superintendent of schools, or district superintendent may be elected for a term of four years.

Employ teachers. Pay. For less than school year. Second—To employ the teachers, and immediately notify the county superintendent of schools in writing, of such employment, naming the grade of certificate held by the teacher employed; also to employ janitors and other employees of the school; to fix and order paid their compensation, unless the same be otherwise prescribed by law; provided, that no board shall enter into any contract with such employees to extend beyond the close of the next ensuing school year; except that teachers may be elected on or after June first for the next ensuing school year, and each teacher so elected shall be deemed re-elected from year to year thereafter unless the governing body of the school district shall on or before the tenth day of June give notice in writing to such teacher that his services will not be required for the ensuing school year. Such notice shall be deemed sufficient and complete when delivered in person to the teacher by the clerk or secretary of the governing body of the school district, or deposited in the United States mail with postage prepaid addressed to such teacher at his last known place of address; provided, that any teacher who shall fail to signify his acceptance within twenty days

after notice of his election or employment has been given or mailed shall be deemed to have declined the same. Any board of trustees or city board of education may arrange to pay the teachers or principals so employed by them in ten or eleven or twelve equal payments instead of by the school month; provided, however, that where the board of trustees or city board of education arranges to pay the teachers or principals employed by them in twelve equal payments for the year, they shall begin such payments on the first day of the calendar month following the opening of schools for the current year in all cases where school is opened during the month of July, and in all cases where school is not opened during the month of July the board of trustees or city board of education may withhold such warrant or warrants which may have fallen due prior to the opening of school until the teachers or principals so employed by them shall have returned to the employment for which they were engaged by the board of school trustees or the city board of education and shall have resumed their respective duties, and then such payments shall be continued from month to month on the first day of each calendar month thereafter until said teachers have been paid the full amount due to them for that fiscal year; provided, that a teacher who serves less than a full school year is entitled to receive as salary only an amount that bears the same ratio to the established annual salary for such position as the time he teaches bears to the annual school term; provided, that whenever the first day of the month falls upon a holiday, payment of teachers' salaries shall be made on the following day.

Appoint district librarians. Third—To appoint and, in their discretion, pay district librarians, and enforce the rules prescribed for the government of district libraries.

Employ supervisors. Fourth—To employ in their discretion supervisors of subjects and to fix and order paid their compensation unless the same be otherwise prescribed by law. [New section added May 18, 1917; Stats. 1917, p. 737.]

§ 1610. Powers and duties of school and city boards of education. Board of school trustees and city boards of education shall have power, and it shall be their duty:

Suspend pupils. First—To suspend or expel pupils for misconduct, when other means of correction have failed to bring proper conduct.

Exclude children. Children under six admitted when. Second—To exclude from the schools children under six years of age, except as hereinafter provided; provided, that where the kindergarten is part of the day elementary schools, children may be admitted to the kindergarten classes at four and one-half years of age; and provided, further, that where any district has established a school for the instruction of the deaf, such children may be admitted to the deaf school at three years of age. In the enforcement of the provisions of this section children shall be admitted to the beginning classes of any school during the first month of the school year, or when the school year is divided into school terms, during the first month of each term, and children who will be six years of age before the end of the six months of the school year, or before the end of the third month of the school term, shall be admitted at

the beginning of the school year, or the school term, and children who will not be six years of age by the end of the period specified shall not be admitted until the beginning of another school year or school term. Beginners shall in like manner be admitted to the beginning classes of the kindergarten during the first month of the school year, or of the school term, if the school year be divided into terms, if such children will be four and one-half years of age before the end of the sixth month of the school year and before the end of the third month of the school term, and children who will not be four and one-half years of age within the period specified shall not be admitted to the kindergarten classes until the beginning of another school year or term.

Register. Third—To cause the principal to keep a register open to the inspection of the public, of all children applying for admission and entitled to be admitted into the public schools, and to notify the parents or guardians of such children when vacancies occur, and receive such children into the schools in the order in which they are registered.

Permit children from other districts to attend. Fourth—To permit children from other districts to attend the schools of their district only upon the consent of the trustees of the district in which such children reside; provided, that should the trustees of the district in which children whose parents or guardians desire them to attend in other districts reside, refuse to grant their consent, the parents or guardians of such children may appeal to the county superintendent and his decision shall be final.

Care to health. Fifth—To give diligent care to the health and physical development of pupils, and where sufficient funds are provided by district taxation, to employ properly certificated persons for such work.

Provide transportation. Sixth—To provide, with the written approval of the superintendent of schools, for the transportation of pupils to and from school whenever in their judgment such transportation is advisable, and good reasons exist therefor, to purchase or rent and provide for the upkeep, care, and operation of vehicles, or to contract and pay for the transportation of pupils to and from school by common carrier, or to contract with and pay responsible private parties for such transportation; provided, that in order to secure such service at the lowest possible figure consistent with proper and satisfactory service, boards of education and boards of school trustees shall secure bids for the items of service contemplated in this subdivision; and provided, further, that no board shall make any purchase or enter into any contract for such service without securing the written approval of the county superintendent of schools. [New section added May 18, 1917; Stats. 1917, p. 739.]

§ 1610½. High school classes in elementary school. First—The high school board of any high school district with the approval of the county superintendent of schools may aid by paying salary or any expenses for the maintenance of high school classes in any elementary school in their district situated more than ten miles from the high school building by the nearest traveled road. The enrollment and average daily attendance of high school pupils in such elementary schools shall be reported to the

principal of the high school and made a part of the enrollment and attendance in such high school.

Application of elementary school district for course of high school study. Expenses. Second—The board of school trustees of any elementary school district not included in any high school district, the school of which is situated more than ten miles from any high school by the nearest traveled road may, with the approval of the county superintendent of schools, ask the county board of education to outline a course of study to include subjects usually taught in the first and second years of the high school. The county board of education on receiving such application shall outline for such elementary district a course of study for pupils who are entitled to attend a high school to include the first and second years of the regular high school work. The secretary of the county board of education shall notify the board of school trustees applying for permission to teach high school subjects that such permission has been granted. When such course of study is established, it shall be taught only by a teacher holding a full high school certificate. The board of school trustees may meet the extra expenses of such high school training by special tax under section one thousand eight hundred forty of the Political Code. The average daily attendance of pupils in such elementary school taking high school work shall be reported to the county superintendent of schools as high school pupils and by him reported to the superintendent of public instruction. The apportionment of state and county aid given to high school pupils on average daily attendance shall be apportioned to the elementary schools maintaining such high school training. [Amendment approved May 9, 1919; Stats. 1919, p. 425.]

§ 1611. Meetings of electors. Notices. Organization. Powers of meeting. Litigation. Boards of trustees in school districts, not including districts having city boards of education, may, and upon a petition signed by a majority of the heads of families resident in the district, must call meetings of the qualified electors of the district for determining or changing the location of the schoolhouse, or for consultation in regard to any litigation in which the district may be engaged, or be likely to become engaged or in regard to any affairs in the district. Such meetings shall be called by posting three notices in public places, one of which shall be in a conspicuous place on the schoolhouse, for not less than ten days previous to the time for which the meeting shall be called, which notices shall specify the purposes for which said meetings shall be called; and no other business shall be transacted at such meetings. District meetings shall be organized by choosing a chairman from the electors present, and the district clerk shall be clerk of the meeting, and shall enter the minutes thereof on the records of the district. A meeting so called shall be competent to instruct the board of trustees:

1. In regard to the location or change of location of the schoolhouse or the use of the same for other than school purposes; provided, that in no case shall the schoolhouse be used for purposes which necessitate the removal of any school desks or other school furniture.

2. In regard to the sale and purchase of school sites.

3. In regard to prosecuting, settling or compromising any litigation in which the district may be engaged, or be likely to become engaged, and

may vote money not exceeding one hundred dollars in any one year, for any of these purposes in addition to any amount which may be raised by the sale of district school property, and the insurance of property destroyed by fire; provided, that the proceeds of the insurance of the library and apparatus shall be paid into the library fund. All funds raised by the sale of school property may be disposed of by direction of a district meeting. District meetings may be adjourned from time to time, as found necessary, and all votes instructing the board of trustees shall be taken by ballot, or by ayes and noes vote, as the meeting may determine. The board of trustees shall, in all cases, be bound by the instructions of the district meeting in regard to the subjects mentioned in this section; provided that the vote in favor of changing the location of the schoolhouse be two-thirds of all the electors voting at said meeting upon the proposition to change the location. [Amendment approved May 18, 1917; Stats. 1917, p. 740.]

§ 1612. Contracts. Bids. Estimates. Boards of school trustees and city boards of education shall have power and it shall be their duty to let all contracts involving an expenditure of more than two hundred dollars for work to be done or for material or supplies to be furnished, to the lowest responsible bidder who will give such security as the board may require, or else to reject all bids; provided, that continuing contracts for materials and supplies may be made with an accepted bidder for a period of one year; and provided, further, that the board may repair old buildings by day's labor. For the purpose of securing bids the board must publish a notice calling for bids, stating the work to be done or materials or supplies to be furnished, and the time when and the place where bids will be opened, at least once a week for two weeks in some newspaper of general circulation published in the county, or if there is no such paper, then in some newspaper of general circulation, circulated in such county; provided, that in school districts having an average daily attendance of one thousand or more pupils, as shown by the annual report of the county superintendent of schools for the preceding school year, the board may secure from responsible bidders at least three estimates of the cost of such work to be done, or materials or supplies to be furnished, such estimates to be secured from bona fide dealers or craftsmen engaged in the business or in handling the goods specified. Said estimates must be submitted in writing and must be filed with the clerk or secretary of the board, and if any of such estimates of cost is less than five hundred dollars, the board may let a contract for such work, material or supplies, to the lowest responsible bidder without publishing such notice calling for bids. [New section added May 18, 1917; Stats. 1917, p. 741.]

§ 1613. Grant use of school buildings. Boards of school trustees and city boards of education are hereby authorized to grant the use of school buildings or grounds for public, literary, scientific, recreational or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as said board may deem proper; provided, however, that said use shall not be inconsistent with the use of said buildings or grounds for school purposes, nor interfere with the regular conduct of school work, nor be granted in such a manner as to constitute a monopoly for the benefit of any person or organ-

ization; and provided, further, that no privilege of using said buildings or grounds shall be granted for a period exceeding one year, such privilege being renewable and revocable in the discretion of the board at any time. [Amendment approved May 18, 1917; Stats. 1917, p. 741.]

§ 1614. Display of United States flag. Boards of school trustees in all school districts throughout the state and boards of education in all cities and cities and counties throughout the state shall provide for each schoolhouse under their control, a suitable flag of the United States, which shall be hoisted above each schoolhouse during all school sessions, weather permitting. It shall be the duty of boards of school trustees and boards of education to enforce this provision. It shall also be the duty of such boards of school trustees and boards of education to provide smaller and suitable United States flags to be displayed in each schoolroom at all times during the school sessions. It shall be the duty of such boards of trustees and boards of education to enforce this provision. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1615. "Home teachers." Duties. Qualifications. Boards of school trustees or city boards of education of any school district, may employ teachers to be known as "home teachers," not exceeding one such home teacher for every five hundred units of average daily attendance in the common schools of said district as shown by the report of the county superintendent of schools for the next preceding school year. It shall be the duty of the home teacher to work in the homes of the pupils, instructing children and adults in matters relating to school attendance and preparation therefor; also in sanitation, in the English language, in household duties such as purchase, preparation and use of food and of clothing and in the fundamental principles of the American system of government and the rights and duties of citizenship. The qualifications of such teachers shall be a regular kindergarten primary, elementary or secondary certificate to teach in the schools of California and special fitness to perform the duties of a home teacher; provided, that the salaries of such teachers shall be paid from the city or district special school funds. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1616. Kindergarten. Estimate for maintenance. Tax levy. Discontinuance. Funds revert. Rate of taxation. The board of education of every city, city and county, or the board of school trustees of every school district in this state, must, upon petition of the parents or guardians of twenty-five or more children between the ages of four and one-half and six years, residing within one mile of any elementary school building situate in such city, city and county, or school district, establish and maintain a kindergarten or kindergartens; provided, that the order of the board establishing such kindergarten or kindergartens shall be made only between the first day of June and the first day of August in any year; and provided, further, that after the first year in which any kindergarten or kindergartens shall have been established and maintained, that the number of kindergartens which shall be maintained in any city, or city and county, or school district, during any particular school year, shall be determined by the governing body of the schools of such city, city and county or school district.

The board of education of every city, city and county, or the board of school trustees of every school district in which a kindergarten is

established under the provisions of this act, must at least fifteen days before the first day of the month in which the board of supervisors is required by law to levy the taxes required for county purposes, submit to the county superintendent of schools an estimate of the amount of money which will be required for the maintenance of any kindergarten or kindergartens in their several school districts for the ensuing school year.

The county superintendent of schools shall thereupon examine said estimate and submit copies of the same, with his approval or disapproval indorsed thereon, to the board of supervisors and to the county auditor at the time he submits to them his estimate for the county school tax for the current year. If the county superintendent of schools approves such estimate, the board of supervisors shall, at the time and in the manner of levying other taxes, levy and cause to be collected in the several school districts for which estimates have been submitted and approved as herein provided, the amount so estimated and approved. The fund so levied shall be known as the kindergarten fund of — school district, as the case may be, and shall be available for the maintenance of the kindergarten or kindergartens established under the provisions of this section, and the moneys drawn from such fund shall be paid out in the same manner as the moneys from state and county school funds for the maintenance of the elementary schools are drawn and paid out. If the average daily attendance in any kindergarten in any city, city and county, or school district, shall be ten or less for the school year, the governing body of such city, city and county, or school district, shall, at the close of such school year, discontinue such kindergarten. In case a city, city and county, or school district maintains but one kindergarten, should such kindergarten be discontinued as provided by this section, the funds of such kindergarten shall immediately revert to the elementary schools of the city, city and county, or school district, in which said kindergarten has been located; and in case any city, city and county, or school district maintains two or more kindergartens, the property and funds of a kindergarten which has been discontinued shall revert to the kindergarten or kindergartens which are still in operation in said city, city and county, or school district. The rate of taxation which may be levied for the support of kindergartens in any one year shall not exceed fifteen cents on the one hundred dollars of the taxable property of such city, city and county, or school district; and such tax for the support of the kindergarten or kindergartens, shall be in addition to any other tax which may be levied for the support of the public schools. [Amendment approved May 8, 1919; Stats. 1919, p. 389.]

This section was also amended in 1917. See Stats. 1917, p. 742.

§ 1617. Intermediate school course. The board of education of any city, or of any city and county, or the board of school trustees of any school district situated within a high school district maintaining an intermediate school course, shall permit pupils who have completed the sixth year of the elementary school to attend an intermediate school course established as provided by section one thousand seven hundred fifty a, of the Political Code, and shall pay to such high school district for the education of such pupils, a tuition charge which shall be agreed upon

by said board of education, or board of school trustees, and the high school board maintaining such intermediate school course; provided, that such board of education or board of school trustees shall not pay to any such high school board for educating a pupil, residing in such elementary school district and attending such intermediate school course, a tuition charge greater than the average net cost per pupil for educating pupils in the first six years of the elementary school in said elementary school district; and provided, further, that such tuition charge shall cease to be paid after the pupil has completed two years of work in such intermediate school course. [Amendment approved May 18, 1917; Stats. 1917, p. 742.]

§ 1617a. **United States flag over schoolhouses. Also in schoolrooms.** [Repealed May 18, 1917; Stats. 1917, p. 744.]

§ 1617b. **Contract with state normal school for education of children. Revocation.** The trustees of an elementary school district with an average daily attendance of thirty-five or less, as shown by the last teacher's report on file in the office of the county superintendent of schools, when authorized by a majority vote of their district at a district meeting called for that purpose, may contract with a state normal school for the education of the children of their district; provided:

1. That the elementary school so contracting shall be housed by the normal school on the normal school campus or in the schoolhouse in the district and shall be used as a rural model practice school.

2. That the trustees of the elementary school district shall contribute to the support of the school all of the money apportioned to their district from the state and county funds. Said funds to be handled and expended by the trustees of the elementary school district in the same manner as provided by law.

Such contract may be revoked by a majority vote of the board of trustees of the normal school or by the trustees of the elementary school district, when authorized to do so by a majority vote of their district at a special district meeting called for that purpose. Such contract shall be in effect from July first following date of contract and shall remain in effect until the end of the school year in which the contract is revoked. [New section added May 31, 1917; Stats. 1917, p. 1516.]

NOTE.—The old section 1617b, relating to home teachers and their qualifications, was repealed May 18, 1917; Stats. 1917, p. 744.

§ 1617c. **Establishment of kindergartens. Discontinuance for small attendance.** [Repealed May 18, 1917; Stats. 1917, p. 744.]

§ 1617d. **Pupils who may attend. Tuition.** [Repealed May 18, 1917; Stats. 1917, p. 744.]

§ 1617j. **Sale or lease of school property. Conditions. Effect of act.** Boards of education, or other governing boards, in cities and having jurisdiction over both the elementary and high school districts embracing such cities, and boards of trustees of any school district and boards of trustees of union high school or joint union high school districts, are hereby authorized to sell or lease for a term not exceeding ninety-nine years, any real property belonging to their respective school districts,

or high school districts upon which no public school is being maintained upon the following conditions:

Before ordering the sale or lease of any such property such board of education, or other governing boards, shall, in open meeting, by a two-thirds vote of all of its members, adopt a resolution declaring its intention to sell the same, or a resolution declaring its intention to lease the same, as the case may be, which said resolution shall describe the property proposed to be sold, or leased, in such manner as to identify it and shall specify the minimum price, or rental, and terms for which it will be sold, or leased, and fixing a time, not less than three weeks thereafter, and place for a public meeting of said board of education, or other governing board, at which sealed proposals to purchase or lease, as the case may be, will be received and considered. Said resolution shall, before the date of such meeting, be published once a week for three successive weeks in one or more newspapers of general circulation published in the district. At the time and place fixed in said resolution for the meeting of said board of education or other governing board, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by said board, or other governing board, and the property be sold, or leased, as the case may be, to the highest responsible bidder among those who have submitted sealed proposals and who offer to comply with all terms and conditions specified in the resolution of intention to sell or lease; provided, however, that if any responsible person shall at said meeting offer to purchase such property, or to lease such property as the case may be, for a price or rental exceeding the highest other proposal or offer before the board by not less than five per cent, the property shall be sold, or shall be leased as the case may be, to such person; and provided, further, that said board or other governing board may, should it deem such action for the best public interest, at any time, reject any and all bids, and withdraw such property from sale. Any order of sale or lease made hereunder by said board, or other governing board, shall authorize and direct the execution and delivery by the chairman, or other presiding officer, or said board, or other governing board, of the deed or lease of said district to the purchaser or lessee. This section shall not be taken to authorize action upon proposals for sale and proposals for lease at the same meeting.

The provisions of this section shall be deemed to supersede any other provision of law relating to powers and duties of boards of trustees, and boards of education, only in so far as its terms are in conflict therewith, and shall not be deemed as repealing any such other provision of law not conflicting with the terms of this section. [Amendment approved May 8, 1919; Stats. 1919, p. 399.]

This section was added in 1917. See Stats. 1917, p. 1645.

§ 1618a. Health supervision of schools. Physical inspectors. First—Boards of school trustees, city and city and county boards of education are hereby authorized and empowered to provide for proper health supervision of the school buildings and pupils enrolled in the public schools under their jurisdiction. For this purpose, said boards may appoint a physical inspector or physical inspectors as the board may determine to consist of a physician, teacher, nurse, oculist, or dentist or any one or more of said persons; provided, that in case of the ap-

pointment of more than one physical inspector, said inspectors may, in the discretion of the board, all be chosen from any one of the classes designated. Said board may also appoint a nurse or nurses to work under the direction of the physical inspector or inspectors and may provide for the compensation of such employees; provided, that no money set aside for the payment of teachers' salaries or for library purposes may be used for this purpose.

Qualifications of physical inspectors. Second—The qualifications of such employees shall be as follows: For a physician, an unrevoked certificate issued by the state board of medical examiners and a health and development certificate as hereinafter provided; for a teacher, a life diploma of California or a special credential in physical education, and a health and development certificate; for an oculist, a California certificate to practice medicine and surgery and a health and development certificate; for a dentist, a certificate issued by the state board of dental examiners of the state of California and a health and development certificate; for a nurse, a certificate of registration issued by the California state board of health and a health and development certificate.

Certificates of physical inspectors. Third—County or city and county boards of education are hereby authorized and empowered to grant health and development certificates to persons holding certificates to practice medicine and surgery issued by the California state board of medical examiners; to persons holding California life diplomas and special credentials in physical education, issued by the state board of education; to persons holding certificates to practice dentistry issued by the California state board of dental examiners and to the holders of certificates of registration as nurses issued by the California state board of health when said applicant shall present with his certificate a credential from the state board of education showing special fitness and training for the work he is to do in the public schools.

Examination of pupils. Reports. Fourth—The board of school trustees or the city or city and county board of education shall make such rules for the examination of the pupils in the public schools under their jurisdiction as will insure proper care of the pupil and proper secrecy in connection with any defect noted by the physical inspector or his assistant and may tend to the correction of such physical defect or defects; provided, however, that a parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school in which he is enrolled a statement in writing, signed by such parent or guardian, stating that he will not consent to the physical examination of his child, and thereupon such child shall be exempt from any physical examination, but whenever there is good reason to believe that such child is suffering from a recognized contagious or infectious disease, such child shall be sent home and shall not be permitted to return until the school authorities are satisfied that such contagious or infectious disease does not exist. When a defect has been noted by the physical inspector or his assistant, a report shall be made to the parent or guardian of the child asking such parent or guardian to take such action as will cure such defect or defects.

The physical inspector shall make such reports from time to time as he may feel is best to the board of school trustees or city board of

education, or as the board may call for showing the number of defective children in the schools of the district and the effort made to correct such defects.

Inspectors to report on condition of school buildings. Fifth—In case the physical inspector shall note any defects in plumbing, lighting, heating, or other defects in the school building or buildings as may tend to make such building or buildings unfit for the proper housing of the children he shall at once make a detailed report to the board of trustees or the city board of education. If within fifteen days after he has filed this report, he finds that the board has made no provision for the correction of the defect, he shall at once report the same to the county superintendent of schools who shall under the provisions of section one thousand five hundred forty-six of the Political Code proceed to have such defect corrected.

Districts may join in employing inspectors. Sixth—The boards of school trustees or the city boards of education of two or more school districts in the same county may join in the employment of a physical inspector or physical inspectors, and may use funds not set aside for the payment of teachers' salaries or for library purposes for the expenses of such work. Such boards may employ a nurse or nurses under the direction of a physical inspector to examine the schools under their jurisdiction.

Inspectors must hold certificates. Seventh—No physician, oculist, dentist, nurse or other person shall be employed or permitted to supervise the health and physical development of pupils under this section or any other provision of law unless such person holds a health and development certificate granted in accordance with the provisions of this section.

§ 2. Act, Stats. 1909, p. 908, repealed. An act entitled "An act to provide for health and development supervision in the public schools of the state of California" approved April 15, 1909, is hereby repealed. [New section added April 21, 1919; Stats. 1919, p. 128.]

§ 1619. Equal rights and privileges. Vacation schools. Qualifications of teachers. First—Except where a school has been closed by order of a city or a county board of health or of the state board of health, on account of contagious disease, or where such school has been closed on account of fire, flood or other public disaster, boards of school trustees and city boards of education must maintain all of the elementary day schools established by them for an equal length of time during the year, and all of the day high schools established by them for an equal length of time during the year, and, as far as possible, with equal rights and privileges; provided, that boards of school trustees and city boards of education may establish and maintain vacation schools of kindergarten, elementary, or high school grade. No vacation school shall be established until a school of equal grade has been maintained for at least eight months. The duties of teachers, courses of study, length of school day, and all other matter relating to vacation schools, shall be determined by the boards of school trustees, or by the city board of education. Only teachers who are legally qualified to teach in the public schools of the state shall be eligible to teach in vacation schools of corresponding grade;

provided, that the attendance of pupils upon such schools shall not be counted as a part of the average daily attendance of the regular elementary or secondary schools of the district, nor shall the state or county school funds be used to maintain such schools.

When school maintained in different portions of district. Second—When in any district it is necessary for the convenience of the residents of said district that the school therein should be maintained a part of the year in one portion of the district, and a part of the year in another portion of the district, the aggregate of the time the school has been maintained in the different portions of the district shall be considered in estimating the time for which a school has been maintained in the district during the school year. [Amendment approved May 18, 1917; Stats. 1917, p. 688.]

§ 1650. Duties of clerk of school districts. Dismissal of clerk. It is the duty of the clerk:

First—To call meetings of the board at the request of two members, and to act as clerk of the board, and keep a record of its proceedings, and an accurate account of the receipts and expenditures of school moneys, and in all districts excepting such city districts as may have a city board of education on the first Monday in the months of October, January, March, and June of each school year he shall post up in a conspicuous place in each schoolhouse of his school district a complete copy of his account of said receipts and expenditures of the school moneys of his school district from the first day of the current school year to the date of his posting of said account.

Second—To keep his records and accounts, open to the inspection of the electors of the district, in suitable books provided by the board of school trustees for that purpose.

Third—To place in the library of the school all pamphlets, books or supplies received by purchase or otherwise for the school district.

Fourth—To perform such other duties as may be prescribed by the board.

Fifth—Should the clerk of the district refuse to keep the minutes or draw warrants or perform such other duties as are ordered by the board, the board at a regular meeting may dismiss the clerk, appoint another member clerk, and immediately notify the superintendent of schools of the county. [Amendment approved May 3, 1919; Stats. 1919, p. 178.]

§ 1662. Courses of study. First—The courses of study for the day elementary schools of California shall embrace eight years of instruction; and such courses must allot eight years for instruction in subjects required to be taught in such schools and may allot not more than two years for kindergarten instruction.

Ages for admission. Second—The day elementary schools of each school district of California shall be open for the admission of all children between six and twenty-one years of age residing in the district, and may be open for the admission of adults if the governing body of the district deem such admission advisable; provided, that where kindergarten instruction is given in the schools of a district, such school shall admit children to the kindergarten classes at four years of age; and the reports for the kindergarten classes shall be kept and shall be made

separate from other school reports; and provided, further, that wherever a school is established for the instruction of the deaf, such children may be admitted to such school at three years of age; provided, that the average daily attendance of deaf children who are six years of age or older shall be counted as part of the average daily attendance in the day and elementary schools.

Children excluded. Separate schools for Indians, etc. Third—The governing body of the school district shall have power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Chinese or Mongolian descent. When such separate schools are established, Indian, Mongolian or Chinese children must not be admitted into any other school.

Special day and evening classes. Fourth—The governing body of any elementary school district shall have power to establish and maintain, in connection with any school under its jurisdiction, special day and evening classes for the purpose of giving instruction in any of the branches of study mentioned in section one thousand six hundred sixty-five of this code. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year, as may be determined by such governing authority; and the enrollment of and attendance upon such classes shall be kept separately and the units of average daily attendance shall be determined as provided in section one thousand eight hundred fifty-eight of this code and shall be added to the attendance of the elementary school district.

Ages for admission. Fifth—The evening elementary schools and the special day and evening classes of the elementary schools of any school district shall be open for the admission of all children over the age of fifteen years, residing in the district and for the admission of adults; provided, that children under fifteen years of age who have been given permits to work in accordance with the provisions of an act to enforce the educational rights of the children may be admitted to the evening elementary schools. [Amendment approved May 18, 1917; Stats. 1917, p. 667.]

§ 1663. Classification of public schools. 1. The public schools of California, other than those supported exclusively by the state, shall be classed as day and evening elementary, and day and evening secondary schools. The day and evening elementary schools of California shall be designated as primary and grammar schools. The day and evening secondary schools of California shall be designated as high schools and technical schools, and either class may include a portion of the other class. [Amendment approved May 29, 1917; Stats. 1917, p. 1315.]

§ 1665. Branches to be taught in grades. Time given. First—Instructions must be given in the following branches in the several grades in which they may be required, viz.: reading, writing, spelling, arithmetic, geography, language and grammar, with special reference to composition, history of the United States with special reference to the history of the constitution of the United States and the history of the reasons for the adoption of each of its provisions, the duties of citizenship, to-

gether with instruction in local civil government; elements of physiology and hygiene, with special reference to the injurious effects of tobacco, alcohol and narcotics on the human system; morals and manners. In the first six grades of the elementary schools, at least two-thirds of the pupil's time during each week shall be devoted to study and recitation of the subjects hereinbefore enumerated, and in the seventh and eighth grades at least twelve and one-half hours of the pupil's time each week shall be devoted to the study and recitation of such subjects.

Subjects for remaining time. Manual training, etc. Second—From the time remaining after the study and recitations of the studies hereinbefore enumerated, at least twenty minutes of each school day must be devoted by all pupils over the age of eight years to such physical training as shall be most conducive to their proper physical development, and instruction must be given in nature study with special reference to agriculture and animal and bird life, music, drawing, elementary book-keeping, humane education. Manual training, household economics, and other vocational subjects may be taught in any elementary school of the state; provided, that in school districts employing six or more elementary school teachers in any one school, whether housed in one or more buildings, manual training and household economics must be taught. The state board of education may, in its discretion, adopt text-books in any of the subjects listed in this subdivision. [Amendment approved May 18, 1917; Stats. 1917, p. 728.]

§ 1670. School year. The school year begins on the first day of July and ends on the last day of June. A school month is construed and taken to be twenty days or four weeks of five days each, including legal holidays. [New section added May 18, 1917; Stats. 1917, p. 708.]

§ 1672a. Circulars, etc., of organization not under control of school authorities barred. Approval. Exceptions. No bulletin, circular or other publication of any character, whose purpose is to spread propaganda or to foster membership in, or subscriptions to the funds of, any organization not directly under the control of the school authorities, or to be used as the basis of study or recitation or to supplement the regular school studies shall be distributed or suffered to be distributed or shown to the pupils of any public school, on the school premises during school hours or within one hour before the time of opening or within one hour after the time of closing of such school nor shall pupils of the public school be solicited by teachers or others to subscribe to the funds of, or work for, any organization not directly under the control of the school authorities nor shall any instruction be given through lectures or other means, unless the material contained in such bulletin, circular or publication, or the purpose of such subscription or instruction, has been approved by the state board of education or by the county board of education, or by the governing board of the school district in which the school is situated. No prohibition of this section shall apply to bulletins or circulars concerning the meetings of their organizations issued by any parent-teacher association or by any organization of parents formed for the purpose of co-operating with the school authorities in improving school conditions in the district. [New section approved May 9, 1919; Stats. 1919, p. 436.]

§ 1673. Duration of daily sessions. No pupil other than one pursuing a vocational course must be kept in school more than six hours per day; and no pupil under eight years of age must be kept in school more than four hours per day. Any violation of the provisions of this section must be treated in the same manner as a violation of the provisions of the preceding section. [Amendment approved May 19, 1917; Stats. 1917, p. 689.]

§ 1674. Union school districts. [Repealed May 13, 1919; Stats. 1919, p. 511.]

§ 1696. Duties of teachers. Every teacher in the public school must:

File certificate. First—Before assuming charge of a school, file his or her certificate with the superintendent of schools; provided, that when any teacher so employed is the holder of a California state normal school diploma, accompanied by the certificate of the state board of education, as provided in subdivision third of section one thousand five hundred three of the Political Code, an educational or a life diploma of California, upon presentation thereof to the superintendent he shall record the name of said holder in a book provided for that purpose in his office, and the holder of said diploma shall thereupon be absolved from the provisions of this subdivision.

Notify superintendent of opening and closing day of school. Second—Before taking charge of a school, and one week before closing a term of school, notify the county superintendent of such fact, naming the day of opening or closing. Boards of education and boards of school trustees must in every case give to the teacher a notice of at least two weeks of their intention to close the term of school under their charge. No superintendent shall draw any requisition for the last month's salary of any teacher until said teacher has filed with him the notice required by this subdivision.

Enforce course of study. Third—Enforce the course of study, the use of the legally authorized text-books, and the rules and regulations prescribed for schools.

Hold pupils to account for conduct. Fourth—Hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess; suspend, for good cause, any pupil from the school, and report such suspension to the board of school trustees or city board of education for review. If such action is not sustained by them, the teacher may appeal to the county superintendent whose decision shall be final.

Keep register. Fifth—Keep a state school register, in which shall be left, at the close of the term, a report showing program of recitations, classification and grading of all pupils who have attended school at any time during the school year. The superintendent shall in no case draw a requisition in favor of the teacher until the teacher has filed with him a certificate from the clerk of the board of school trustees to the effect that the provisions of this subdivision have been complied with.

Make annual report. Sixth—Make an annual report to the county superintendent at the time and in the manner and on the blanks pre-

scribed by the superintendent of public instruction. Any teacher who shall end any school term before the close of the school year, shall make a report to the county superintendent immediately after the close of such term; and any teacher who may be teaching any school at the end of the school year shall, in his or her annual report, include all statistics for the entire school year, notwithstanding any previous report for a part of the year. Said teacher shall attach to the annual report a certificate showing the number of children attending said school who reside in other districts within the county, together with the names, residence by district and the average daily attendance of said children. The principal of a school of more than one teacher shall combine the separate certificates from the teachers in the school of which he is principal and shall make a certificate to the county superintendent showing the facts set forth in the separate certificates of the teachers. On receiving the certificates mentioned above from any school district under his jurisdiction, the county superintendent shall deduct the average daily attendance of such children, from the total average daily attendance of the district in which they have attended school, and add it to the total average daily attendance of the district or districts in which said children reside; provided, that whenever the consent of the trustees of the district in which such children reside is obtained, as provided elsewhere in this code, the attendance shall be counted in the district in which the pupils attend school unless there shall be filed with the county superintendent of schools on or before the first day of June of the year in which the attendance is to be counted, a written demand of the trustees of the district in which such children reside for the counting of such attendance in the home district, and then only when such demand is approved by the superintendent of schools. The superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of the school term, until the report required by this subdivision has been filed, and by him approved.

Make other reports. Seventh—Make such other reports as may be required by the superintendent of public instruction, county superintendent, board of school trustees, or city board of education. [Amendment approved May 31, 1917; Stats. 1917, p. 1376.]

§ 1696a. Substitute for destroyed school records. In case of epidemic. Ascertaining average daily attendance. Average daily attendance, public schools. Whenever in any school year, the school register or registers of any teacher or teachers or other records of any elementary or high school district may have been or shall hereafter be destroyed by conflagration or other public calamity, thereby preventing the teacher or teachers and school officers from making their annual reports in the usual manner and with accuracy, the affidavits of the teacher or teachers, the school principals or other officers of the school district certifying as to the contents of the destroyed registers or other records shall be accepted by all school authorities for all school purposes appertaining to the school district except that of average daily attendance; and whenever the average daily attendance of any elementary or high school district has been materially affected in any school year by conflagration, public calamity or epidemic of unusual duration and prevalence, the regular annual reports of the teacher or teachers, the school principals or officers of the school district shall be accepted

by all school officers for all school matters appertaining to the school district except that of average daily attendance; provided, that in case of conflagration or other public calamity, the superintendent of public instruction shall decide whether the attendance of such district has been affected sufficiently to justify the application of the provisions of this section, and shall notify the superintendent of schools of the county in which such school district is situated of his decision and in case of epidemic, the state board of health upon request of the superintendent of public instruction shall investigate the duration and prevalence of the epidemic in any such school district and decide whether the duration and prevalence thereof was sufficient to justify the application of the provisions of this section, and shall notify the superintendent of public instruction of its decision, and thereupon the superintendent of public instruction shall notify the superintendent of the county in which the school district is situated. The average daily attendance of any elementary or high school district whereof the register or registers of the teacher or teachers or any number of them, or other records may have been or shall hereafter be destroyed by conflagration or other public calamity, or whereof, by reason of conflagration or other public calamity or epidemic of unusual duration and prevalence its average daily attendance has been materially affected shall be its average daily attendance of the next preceding school year, increased or diminished by the average yearly increase or decrease, as the case may be, in average daily attendance during the three years next preceding; provided, that in any elementary or high school district which has not maintained school for all of the next preceding three years, the average daily attendance shall be the average daily attendance of the next preceding school year increased by seven per cent thereof. For the school year ending June 30, 1919, the average daily attendance of every elementary school district and of every high school district in the state, except districts that have not maintained school for the next preceding three years, shall be its average daily attendance for the school year ending June 30, 1918, increased or diminished by the average yearly increase or decrease, as the case may be, in average daily attendance calculated for the three years next preceding the school year ending June 30, 1918, and in case of every elementary school district and of every high school district that has not maintained school for all of the next preceding three years, the average daily attendance shall be the average daily attendance for the year ending June 30, 1918, increased by seven per cent thereof; provided, that in case of each school district having an actual average daily attendance according to the annual report for the school year ending June 30, 1919, in excess of the average daily attendance computed as hereinbefore provided, the actual average daily attendance of such district shall be accepted by all school officers for all school matters appertaining to such school district, including the raising and apportioning of school moneys.

§ 2. Inasmuch as this act provides for an appropriation for the usual current expenses of the state it shall take effect immediately. [Amendment approved April 18, 1919; Stats. 1919, p. 112.]

§ 1696b. **Order for text-books by teacher.** Upon closing a term of school, each teacher or principal shall prepare, upon requisition blanks furnished by the superintendent of public instruction, an order for the

number of state text-books estimated to be required for use in the school under his charge at the opening of the ensuing term. Such order shall be a part of the annual report required by subdivision six of section one thousand six hundred ninety-six of the Political Code. The superintendent of schools shall in no case draw a requisition for the salary of any teacher for the last month of the school term until the order required by this section has been filed and by him approved. Orders for additional books may be forwarded at any time on the approval of the county superintendent of schools.

In ordering free text-books, any teacher may order one copy of any series of books for use on the teacher's desk, if not supplied with such book, which copy shall be sent by the superintendent of public instruction free of cost with other school books. [New section added May 18, 1917; Stats. 1917, p. 707.]

§ 1697. **School month defined.** [Repealed May 18, 1917; Stats. 1917, p. 708.]

§ 1720. **Designation of secondary schools.** The secondary schools of the state shall be designated as high schools, technical schools, and junior colleges. High schools may be established and high school districts formed and organized in accordance with the provisions of this article. Whenever any high school district is so formed and organized the governing body thereof shall establish and maintain one or more high schools, technical schools, or junior colleges therein. [Amendment approved May 14, 1917; Stats. 1917, p. 463.]

§ 1723. **Jurisdiction over high school districts.** [Repealed May 18, 1917; Stats. 1917, p. 713.]

§ 1728. **Formation of joint union high school districts.** Whenever a majority of the registered electors, residing in each of two or more contiguous school districts, having in the aggregate at least one hundred pupils in average daily attendance in the elementary schools of such districts, shall unite in a petition to the superintendent of schools of the county who would have jurisdiction over the joint high school district proposed to be formed, which petition shall pray for the formation of a joint union high school district, under a name specified therein, such superintendent shall, within twenty days after receipt of such petition, verify the signatures thereto, and, if he finds it sufficient, the same proceedings shall be had on such petition, as are directed in section one thousand seven hundred twenty-seven, except that the county superintendent of schools shall file his certificate of the result of the election with the county clerk of each county in which any part of the joint union high school district is situated. If it appears from such certificate that a majority of the votes cast at such election were cast in favor of the formation of such district, such joint union high school district shall be deemed to be formed from the time of the filing thereof. The county clerk shall record the certificate in full in his record of high school districts. [Amendment approved May 18, 1917; Stats. 1917, p. 712.]

§ 1733a. **Petition to organize union or joint union high school district. Election. If majority favors. Exclusion of elementary districts.** Whenever a majority of the heads of families or of the electors

residing in each of several elementary school districts having in the aggregate one hundred seventy-five or more units of average daily attendance in the elementary schools, as shown by the last reports of the teachers in said districts, and having a total assessed valuation of at least one million dollars, and lying two and one-half miles or more from any public high school building by the nearest traveled road, which elementary school districts or a majority thereof are a part of one or more union or joint union high school districts of the county, as shown by the affidavits of one or more of the petitioners, shall present to the superintendent of schools who has jurisdiction over said elementary school district, or districts, or a majority thereof, a petition asking for the organization of a union high school district, or joint union high school district, as the case may be, to include all of the elementary school districts represented in said petition, and shall specify in said petition the name of the proposed union or joint union high school district, the county superintendent of schools shall, within twenty days after receiving said petition, verify the signatures thereto, and if he finds them sufficient, call an election for the determination of the question, and shall appoint three qualified electors in each of the districts petitioning, to conduct the election therein. Said election shall be held separately and simultaneously at a public schoolhouse in each of the districts petitioning, and shall be called by posting notices thereof in three public places in each district, one of which places shall be a public schoolhouse thereof, at least two weeks before the election, and by publishing such notice at least once a week for two successive weeks in a newspaper of general circulation published within said proposed union or joint union high school district, if there be such a newspaper, the first publication to be not less than two weeks before the election. Said election shall be conducted by the officers appointed for that purpose, in the manner provided by law for conducting elections of school trustees. The ballots used at such election in each district shall contain the words "Union high school district—Yes" and "Union high school district—No," or "Joint union high school district—Yes" and "Joint union high school district—No," as the case may be, and electors voting at such election shall make a cross with pencil, ink or rubber stamp, after the answer they desire to give. It shall be the duty of the said election officers in each district to canvass the vote at said election as soon as the polls are closed, and report the result to the superintendent of schools within five days subsequent to the holding of said election. Within ten days after receiving the returns of said election, the superintendent of schools of the county or in case of a joint union high school district the superintendent of the county who would have jurisdiction over the joint school district proposed to be formed shall combine the votes "for" and "against" the formation of the union or joint union high school district and declare and record the result, with the details of the vote in each district, in a book kept by him for that purpose. If a majority of the votes cast at the election are in favor of the formation of the union or joint union high school district, he shall also file, with the county clerk of the county, or of each county in which any part of the elementary school districts are situated, a certificate showing the total number of votes cast in each district in favor of the union or joint union high school district, the total number of votes in each district against the union or joint union

high school district, the aggregate result of said election and the boundaries of said proposed district. If it shall appear from such certificate that a majority of the votes cast at such election were cast in favor of the formation of such district, the board of supervisors shall make an order excluding all elementary school districts in their county taking part in said election from the high school district or districts of which they, or any of them, were a part; provided, that no order excluding territory from any union or joint union high school district shall be made if the exclusion of such territory would reduce the assessed valuation of such union or joint union high school district to three million five hundred thousand dollars or less; and provided, further, that all bonded indebtedness of the union or joint union high school district and all interest thereon shall be paid by the district which incurred the same as though such exclusion had not occurred. The order of the board of supervisors excluding such elementary school districts from a union or joint union high school district shall be entered by the clerk of the board of supervisors in his record of high school districts, and he shall also send a copy thereof to the county clerk of each county in which any part of such high school district is situated and said county clerk shall enter it in his record of high school districts. The board of supervisors, after making the order of exclusion, shall make an order establishing the union or joint union high school district asked for in the petition, and the county clerk shall record the certificate of the county superintendent of schools and the orders of the board of supervisors in full in his record of high school districts. [New section added May 27, 1919; Stats. 1919, p. 1022.]

§ 1734a. Petition to annex elementary school district to high school district. Notice of hearing. Hearing. Order. Protest, etc. Whenever the principal of a high school in any high school district shall present to the high school board of such high school district a statement made under oath that the average daily attendance in such high school of pupils from three or more families whose parents reside in an elementary school district lying wholly within the county and contiguous to such high school district was an average of three or more for the two school years next preceding, which statement shall set forth the names of said pupils, the high school board of such high school district may petition the board of supervisors of the county to annex such elementary school district to such high school district. Upon presentation of such petition accompanied by the sworn statement of the high school principal concerning the attendance and residence of such pupils, and a verification thereof by the county superintendent of schools, the board of supervisors may set the same for hearing at a regular meeting thereof and shall publish in a newspaper of general circulation in the county once each week for at least two weeks prior to such hearing a notice containing a general statement of the purpose of such petition and the time and place when and where the petition will be heard, and shall require the clerk of the board of supervisors to mail a copy of such notice to each of the trustees of such school district at least ten days prior to such hearing. The board of supervisors must at the time and place mentioned in such notice hear the persons interested in the petition and unless it shall be shown that said elementary school district is already paying through the county high school tax a reasonable

amount toward the cost of such high school, shall make an order annexing such elementary school district to such high school district; provided, that if within sixty days after such order is made, a protest against such annexation signed by a majority of the electors of such elementary school district as shown by the affidavit of one of the protestants shall be filed with the board of supervisors, the board of supervisors shall rescind such order and shall cause to be levied upon the property of such elementary school district a tax which shall produce an amount computed as follows: From the entire cost of maintenance of the high school for the year, there shall be subtracted the entire income of such high school from state and county sources; the remainder shall be divided by the units of average daily attendance in said high school; and the quotient so obtained shall be multiplied by the units of average daily attendance of pupils from the aforesaid elementary school districts; said amount shall be levied and collected from such elementary school district in the usual way and shall be paid into the special fund of the high school district; provided, further, that the principal of any high school may deny admission to any student of a district lying outside the high school district if there is no room to receive such student.

Whenever the high school board of each of two or more high school districts shall, under the provisions of this section, petition the board of supervisors for the annexation of the same elementary school district, the board of supervisors shall refer the matter to the county superintendent of schools who shall make a recommendation thereon, after which the board of supervisors may in their discretion make an order annexing such elementary school district to one of the high school districts petitioning for its annexation after notice and hearing as hereinbefore provided.

Whenever an elementary school district is annexed to a high school district in accordance with the provisions of this section, the territory thus annexed to such high school district shall not be liable for any bonded indebtedness existing against the high school district, and all levies of taxes made for the payment of the same shall be upon the property of the territory of the original high school district.

Whenever an elementary school district is annexed under the provisions of this section to any high school district having the same boundaries as a single elementary school district, except a city high school district, such high school district shall thereafter constitute a union high school district, and shall be governed by a high school board elected according to the provisions of sections one thousand seven hundred thirty and one thousand seven hundred thirty-one of the Political Code. From and after the organization of the first high school board in any union high school district formed as hereinbefore provided, all property belonging to the original high school district, shall be and become the property of the union high school district so formed.

Whenever one or more elementary school districts are annexed under the provisions of this act to a city high school district, such annexation shall be for high school purposes only. Such territory shall be deemed a part of said city for the purpose of holding the general municipal election at which any member of the board of education is to be elected, and shall form one or more election precincts, as may be determined by the legislative authority of said city, the qualified

such report has been filed as required by this section. [Amendment approved May 21, 1919; Stats. 1919, p. 806.]

This section was also amended in 1917. See Stats. 1917, p. 1327.

§ 1743a. Report of high school principal. Salary withheld if report not filed. [Repealed May 29, 1917; Stats. 1917, p. 1327.]

§ 1746. When two-thirds favor bonds. Limit on amount of bonds. Form of bonds. Where payable. Sale at par. Advertisement of sale. If it appears that two-thirds of the votes cast at said election were cast in favor of issuing such bonds, then such high school board shall cause an entry of that fact to be made upon its minutes, and shall certify to the board of supervisors of the county whose superintendent of schools has jurisdiction of said high school district all of the proceedings had in the premises, and thereupon said board of supervisors shall be and it is hereby authorized and directed to issue the bonds of such high school district, in accordance with such proceedings, payable out of the interest and sinking fund of such high school district, naming the same; provided, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the high school district as shown by the last equalized assessment of the county or counties in which such district is located. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds and of the interest coupons attached thereto, if any, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof. If the notice calling the election shall have provided that the bonds and the interest thereon shall be payable in gold coin of the United States, the bonds shall be made payable in such gold coin, as to principal and interest. If the notice calling the election shall have provided that the bonds and the interest thereon shall be payable in lawful money of the United States, the bonds shall be made payable in lawful money of the United States as to principal and interest. If the notice shall have made no such specific provisions, the board of supervisors shall have power in the order prescribing the form of the bonds either to make the bonds payable in gold coin of the United States as to principal and interest, or to make them payable in lawful money of the United States as to principal and interest. Said board of supervisors may make the principal and interest of said bonds payable at the office of the treasurer of the county, or at such other place within the United States as the board may designate, or at such treasurer's office or such other designated place, at the option of the bondholder; which place of payment shall be specified in the bonds; and this provision shall apply to all such bonds not yet issued when this section takes effect, regardless of the time when the election therefor was held. The expense of paying such principal and interest elsewhere than at the office of the treasurer shall be a charge against the high school district funds, to be paid out of the tax for the payment of the bonds. Such bonds must be sold at the times and in the amounts prescribed by the board of supervisors, but for not less than par, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of the said high school district, and be drawn out for the purposes aforesaid as other high school moneys are

drawn out. Before selling said bonds, or any part thereof, the board of supervisors must advertise for bids therefor for at least two weeks in some daily or weekly newspaper of general circulation published in the county, or if there is no such newspaper published in the county, in some such newspaper published in some other county in the state. If satisfactory bids are received, the bonds offered for sale must be awarded to the highest bidder. If no bids are received, or the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell said bonds at private sale. [Amendment approved May 9, 1919; Stats. 1919, p. 439.]

§ 1747. Taxation for bonds of high school district. When district is in more than one county. The board of supervisors of the county whose superintendent of schools has jurisdiction over any high school district must annually, at the time of making the levy of taxes for county purposes, levy a tax for that year upon the taxable property in such high school district for the interest and redemption of all outstanding bonds of such district, and said tax must not be less than sufficient to pay the interest of said bonds for that year, and such a portion of the principal as is to become due during such year, and in any event must be high enough to raise annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term high enough to pay such annual interest, and to pay annually a proportion of the principal of said bonds, equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run; and all taxes so levied, when collected, shall as herein provided be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the high school district in behalf of which such tax was levied to the credit of the bond interest and sinking fund of such high school district, and be used for the payment of the principal and interest on said bonds and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of the county aforesaid at the place required by the terms of such bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof after he has canceled the bonds and coupons, or upon the receipt of the registered owner if such bonds are registered, after a proper warrant has been drawn by the auditor therefor, out of the fund provided for their payment.

In case of a high school district situated in two or more counties, the assessor of each of such counties must annually, as soon as the county assessments have been equalized by the state board of equalization certify to the board of supervisors of each of the counties in which any portion of such high school district is situated, the assessed value of all taxable property in such county situated in such high school district, and the said tax shall be so levied according to the ratio which the assessed value of the property in such high school district in any county bears to the total assessed value of the property in such district, each board of supervisors to levy upon the property in such high school district and within their own county, such rate of tax as will be sufficient to raise not less than the amount needed to pay the interest and such

portion of the principal of such bonds as is to become due during such year. Said tax shall be entered upon the assessment-roll and collected in the same manner as other school taxes are entered and collected and when collected paid into the treasury of such county and it shall then be the duty of the treasurer of any such county other than the one whose superintendent of schools has jurisdiction over such high school, on written demand of the treasurer of the county whose superintendent of schools has jurisdiction over such high school to pay the sums collected on account of such tax into the treasury of the county whose superintendent of schools has jurisdiction over such high school. Whenever money has been raised for the payment of principal or interest of outstanding bonds of any high school district and the same is at the time this section takes effect in the treasury of any other county than that prescribed by this section for the custody of such funds, the same shall at once be paid into the proper county treasury as above provided. [Amendment approved May 21, 1919; Stats. 1919, p. 792.]

§ 1750a. Intermediate school courses. Election. Ballots. Daily attendance. Lapsing of course. Estimated expenses. The high school board of any high school district or the trustees of any county high school, may prescribe intermediate school courses, and admit thereto pupils who have completed the sixth year of the elementary school; provided, that no intermediate school course shall be prescribed in any county, union or joint union high school district, unless a majority of the trustees of the elementary school districts comprising such high school district shall approve the organization of such course in writing, and shall file a statement of such approval with the high school board, or unless, at an election called for that purpose in the same manner as the election for the formation of the high school district, a majority of the qualified electors voting thereat shall vote in favor of such intermediate school course. The ballots used at such election shall contain the words "Intermediate school course—Yes" and "Intermediate school course—No." The result of said election shall be determined and certified to the superintendent of schools as provided in case of the election for the formation of the district. The first two years of such intermediate school course shall include instruction in the school studies generally taught in the seventh and eighth grades of the elementary school, and may include such other studies, including secondary, vocational and industrial subjects, as said high school board may prescribe. The average daily attendance of all pupils from each district, enrolled in the first two years of such intermediate school course, shall be kept separate and shall be credited to the common school district in which the various pupils reside; provided, that when any intermediate school course is first established under the provisions of this section, the course of study therefor shall be adopted between the first day of July and the date of the opening of school for the current school year.

Whenever the average daily attendance of pupils enrolled in the first two years of the intermediate school course of a district is less than twenty-five for any school year, such intermediate school course shall be deemed to have lapsed.

The high school board of any high school district maintaining an intermediate school course, may include in the annual estimate of expenses of such high school district filed with the county superintendent of

schools in accordance with the provisions of this code, the estimated expenses for maintaining such intermediate school course. [Amendment approved May 29, 1917; Stats. 1917, p. 1328.]

§ 1750b. Junior college courses. Regulations. Requirements for graduation. Courses of study. Attendance included in average daily attendance of district. Included in estimate for apportioning fund. Approval of courses by state board of education. The high school board of any high school district having an assessed valuation of three million dollars or more, may prescribe junior college courses of study, including not more than two years of work, and admit thereto the graduates of such high school, the graduates of other high schools and such other candidates for admission who are at least twenty-one years of age, and are recommended for admission by the principal of the high school maintaining such junior college courses. Junior college courses of study may include such studies as are required for the junior certificate at the University of California, and such other courses of training in the mechanical and industrial arts, household economy, agriculture, civic education and commerce as the high school board may deem it advisable to establish.

The high school board shall adopt regulations governing the organization of such courses of study and shall prescribe requirements for graduation from such courses; provided, that the minimum requirement for graduation from junior college courses of study shall be at least sixty credit-hours of work. A credit-hour is hereby defined as approximately three hours of recitation, study and laboratory work per week carried through one-half year.

Courses of study organized under the provisions of this section may be offered in any or all day and evening high schools of the district, or in a separate junior college, as the high school board may determine.

The attendance of students enrolled in junior college courses of study shall be kept according to regulations prescribed by the state board of education, and the average daily attendance of such students shall be included in the annual report of the average daily attendance of the high school district required in section one thousand seven hundred forty-three of the Political Code. The superintendent of schools of each county, in making the annual estimate of county high school fund required, shall include in the basis of such estimate the average daily attendance of all students enrolled in junior college courses during the preceding school year. In apportioning the county high school fund, the superintendent of schools of the county shall count the average daily attendance of all students enrolled in junior college courses as a part of the average daily attendance of each high school district in which such students are enrolled.

The state controller, in making the annual estimate of the amount necessary for the support of high schools, as required in section one thousand seven hundred sixty of the Political Code, shall include in the basis of his estimate, the average daily attendance of all students enrolled in junior college courses, and the superintendent of public instruction, in apportioning the state high school fund, shall count the average daily attendance of students enrolled in junior college courses as a part of the average daily attendance of each high school district in which such students are enrolled.

All courses of study prescribed in accordance with this section shall be subject to approval by the state board of education, and no state high school funds shall be apportioned to any high school district on account of the attendance of students enrolled in junior college courses, unless such courses have been approved by the state board of education. [New section added May 14, 1917; Stats. 1917, p. 464.]

§ 1750c. Special day and evening classes. Vocational courses. Transportation for teachers of agriculture. The high school board of any high school district subject to the provisions of section one thousand seven hundred fifty of this code, shall have power to establish and maintain, in connection with any day high school under its jurisdiction, special day and evening classes for the purpose of giving instruction in any of the branches of study that may be taught in a high school. These classes may be convened at such hours and for such length of time during the school day or evening, and at such period and for such length of time during the school year as may be determined by said governing authority; and the enrollment of and attendance upon such classes shall be kept separately and the units of average daily attendance shall be determined as provided in section one thousand eight hundred fifty-eight of this code, and shall be added to the high school attendance of the district.

The high school board of any high school district subject to the provisions of section one thousand seven hundred fifty of this code shall have power to establish and maintain, in connection with any high school under its jurisdiction, part-time vocational courses in agricultural, commercial, industrial, trade or other vocational subjects. The enrollment of and attendance upon such courses shall be kept separately and the units of average daily attendance, determined as provided in section one thousand eight hundred fifty-eight of this code, shall be added to the high school attendance of the district; provided, that each pupil of a class pursuing such a part-time course in agriculture shall devote, under the direct supervision of a teacher holding a special certificate in agriculture or a vocational certificate in agriculture, at least three hours daily or an equivalent amount of time to farm mechanics and to farm project work conducted by him on a commercially productive basis, and at least three hours daily or an equivalent amount of time to academic work in school or in class, a part of which shall supplement the practical work; and provided, further, that each pupil of a class pursuing a part-time course in commerce, industry, trade, or other vocational subject shall devote, under the direct supervision of a competent teacher holding a vocational certificate in the special subject, at least three hours daily or an equivalent amount of time to educative practical work under employment and at least three hours daily or an equivalent amount of time in school or class to academic work, a part of which shall supplement the practical work. The high school board of any high school district maintaining a part-time agricultural course as provided above may, at its option and in such manner as it may deem advisable, furnish the necessary transportation for teachers of agriculture engaged in supervising the project work of the pupils and may pay any expense so incurred from the county or district high school funds of the district. [Amendment approved May 31, 1917; Stats. 1917, p. 1382.]

§ 1771. Powers of county boards of education. County boards of education have power:

1. To adopt rules and regulations, not inconsistent with the laws of this state, for their own government.

2. To prescribe and enforce rules for the examination of teachers, to examine applicants for elementary school certificates and to establish a standard of proficiency which will entitle the person examined to a certificate.

3. To grant, in accordance with sections one thousand seven hundred seventy-two and one thousand seven hundred seventy-five of this code, the following certificates, renewable at the option of the board:

(a) **Secondary school.** Secondary school certificates, authorizing the holders to teach in any secondary or elementary school in the county.

(b) **Elementary school.** Elementary school certificates authorizing the holders to teach in any elementary school of the county, and in the first two years of any intermediate school course established as provided in section one thousand seven hundred fifty a of the Political Code; provided, that holders of elementary school certificates who have completed two years of work in a college, or one year of work in a college in addition to a normal school course, or one year of post graduate study in a California state normal school in addition to a normal school course, under regulations prescribed by the state board of education, may teach in the third year of any intermediate school course.

(c) **Kindergarten primary.** Kindergarten primary certificates, authorizing the holders to teach in any kindergarten class in the county.

(d) **Special.** Special certificates, authorizing the holders to teach in the schools of the county such branch or branches of learning and in such grades as are named in such certificates. No special certificate shall be granted except for the oral teaching of the deaf or for teaching of the blind or for the teaching of atypical children or for the teaching of special classes in citizenship, or for teaching a subject included under the manual and fine arts, oral and dramatic expression, library craft, technique and use, music, physical education, agriculture, commercial branches, French, Spanish, or any other modern language useful in trade or commerce, vocational guidance and technical, household and industrial arts, and other vocational arts, not herein specified.

(e) **Special.** Special certificates authorizing the holders to supervise health and development work in the public schools or to perform the duties of attendance officer may be issued.

4. **Grant permanent certificates.** To grant, in accordance with the provisions of this code, permanent certificates of the grade and kind designated therein. Every certificate except a permanent certificate shall be valid for six years; provided, that when any certificate shall be granted on a recommendation or credential given for a limited period only, such certificate shall not be valid for a longer period than that specified in such recommendation or credential; and provided, further, that any certificate granted to a candidate who has not had at least one year of experience in teaching shall not be valid for a longer period than two years. All certificates must be issued upon blank forms prepared by the

superintendent of public instruction, and must have the impress of the seal of the county board of education and be signed by a majority of the members of the county board of education issuing such certificate.

5. **Adopt list of books.** To adopt a list of books and apparatus for district school libraries and books for supplementary use in elementary schools in their respective counties and cities and counties, as required by section one thousand seven hundred twelve of the Political Code; provided, that no pupil shall be required to purchase said supplementary books, and pupils must be expressly notified by teachers that it is not required or desirable that such books for supplementary use be purchased by pupils or parents. When supplementary books are purchased, they must be paid for by the school district. Except in cities having a city board of education, to prescribe and enforce in the public schools a course of study and the use of a uniform series of text-books.

6. **Revoke or suspend certificates.** To revoke or suspend, for immoral or unprofessional conduct, evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers, the certificates granted by them. But no certificate shall be revoked or suspended until after a hearing before the county board of education, and then only upon the affirmative vote of at least four members of the board. All charges of immoral or unprofessional conduct, of evident unfitness for teaching, or persistent defiance of, and refusal to obey the laws regulating the duties of teachers, shall be presented to the board in writing and shall be verified under oath. Notice of the time of hearing and a full and complete copy of the charges shall be furnished to the accused at least ten days before the hearing. The accused shall be given a fair and impartial hearing and shall have the right to be represented by counsel. The hearing shall be governed by, and conducted under, the rules of the board.

7. **Records.** To keep a record of their proceedings.

8. **Issue diplomas.** To provide for the conferring of diplomas of graduation, by examination and to issue such diplomas of graduation from the elementary schools of the county except city schools governed by city boards of education; provided, that nothing herein shall be construed as prohibiting the county board of education from issuing diplomas of graduation without examination to the pupils in any school which has been accredited by the said county board of education. Such diplomas shall be conferred only upon such pupils as have completed the course of study prescribed by the board. All diplomas granted by the county board of education shall be on blanks furnished by the superintendent of public instruction and shall be signed by the president and secretary of the board.

9. **Seal.** To adopt and use in authentication of their acts, an official seal, and to have such printing done as may be necessary.

10. **Prescribe course of study.** To prescribe and it shall be their duty to prescribe, on or before the first day of July of each year, the course of study in and for each grade of the elementary schools of the county for the ensuing school year; provided, that such course of study shall not apply to elementary schools in cities governed by city boards of educa-

tion. Whenever necessary the board may amend and change the course of study, subject to section one thousand six hundred sixty-five of this code. [Amendment approved May 10, 1919; Stats. 1919, p. 454.]

This section was also amended in 1917. See Stats. 1917, p. 1315.

§ 1775. **Certificates without examination.** 1. County boards of education may, without examination grant certificates as follows:

(a) **High school.** High school certificates: (1) To the holders of high school credentials approved by the state board of education in accordance with the provisions of this code; (2) to the holders of special credentials issued by said state board in accordance with the provisions of this code; (3) to holders of high school certificates issued by any county or city and county board of education in this state.

(b) **Elementary school.** Elementary school certificates: To holders of the following credentials: (1) Life diplomas or certificates of any state; provided, the state board of education in this state shall have decided that said diplomas or certificates represent experience and scholarship equivalent to the requirements for the elementary life diploma in California. (2) California state normal school diplomas, San Francisco city normal school diplomas heretofore granted, and other normal school diplomas; provided, that the state board of education of this state shall have accredited the normal school issuing said diploma as being of equal rank with the state normal schools of California. (3) Diplomas of graduation with the bachelor's degree based upon a four-year course, granted by the University of California or any other university accredited by the state board of education for high school certification; provided, that the holder thereof has successfully completed eight months of experience in teaching, or twelve units of pedagogy according to regulations prescribed by the state board of education. (4) Holders of state board credentials of elementary grade issued by the state board of education in accordance with law. (5) To holders of valid elementary school teachers' certificates of any county, or city and county of California; provided, that the holder thereof has had eight months of successful teaching experience.

(c) **Kindergarten primary.** Kindergarten primary certificates: (1) To the holders of kindergarten primary certificates of any county, or city and county of California; (2) to the holders of diplomas of graduation from the kindergarten department of any state normal school in the state; (3) to the holders of credentials showing that the applicant has had professional kindergarten training in an institution approved by the state board of education and also a general education equivalent to the requirements of graduation from the kindergarten department of a California state normal school; (4) to the holders of kindergarten credentials issued by the state board of education in accordance with the provisions of this code.

(d) **Special.** Special certificates: (1) To the holders of credentials approved by the state board of education, in accordance with the provisions of this code; (2) to the holders of special credentials issued by the state board of education, in accordance with the provisions of this code.

(e) **Attendance officer.** Attendance officer certificates: To the holders of special credentials therefor issued by the state board of education in accordance with the provisions of this code.

(f) **Health and development.** Health and development certificates: To holders of certificates to practice medicine and surgery issued by the California state board of medical examiners or to holders of California life diplomas or special credentials in physical education granted by the state board of education, or to holders of certificates to practice dentistry by the California state board of dental examiners and to holders of certificates of registration as nurses, provided that certificates shall be granted to such persons only when such certificate to practice medicine and surgery, or California life diploma or certificate to practice dentistry, or certificate of registration as nurses, or a special credential in physical education granted by the state board of education, is accompanied by a special credential from the state board of education showing special fitness and training for health supervision of pupils.

2. **Elementary certificates to primary grade certificate holders.** Elementary school certificates may be granted to the holders of primary grade certificates who shall pass satisfactory examinations in such branches as do not appear on their certificates or in the record of the examination upon which the original certificate was granted.

3. **Certificates now valid continue in force.** All certificates and diplomas now valid in California shall continue in force and effect for the full term for which they were granted. County boards of education may renew any certificate issued by them prior to the adoption of this law, and now in force, and may renew certificates granted by authority of law. Except as otherwise provided, renewed certificates shall be valid for a period of six years.

4. **Permanent certificate after five years teaching.** When the holder of any certificate or state diploma shall have taught successfully in the same county, or city and county, for five years, the board of education of such county, or city and county, may grant a permanent certificate of the kind and grade which said applicant holds, valid in the county, or city and county, in which issued during the life of the holder, or until revoked for any of the causes designated in subdivision six of section one thousand seven hundred seventy-one of this code; provided, that such permanent certificate shall in no case be of a higher grade than the grade of the certificate or state diploma on which the teaching has been done; and for a permanent high school certificate twenty months of said teaching shall have consisted of regular high school work; and provided, further, that a certificate when renewed the second time, or any time thereafter, shall become, by such renewal, a permanent certificate if the holder of said certificate shall have complied with all the conditions of this subdivision.

5. **Lower grades. Holders of existing certificates.** No teacher shall be employed to teach in any way in any school if the certificate held by the teacher is of a grade below that of the school or class to be taught, nor shall a teacher holding a special certificate be employed to teach any subject not authorized in such certificate; provided, that the holders of

existing primary certificates, or of the same when hereafter renewed or made permanent shall be eligible to teach in any of the grades of the day or evening elementary schools below the sixth year, and not including the kindergarten grades; and in any day or evening elementary school of the county, or city and county, which the county or city and county superintendent shall designate as a primary school; and provided, further, that the holder of any valid special certificate for kindergarten work, or of any kindergarten primary certificate who presents to the county superintendent of schools a statement that she has spent one year in a California state normal school, signed by the president thereof, or who presents evidence of one year of successful experience in teaching in an elementary school, or who holds a diploma of graduation issued during or after the year 1917 by an institution accredited by the state board of education for kindergarten certification, shall be entitled to teach in the first grade of the elementary school.

6. High school librarian. No librarian shall be employed for more than two hours a day in any high school, unless such librarian holds a high school certificate or a special teachers' certificate in library craft technique and use, of secondary grade, granted in accordance with the provisions of this code. Such librarians shall rank as teachers, and shall be subject to the burdens and entitled to the benefits of the public school teachers retirement salary fund law on the same basis as other teachers. [Amendment approved May 9, 1919; Stats. 1919, p. 483.]

This section was also amended in 1917. See Stats. 1917, p. 1317.

§1817. Estimate of school fund needed. The county superintendent of every county, and of every city and county, must, at least fifteen days before the first day of the month in which the board of supervisors of such county, or city and county, is required by law to levy the amount of taxes required for county, or city and county purposes, to furnish to the board of supervisors and to the auditor, respectively, an estimate in writing of the minimum amount of county or city and county school fund needed for the next ensuing school year. This amount he must compute as follows:

Number of teachers. First—The county superintendent of every county and of every city and county must ascertain in the manner provided for in subdivisions one and two of section one thousand eight hundred fifty-eight of the Political Code, the total number of teachers for the county, or the city and county.

Minimum amount of fund. Tax rate. Second—The county superintendent of every county and of every city and county must calculate the amount required to be raised at five hundred fifty dollars per teacher and the total amount so determined shall be the minimum amount of county, or city and county school fund needed for the ensuing school year; provided, that if this amount is less than sufficient to raise a sum equal to twenty-one dollars for each pupil in average daily attendance in the county, or city and county, for the school year closing June thirtieth preceeding, then the minimum amount shall be such a sum as will be equal to twenty-one dollars for each pupil in average daily attendance in the county, or city and county, for the school year ending June thirtieth pre-

ceding; but in no case shall the rate of tax levied for county or city and county school purposes in any one year exceed fifty cents on each one hundred dollars of taxable property in the county or city and county. [Amendment approved May 25, 1919; Stats. 1919, p. 1192.]

§ 1838. Estimate of amount needed for building purposes. Levy of tax. Building fund. Maximum rates. Tax levied in addition to maintenance taxes. The board of school trustees or the board of education of any school district or of any city, or city and county, may, at least fifteen days before the first day of the month in which the board of supervisors is required by law to levy the taxes required for county purposes, submit to the county superintendent of schools an estimate of any amount of money which will be required for purchasing school lots for building or purchasing one or more school buildings or making alterations or additions to any school building or buildings, for repairing, restoring or rebuilding any school building damaged, injured, or destroyed by fire, or other public calamity, for insuring school buildings, for supplying school buildings with furniture or necessary apparatus, or for improving school grounds in their several districts for the ensuing school year.

The county superintendent of schools shall thereupon examine said estimates, and submit copies of the same with his approval or disapproval indorsed thereon, to the board of supervisors and to the county auditor at the time he submits to them his estimate for the county school tax for the ensuing school year. If the county superintendent of schools approve such estimate, the said board of supervisors may, at the time and in the manner of levying other taxes, levy and cause to be collected in the several school districts for which estimates have been submitted and approved as herein provided, the excess amounts so submitted and approved. The funds so levied and collected shall be known as the building fund of — school district (as the case may be), and shall be available for any or all of the purposes hereinbefore enumerated and the moneys drawn from such fund shall be paid out in the same manner as are moneys from the building funds of school districts; provided, that the maximum rate of taxation which may be levied under this section shall not exceed fifteen cents on the one hundred dollars; provided, this section shall not be so construed as to repeal sections one thousand eight hundred thirty and one thousand eight hundred thirty-seven, inclusive, and one thousand eight hundred forty of the Political Code, or any part or parts thereof and any tax levied under the provisions of this section shall be in addition to any tax for maintenance levied under the provisions of section one thousand eight hundred forty of the Political Code. [Amendment approved May 11, 1919; Stats. 1919, p. 478.]

This section was added June 1, 1917. See Stats. 1917, p. 1560.

§ 1858. Apportionment of school moneys. The school superintendent of every county and city and county must apportion all state and county school moneys for the elementary grades of his county or city and county as follows:

Number of teachers in each district. First—He must ascertain the number of teachers each school district is entitled to by calculating one teacher for every district having thirty-five or a less number of units of average daily attendance and one additional teacher for each additional

thirty-five units of average daily attendance, or fraction of thirty-five not less than ten units of average daily attendance as shown by the annual school report of the school district for the next preceding school year; and two additional teachers shall be allowed to each district for every seven hundred units of average daily attendance; and in districts wherein separate classes are established for the instruction of the deaf, as provided in section one thousand six hundred eighteen of this code, an additional teacher for each nine deaf children, or fraction of such number, not less than five, actually attending such classes.

Total number of teachers. Second—He must ascertain the total number of teachers for the county or city and county by adding together the number of teachers allowed to the several districts. He must make an annual report of the schools of his county or city and county under oath to the superintendent of public instruction not later than August first of each year, and must report the number of teachers ascertained and allowed to his county or city and county by the rule or provisions of subdivision one hereof.

Apportionment for each district. Third—Eight hundred dollars shall be apportioned to every school district for every teacher so allowed to it; provided, that to districts having over thirty-five or a multiple of thirty-five units of average daily attendance and a fraction of less than ten units of average daily attendance, forty dollars shall be apportioned for each unit of average daily attendance in said fraction.

Apportionment of balance. Fourth—All school moneys remaining on hand, after apportioning to the school districts the moneys provided for in subdivision three of this section, must be apportioned to the several districts in proportion to the average daily attendance in each district during the next preceding school year. In any newly organized school district where school was not maintained during the school year in which it was organized the county superintendent shall apportion eight hundred dollars to the newly organized school district for the purpose of maintaining school therein during the school year next succeeding the school year in which it was organized.

Daily and average attendance. Fifth—A minimum full day's attendance on the regular full-time elementary day school as hereby established is, for a pupil of the first, second, or third grade, two hundred minutes, and for a pupil of the fourth, fifth, sixth, seventh, or eighth grade, two hundred forty minutes, of actual attendance for any given day upon school sessions, exclusive of intermissions. When a pupil is absent from the first, second, or third grade of a regular full-time day school, for any day, session, or part of a session, five per cent of a day's absence must be recorded for each full ten-minute period of absence; and when a pupil is absent from any other grade of said elementary school for any day, session or part of a session, five per cent of a day's absence must be recorded for each full twelve-minute period of absence; provided, however, that such record may not for any one day exceed one hundred per cent. The actual attendance of a pupil upon a regular full-time day school for any given length of time shall be the number of days school was actually taught during such time less the sum of his absences. Attendance upon evening schools and special day and special

evening classes of day schools of elementary and secondary grade shall be kept according to regulations prescribed by the state board of education. A full day's attendance upon such schools or classes shall be four sixty-minute hours. Units of average daily attendance in elementary schools shall be construed to be the quotient arising from dividing the total number of days of pupils' attendance in the regular full-time day and evening elementary schools including the special day and evening classes of the elementary schools of the district for the school year by the number of days school was actually taught in the regular elementary day schools of the district during said year; and units of average daily attendance in secondary schools shall be construed to be the quotient arising from dividing the total number of days of pupils' attendance in the regular full-time secondary schools, the evening secondary schools, the special day and evening classes of secondary schools, and the part-time vocational courses of the district for the school year by the number of days school was actually taught in the regular secondary day schools of the district during said year; provided, that where a high school maintains during the school year four terms of school of at least twelve weeks each, and where the course of instruction is so arranged that students may complete a full year's work in any three of these terms, the total number of days of pupils' attendance, as specified above, shall be divided by the greatest number of days school was actually taught in any three of the four terms, but in no case shall said divisor be less than one hundred seventy-five; provided, further, that in making up the aggregate attendance, if the number of days of attendance of any pupil for the fiscal year exceeds the above-mentioned divisor, the number of days which may be included on account of such pupil's attendance shall equal said divisor.

Regulations for keeping attendance. Sixth—Subject to the provisions of this code, the state board of education shall adopt uniform regulations governing the keeping of attendance in all secondary schools. In adopting regulations governing the keeping of the attendance of pupils upon the part-time vocational courses provided for in section one thousand seven hundred fifty c of this code, the state board may, in its discretion, provide that the time spent by a pupil in practical vocational work shall be counted in making up each six-hour minimum daily unit of attendance.

Where school is closed for part of term. Seventh—Where a school in a district maintaining more than one school is closed for a part of a term by order of a city or county board of health or of the state board of health, on account of contagious disease, or where such school has been closed on account of fire, flood or other public disaster, the average daily attendance of said school shall be estimated separately and added to the average daily attendance of the other schools of the district. The units of average daily attendance of said school shall be determined by dividing the total number of days of pupils' attendance upon such school including the special day and evening classes and the part-time vocational courses by the number of full-day sessions actually maintained in such school during the year; provided, that where such number is less than one hundred twenty days the divisor shall be one hundred twenty.

Transfer of moneys to make up deficit. Eighth—Whenever in any school year, prior to the receipt by the school districts of any county, or

city and county of this state, of their state, county, or city and county, or special or high school fund, the school districts of that county, or city and county shall not have sufficient money to their credit to pay the lawful demands against them, the county or city and county superintendent shall give the treasurer of said county or city and county, an estimate of the amount of school money that will next be paid into the county or city and county treasury, stating the amount to be apportioned to each district. Upon the receipt of such estimate it shall be the duty of the treasurer of said county, or city and county, to transfer from any fund not immediately needed to pay the claims against it, to the proper school fund an amount not to exceed ninety per cent of the amount estimated by the superintendent, and he shall immediately notify the superintendent of the amount so transferred. The funds so transferred to the school fund shall be retransferred by the treasurer to the fund from which they were taken, from the first money paid into the school fund after the transfer. [Amendment approved May 27, 1919; Stats. 1919, p. 1260.]

This section was also amended in 1917. See Stats. 1917, p. 1385.

§ 1877. Printing for school officers by state printer. All printing or binding required by the superintendent of public instruction or the state board of education or by any educational institution except the University of California supported entirely out of state funds, and all school registers and blank forms prescribed by the superintendent of public instruction for the use of officers charged with the administration of the laws relating to the public schools, including blank teachers' certificates, and diplomas of graduation from elementary schools in districts not governed by city boards of education, must be executed by the state printer in the form and manner and at the prices of other state printing and be paid for in like manner. [Amendment approved May 2, 1919; Stats. 1919, p. 158.]

§ 1878. School year, commencement and end. [Repealed May 18, 1917; Stats. 1917, p. 708.]

§ 1884. Time of issuing bonds approved at election. Limitation of issue. On the seventh day after said election, at one o'clock P. M., the returns having been made to the board of trustees, board of education, or other governing body of such school district, the board must meet and canvass said returns, and if it appears that two-thirds of the votes cast at said election was in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes, and shall certify to the board of supervisors of the county all the proceedings had in the premises, and thereupon said board of supervisors shall be and they are hereby authorized and directed to issue the bonds of such district, to the number and amount provided in such proceedings, payable out of the interest and sinking fund of such district, naming the same, and that the money shall be raised by taxation upon the taxable property in said district, for the redemption of said bonds and the payment of the interest thereon; provided, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district, as shown by the last equalized assessment-book of the county. [Amendment approved May 8, 1919; Stats. 1919, p. 400.]

§ 1887. Tax for interest and redemption of bonds. The board of supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term high enough to pay such annual interest, and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run; and all moneys so levied when collected shall be paid into the county treasury to the credit of the interest and sinking fund of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer, upon the warrant of the auditor, out of the fund provided therefor; and it shall be the duty of the auditor to cancel such bonds and coupons and retain them when he draws his warrants on the treasurer in favor of the owners thereof. [Amendment approved May 8, 1919; Stats. 1919, p. 401.]

§ 1891. School districts in different counties. When any school district is situated partly in two or more counties, all returns, reports, certificates, estimates, petitions and other papers of any kind required to be filed with or presented to the board of supervisors by any provision of this code relating to schools and school districts shall be filed with or presented to the supervisors of every county in which any portion of said district may be situated, and all action required to be taken by the board of supervisors regarding any such matters shall be taken by the concurrent action of the respective boards of supervisors of every county in which any portion of said district may be situated. The assessor of each of such counties shall annually certify to the board of supervisors of each of the counties in which any portion of such school district is situated the assessed value of all taxable property in such county situated in such school district as appears from the last assessment roll of his county, such certificate to be made in the same manner and at the same time as is required for school districts located wholly within the boundaries of one county. The board of supervisors of each county shall thereupon determine the rate of taxation necessary to be levied upon the property in said district situated in the county, such rate to be sufficient to meet the proportion of taxes necessary to be raised in the county for the purpose of paying the principal and interest of the bonds of the district and all other expenses of the district as shown by the estimate of the county superintendent of schools having jurisdiction over such district. Such taxes shall be assessed, levied and collected in the same manner and at the same time as county taxes are assessed, levied and collected, and the moneys so received shall, on demand of the board of trustees of any such school district, be deposited in the county treasury of the county whose superintendent of schools has jurisdiction over such school district, and said county treasury is hereby declared to be the legal depository of such school district. The

moneys so deposited shall be placed in the school fund of such school district to be expended in the same manner as moneys of other school districts are expended. [Amendment approved May 18, 1917, Stats. 1917, p. 711.]

§ 1918. Articles of war of United States army adopted. The articles of war governing the United States army so far as such articles are not inconsistent with the rights reserved to the state of California and guaranteed under the constitution of the state of California, are hereby adopted for the government of the national guard of this state. No punishment under such articles of war which shall extend to the taking of life shall in any case be inflicted except in time of actual war, invasion, or insurrection, declared by proclamation of the governor to exist and then only after the approval by the governor of such punishment. Imprisonment other than in the guardhouse shall be executed in jails or in prisons designated by the governor for that purpose. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

§ 1919. Application of United States laws, rules and regulations. All acts of congress and all rules and regulations for the government of the United States army so far as the same are not inconsistent with the rights reserved to the state of California and guaranteed under the constitution of the state of California, constitute the rules and regulations for the government of the national guard. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

§ 1924. Bond of adjutant-general. The adjutant-general must execute an official bond in the sum of ten thousand dollars, and the assistant adjutant-general must execute an official bond in the sum of two thousand dollars. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

§ 1925. Staff departments of national guard. Duty of commander-in-chief concerning organization. The national guard of California shall consist of the following staff departments, to wit: An adjutant-general's department, an inspector-general's department, a judge advocate-general's department, a quartermaster corps, a medical department, a corps of engineers, an ordnance department, a signal corps, an aviation corps, and such other staff departments as may be prescribed and authorized by the national defense act of June 3, 1916, and the various amendments thereto; it shall also consist of the commissioned officers who shall hereafter be placed in the national guard reserve; it shall also consist of all organizations now forming the national guard of this state under the terms of the said national defense act of June 3, 1916, and the amendments thereto; and shall include the naval militia of this state; it shall also consist of such other organizations as may be required by the national defense act of June 3, 1916, and the amendments thereto. The commander-in-chief shall have the power, and it shall be his duty to change the organization of the national guard of this state so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the national guard, and for that purpose the number of officers and noncommissioned officers of any grade may be increased or diminished or the grades may

be altered or created whenever necessary to procure such uniformity. [Amendment approved May 10, 1917; Stats. 1917, p. 303.]

Another section 1925 was adopted at the same session of the legislature, as follows:

§ 1925. National guard organization under national defense act of June 3, 1916. The national guard of California shall consist of the following staff departments, to wit: An adjutant-general's department, an inspector-general's department, a judge advocate-general's department, a quartermaster corps, a medical department, a corps of engineers, an ordnance department, a signal corps, an aviation corps, and such other staff departments as may be prescribed and authorized by the national defense act of June 3, 1916, and the various amendments thereto; it shall also consist of the commissioned officers who shall hereafter be placed in the national guard reserve; it shall also consist of all organizations now forming the national guard of this state under the terms of the said national defense act of June 3, 1916, and the amendments thereto; and shall include the naval militia of this state; it shall also consist of such other organizations as are now formed under or as may be required by the national defense act of June 3, 1916, and the amendments thereto. The commander-in-chief shall have the power, and it shall be his duty to change the organization of the national guard of this state so as to conform to any organization, system of drill or instruction now or hereafter prescribed by the laws and regulations of the United States for the organization and government of the national guard, and for that purpose the number of officers and noncommissioned officers of any grade may be increased or diminished or the grades may be altered or created whenever necessary to procure such uniformity. [Amendment approved March 2, 1917; Stats. 1917, p. 10.]

§ 2. Urgency measure. Inasmuch as the present unsettled and threatening condition of international relations makes it essential that the state shall have at its disposal at the earliest possible moment every military organization within its borders, the amendments to section one thousand nine hundred twenty-five of the Political Code hereby made are declared to be necessary for the immediate preservation of the public peace and safety and this act is declared to be an urgency measure within the meaning of section one of article four of the constitution.

Another section 1925 was adopted at the same session of the legislature. See prior section.

§ 1926. Rules and regulations not inconsistent with those of United States. The commander-in-chief shall make such rules and regulations for the government, administration and control of the departments, corps and organizations of the national guard not inconsistent with the laws, regulations and customs of the service of the United States army or navy, and the laws of this state, as he may deem necessary to render the departments, corps and organizations efficient. [Amendment approved May 10, 1917; Stats. 1917, p. 304.]

§ 1927. Adjutant-general's department. Appointment. Qualifications. Clerical force. The adjutant-general's department shall consist of one brigadier-general, and one lieutenant-colonel, both of whom shall be

either commissioned in the adjutant-general's department or detailed from officers of other arms of the service or in the national guard reserve and such other officers as may be prescribed by the national defense act of June 3, 1916, and the various amendments thereto. The brigadier-general shall be chief of the department and his designation shall be the adjutant-general, state of California; the lieutenant-colonel shall be designated the assistant adjutant-general, state of California. The adjutant-general will be appointed by and hold office at the pleasure of the governor or until his successor is appointed and qualifies. The assistant adjutant-general will be appointed by the governor, taking into consideration the recommendation of the adjutant-general, and shall hold office at the pleasure of the governor, or until his successor is appointed and qualifies; provided, that the qualifications for the appointment to the grades of brigadier-general and lieutenant-colonel in the adjutant-general's department shall be the same as prescribed in section one thousand nine hundred thirty-four of this code for a general officer. The officer appointed the assistant adjutant-general shall be on duty in the adjutant-general's office. All officers in the adjutant-general's department shall be appointed by the governor, taking into consideration the recommendation of the adjutant-general, and, with the exception of the adjutant-general and the assistant adjutant-general, shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose; provided, that the officers of the adjutant-general's department that are to be assigned to brigades shall be appointed as provided for other staff officers in section one thousand nine hundred fifty-seven of this code. All officers appointed to the grade of major in the adjutant-general's department shall have served not less than two years as commissioned officers in the national guard of California. There shall be employed in the adjutant-general's office the following clerical force: one chief clerk; three clerks; and one stenographer and clerk. There shall also be employed in the adjutant-general's office one military storekeeper, and one assistant military storekeeper and porter. [Amendment approved May 10, 1917; Stats. 1917, p. 304.]

§ 1928a. Inspector-general's department. The inspector-general's department shall consist of such officers of the grades and numbers as may be prescribed by the commander-in-chief and the same shall be of the grades and numbers as are authorized and prescribed by the laws and regulations of the war department for the corresponding department of the United States army and as are authorized and prescribed by said laws and regulations of the war department for the national guard. The duties of the officers of the inspector-general's department shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by orders and regulations of the war department for like officers of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 305.]

§ 1928b. Judge advocate-general's department. The judge advocate-general's department shall consist of such officers of the grades and numbers as may be prescribed by the commander-in-chief and the same shall be of the grades and number as are authorized and prescribed by the

laws and regulations of the war department for the corresponding department of the United States army, and as are authorized and prescribed by said laws and regulations of the war department for the national guard. The duties of the officers of the judge advocate-general's department shall be as are prescribed by the commander-in-chief, and shall conform to the duties prescribed by the orders and regulations of the war department for like officers of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 305.]

§ 1928d. Quartermaster corps. The quartermaster corps shall consist of a quartermaster-general (who shall be adjutant-general), and of such officers, enlisted men and civilian employees as are deemed necessary by the commander-in-chief in organizing said corps under the provisions of section one thousand nine hundred twenty-five of this title, and such officers and enlisted men shall have the same titles as those of corresponding grade in the United States army, and shall be of the same grades and numbers as are authorized or prescribed by the laws and regulations of the United States for the corresponding corps of the United States army, or as authorized or prescribed by the said laws and regulations of the war department for the national guard. The enlistments in the quartermaster corps and the appointments of noncommissioned officers and the employment of civilian employees therein shall be as prescribed by the commander-in-chief. The duties of the officers, the enlisted men and civilian employees of the quartermaster corps shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by orders and regulations of the war department for a like corps of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 305.]

§ 1929. Medical department. The medical department of the national guard of California shall consist of a medical corps, dental corps, a hospital corps, the medical department of the naval militia, and of such officers and enlisted men as are deemed necessary by the commander-in-chief in organizing said department under the provisions of section one thousand nine hundred twenty-five of this title, and such officers and enlisted men shall have the same title as those of corresponding grades of the United States army or United States navy, and shall be of the same grades and numbers, as are authorized or prescribed by the laws and regulations of the United States for the medical department of the United States army or navy, or as authorized and prescribed by the said laws or regulations of the war or navy departments for the national guard or naval militia. The duties of the officers and enlisted men of the medical department shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by orders or regulations of the war or navy departments for a like department of the United States army or navy. When deemed necessary by the commander-in-chief a medical reserve corps, or female nurse corps, or both, may be provided. [Amendment approved May 10, 1917; Stats. 1917, p. 306.]

§ 1930. Corps of engineers. The corps of engineers shall consist of such officers and enlisted men of the grades and numbers as may be prescribed by the commander-in-chief, and the same shall be of the

grades and numbers as are authorized and prescribed by the laws and regulations of the war department for the corresponding corps of the United States army, and as are authorized and prescribed by the said laws and regulations of the war department for the national guard. The duties of officers and enlisted men of the corps of engineers shall be such as prescribed by the commander-in-chief and shall conform to the duties prescribed by the orders and regulations of the war department for like officers and enlisted men of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 306.]

§ 1931. Signal corps. The signal corps shall consist of such officers and enlisted men of the grades and numbers as may be prescribed by the commander-in-chief, and the same shall be of the grades and numbers as are authorized and prescribed by the laws and regulations of the war department for the corresponding corps of the United States army, and as are authorized and prescribed by said laws and regulations of the war department for the national guard. The duties of the officers and enlisted men of the signal corps shall be as prescribed by the commander-in-chief and shall conform to the duties prescribed by the orders and regulations of the war department for like officers and enlisted men of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 306.]

§ 1932. Coast artillery. The coast artillery shall be organized as a corps and shall consist of such number of companies as may be authorized. The number and qualifications of the officers and enlisted men belonging to such coast artillery corps shall conform to the tables of organizations for such corps prescribed by the rules and regulations of the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1932½. Field artillery. The field artillery shall be organized into batteries, battalions, separate battalions, and regiments, conforming to similar organizations of the United States army as to numbers, ranks and grades of commander, officers, staffs, enlisted men and equipment; provided, that the commander of a separate battalion shall have on his staff one veterinarian, who when in active service shall draw the same pay as a veterinarian of the United States army. He shall be appointed as staff officers are appointed. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1933. Cavalry. The cavalry shall consist of such number of troops as the commander-in-chief shall designate. The troops of cavalry shall be organized into regiments, or squadrons, at the discretion of the commander-in-chief. Such number of officers and enlisted men of the ranks and grades that obtain in the United States army for similar organizations, shall constitute the organizations of the cavalry of the national guard; provided, however, that for a separate squadron of cavalry the commander-in-chief shall appoint one veterinarian who shall be on the staff of the squadron commander, and who, when in active service, shall receive the same pay as a veterinarian in the United States army. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

to a regiment of infantry, separate battalion or squadron. [Amendment approved May 10, 1917; Stats. 1917, p. 309.]

§ 1958. Officers of the line. Officers of the line shall be appointed as provided for the appointment of staff officers in section one thousand nine hundred fifty-seven hereof, and in accordance with the terms of, the national defense act of June 3, 1916, and the various amendments thereto. All line officers shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability or for cause to be determined by a court-martial legally convened for that purpose. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 1959. Appeal from an election. [Repealed 1917; Stats. 1917, p. 302.]

§ 1960. Oath of office. Every officer duly commissioned shall take his oath of office in the manner and within the time prescribed by the national defense act of June 3, 1916, the various amendments thereto and the regulations prescribed by the war department. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 1980. Who may be enlisted. Enlistment contract. Any male who is a citizen of the United States or who has legally declared his intention of becoming a citizen, of more than eighteen and less than thirty-five years of age, able-bodied, free from disease, of good character and temperate habits, may be enlisted in the national guard of this state under the provisions of the national defense act of June 3, 1916, and the various amendments thereto, for six years. The first three years of which shall be in an active organization and the remaining three years shall be in the national guard reserve; and such enlisted man shall have the privilege of continuing in active service during the whole of the enlistment period or of re-enlisting. The qualifications for enlistment shall be the same as those prescribed for admission to the regular army, and all men enlisting in the national guard must sign an enlistment contract, and take and subscribe to the oath set forth in section seventy of the national defense act of June 3, 1916. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 1982. Oath. All officers of the national guard on becoming members, and before performing duty, must take and subscribe to the oath contained in section seventy-three of the national defense act of June 3, 1916, and amendments thereto. [Amendment approved May 10, 1917; Stats. 1917, p. 310.]

§ 2006. Officers and members absent. Court-martial. All officers or members of the national guard who absent themselves from three consecutive assemblages, without an excuse acceptable to their immediate respective commanding officers, are debarred from the privileges and exemptions provided for members of the national guard; and all non-commissioned officers or privates upon being reported as having been so absent shall forthwith be court-martialed by order of the regimental, or unattached battalion or squadron commander in their respective commands, and in all other organizations not attached to regiments, battalions, or squadrons, but attached to brigades, by order of the brigade

commander, and in all unattached organizations, by order of the governor, and, upon conviction by court-martial, the delinquent shall be punished in such manner as the court-martial convicting him may prescribe. The proceedings of such court-martial shall be subject to approval and review as in other cases. Neglect or refusal to pay any fine imposed by a court-martial within thirty days after such fine was imposed is hereby declared to be sufficient cause for the dishonorable discharge of such delinquent from the national guard. [Amendment of May 10, 1917; Stats. 1917, p. 311.]

§2018. Military courts. The military courts of the state shall be: (1) general courts-martial; (2) special courts-martial; (3) summary courts-martial; (4) courts of inquiry. The constitution and jurisdiction of general courts-martial, special courts-martial, summary courts-martial, and courts of inquiry, the form and manner in which the proceedings are conducted and recorded, the forms of oaths and affirmations taken in the administration of military law by such courts, the limits of punishment and the proceedings in the revision thereof, shall be governed by the terms of the articles of war, the national defense act of June 3, 1916, and the amendments thereto, the laws and regulations governing the army of the United States, and the law and procedure of similar courts of the United States army, except as otherwise provided in this title. [Amendment approved May 10, 1917; Stats. 1917, p. 311.]

§2019. Who may appoint courts-martial. The following officers may appoint courts-martial: (1) The President of the United States or the governor of the state of California may appoint general courts-martial. (2) The commanding officer of each garrison, fort, post, camp, or other place, brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command, but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. (3) The commanding officer of each garrison, fort, post, or other place, regiment or corps, detached battalion, company, or other detachment of the national guard, may appoint for such place or command a summary court to consist of one officer who shall have power to administer oaths and to try the enlisted men of such place or command, for breaches of discipline, and violations of law governing such organizations. [Amendment approved May 10, 1917; Stats. 1917, p. 311.]

§2020. General courts-martial. 1. General courts-martial shall have the power to impose fines not exceeding two hundred dollars; to sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of noncommissioned officers to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts. [Amendment approved May 10, 1917; Stats. 1917, p. 312.]

2. **Special courts-martial.** Special courts-martial shall have the power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States, and such special courts-martial and [shall] have the same powers of punishment as the general courts-martial, except that fines imposed by such special courts-martial shall not exceed one hundred dollars. [Amendment approved May 10, 1917; Stats. 1917; p. 312.]

§ 1934. Infantry. The organization of infantry of the national guard shall conform in numbers and grades, of commander, staffs, officers and enlisted men, to similar organizations of the United States army. The infantry shall be organized into brigades, regiments, battalions, separate battalions, companies, separate companies, and detachments, conforming as to officers, staff, personnel and equipment to like organizations of the United States army. The minimum strength of an infantry company of the national guard in time of peace shall be such officers and enlisted men of such numbers and grades as are deemed necessary by the commander-in-chief, and in conformance with the laws and regulations of the United States for similar companies of the United States army, or to the said laws and regulations of the war department for the national guard. No person shall be commissioned as a general officer in the national guard of this state unless he shall have attained to the grade of field officer and shall have had four years previous experience either as a commissioned officer in command, or in service with, troops of the line of this state or of another state, or territory, or District of Columbia, or of the United States army or marine corps, or in any or all of said services combined. [Amendment approved May 10, 1917; Stats. 1917, p. 307.]

§ 1951. Commissions. All officers shall be commissioned by the commander-in-chief, but he may refuse to issue a commission to any person if the person be in any way unqualified or unworthy to be an officer in the national guard; but no one shall be commissioned unless the conditions set forth in sections one thousand nine hundred fifty-three and one thousand nine hundred fifty-four of this chapter, have been complied with, and no one shall be recognized as an officer unless he shall have been duly commissioned, and shall have taken the oath of office, and filed the bond in the manner and as required in this title. [Amendment approved May 10, 1917; Stats. 1917, p. 308.]

§ 1953. Qualifications for commissioned officers. Commissioned officers must be citizens of the United States, of the age of twenty-one years and upward. No person who has been in the military or naval service of the United States, of this state, or of any other state in the United States, and who has not been honorably discharged therefrom, shall be commissioned in the national guard of California. No person shall be commissioned unless he shall possess the additional requirements herein prescribed for the particular office to which he is to be commissioned and in addition thereto must successfully pass such examination as may be required by the war department. All medical officers shall be regularly graduated, licensed, and practicing physicians or surgeons, licensed to practice their profession in California, or shall have been surgeons in the United States army or navy. All judge advocates of the national guard of California shall be members of the bar of the supreme court of the state of California. All engineer officers, except engineer officers of the naval militia of California, must be qualified to design, as well as to direct, engineering works. All chaplains shall be regularly ordained priests or ministers of the gospel of some denomination. [Amendment approved May 10, 1917; Stats. 1917, p. 308.]

§ 1954. Physical examination. Before receiving a commission, or before being commissioned to a higher grade as a result of promotion,

every officer of the national guard must have passed a satisfactory physical examination before a medical officer of the national guard, and a satisfactory examination before a board of commissioned officers as to his knowledge of military affairs and general knowledge and fitness for the service, and anyone failing to pass such examination shall not be eligible for an office in the national guard or for promotion for a period of one year after date of such failure; provided, that officers on the staff of the commander-in-chief are exempt from examination. [Amendment approved May 10, 1917; Stats. 1917, p. 308.]

§ 1955. Boards of examination. Boards of examination under the preceding section shall consist of three officers. Such boards shall have the same power to take evidence, administer oath, and compel witnesses to attend and testify, produce books and papers, and punish their failure to do so, as is possessed by a general court-martial. [Amendment approved May 10, 1917; Stats. 1917, p. 309.]

§ 1956. Officers now serving. All officers now serving in the active national guard of this state, or who may hereafter be commissioned therein, shall hold their positions until they shall have reached the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose; provided, that all officers commissioned in the national guard of this state shall have had military experience prior to such commission, excepting officers of the judge advocate-general's department, medical department and officers of engineers, who shall not be required to have had such prior service. [Amendment approved May 10, 1917; Stats. 1917, p. 309.]

§ 1957. Vacancies. When a vacancy occurs among the general officers of the line of the national guard, the governor shall propose to the war department, upon the recommendation of the adjutant-general, the name of an officer to fill the vacancy. The officer so recommended will be required to take such examination as may be prescribed by the war department. When notified by the war department that the officer has successfully passed such examination, the governor shall commission him. The officers on the staff of a brigade, regiment, unit of coast artillery corresponding to a regiment of infantry, battalion or squadron, shall be recommended to the adjutant-general by the brigade, regimental, battalion or squadron commander, or commanding officer of unit of coast artillery corresponding to a regiment of infantry, who may recommend not to exceed three candidates of the adjutant-general, who will cause such candidates to be examined. In making these recommendations seniority of candidates will be taken into consideration. In the case of officers of separate organizations, the adjutant-general will select not to exceed three candidates, whom the adjutant-general will cause to be examined. The candidate receiving the highest rating in such examination will be recommended by the adjutant-general to the governor for commission, subject to such examination as may be prescribed by the war department. All officers shall be commissioned in the arm of the service in which they are appointed and shall be assigned to duty by the adjutant-general upon recommendation of the commanding officer of the regiment, unit of coast artillery corresponding

for by said commanding officer in the same manner as are other state funds. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

§ 2027. Fines and penalties for nonattendance at parades. [Repealed 1917; Stats. 1917, p. 302.]

§ 2079. Allowances to commanding officers, etc. There must be audited and allowed by the adjutant-general and paid out of the appropriation for military purposes, upon the warrant of the state controller, to the commanding officer of each infantry, coast artillery, engineer, field hospital, ambulance company, and the headquarters company of each regiment of infantry, and each division and marine company of the naval militia, except the engineer division of the naval militia, the sum of one hundred fifty dollars per month; to the commanding officer of each machine gun company, signal company, troop of cavalry, battery or field artillery, supply company, and the engineer divisions of the naval militia, the sum of two hundred dollars per month; to each supply company of separate battalions and squadrons the sum of seventy-five dollars per month; the sum so paid to be used for armory rent, care of arms, and proper incidental expenses of the company, troop, battery, field hospital, or division. There shall be audited, allowed, and paid out of the same appropriation to the commanding officer of each brigade the sum of two hundred dollars per month; to the commanding officer of the naval militia the sum of two hundred dollars per month; to the commanding officer of each regiment of infantry, and to the commanding officer of each unit of coast artillery corresponding to a regiment of infantry, two hundred dollars per month; to the commanding officer of each separate battalion of field artillery, naval militia, engineer troops and squadron of cavalry, the sum of fifty dollars per month, and to the commanding officer of each separate fort command, coast artillery, the sum of twenty-five dollars per month; the sums so paid to be used for rent of headquarters, clerical expenses, stationery, printing, postage and proper incidental expenses of the commanding officer of the organization for which said sums are audited, allowed and paid. There shall be audited, allowed and paid to the commanding officer of the naval militia, the adjutant of each regiment of infantry and coast artillery, which shall have attached to it a uniformed and organized band of not less than twenty-five men, the sum of seventy-five dollars per month for such band; to the chief surgeon the sum of fifty dollars per month for rent and proper incidental expenses; and to the adjutant-general sum of fifteen thousand dollars per annum, to be expended by him in promoting target practice. There must be audited and allowed by the adjutant-general, and paid out of the appropriation for military purposes, to the medical officer in charge of each detachment of the medical department on duty with each regiment of infantry, coast artillery, the naval militia, separate battalions and squadrons, the sum of fifty dollars per month for rent and proper incidental expenses of such detachments, and to the medical officer in charge of detachment of the medical corps attached to each separate fort command, coast artillery the sum of ten dollars per month for proper incidental expenses. No claim shall be allowed under the provisions of this section except upon demand made quarterly in duplicate, signed and sworn to by the officer claiming the same, before any officer of the national guard, or notary public, and forwarded through the headquarters of the regiment, coast artillery

corps, separate battalion, or separate squadron, or naval militia, with the approval of each commanding officer, through whose headquarters they are required to pass, direct to the adjutant-general; provided, that the adjutant-general may make expenditures at any time for the promotion of target practice, out of the appropriation for that purpose herein provided for. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

§ 2086. Salaries; adjutant-general's department. There shall be allowed and paid out of the general fund in the state treasury to officers, clerks and other employees in the adjutant-general's department, the following salaries payable monthly: To the brigadier-general of the adjutant-general's department (the adjutant-general), a sum not to exceed five thousand dollars per annum to be fixed by the governor; to the lieutenant-colonel of the adjutant-general's department, three thousand dollars per annum; to the chief clerk, one thousand nine hundred dollars per annum; three clerks, one thousand seven hundred dollars per annum each; one stenographer and clerk, one thousand five hundred dollars per annum; one military storekeeper, one thousand two hundred dollars per annum; one assistant military storekeeper and porter, nine hundred dollars per annum. [Amendment approved May 10, 1917; Stats. 1917, p. 316.]

§ 2107. Armories and arsenals. The adjutant-general shall have control of all armories and arsenals built by the state, or that may come into possession of the state, or any building or buildings that may be erected, purchased, leased or provided by any town, city, county, or city and county, for armory or arsenal purposes pursuant to any legislative act. It shall be the duty of the adjutant-general, under direction of the governor, to make and enforce regulations for the government and control of such armories, arsenals and buildings, and where appropriations have been made therefor, to advertise for and receive bids for the construction of armories, or arsenals, to enter into contract for the construction and completion thereof, to contract for and purchase the furnishings therefor, and to purchase and lease real estate for the purpose of erecting armories or arsenals thereon; provided, that it shall be the duty of the state engineer to furnish the plans, estimates and specifications for all armories and arsenals, and to superintend the erection and construction of such buildings. [Amendment approved May 10, 1917; Stats. 1917, p. 316.]

§ 2111. Naval militia. The organized naval militia of California shall consist of such members of deck and engineer divisions and companies of marines as the commander-in-chief may, from time to time, prescribe, in conformity with the requirements of the navy department. The naval militia shall be located throughout the coast of the state of California at the discretion of the commander-in-chief. The words "division" and "company" as used in this chapter in connection with the naval militia shall have the same meaning and effect as "company" when used in connection with infantry as used in this chapter, and the word "battalion" as used in this chapter in connection with the naval militia shall have the same meaning and effect as "battalion" when used in connection with infantry as used in this chapter. The several divisions and companies of marines of the naval militia shall

for by said commanding officer in the same manner as are other state funds. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

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corps, separate battalion, or separate squadron, or naval militia, with the approval of each commanding officer, through whose headquarters they are required to pass, direct to the adjutant-general; provided, that the adjutant-general may make expenditures at any time for the promotion of target practice, out of the appropriation for that purpose herein provided for. [Amendment approved May 10, 1917; Stats. 1917, p. 314.]

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§ 2111. Naval militia. The organized naval militia of California shall consist of such members of deck and engineer divisions and companies of marines as the commander-in-chief may, from time to time, prescribe, in conformity with the requirements of the navy department. The naval militia shall be located throughout the coast of the state of California at the discretion of the commander-in-chief. The words "division" and "company" as used in this chapter in connection with the naval militia shall have the same meaning and effect as "company" when used in connection with infantry as used in this chapter, and the word "battalion" as used in this chapter in connection with the naval militia shall have the same meaning and effect as "battalion" when used in connection with infantry as used in this chapter. The several divisions and companies of marines of the naval militia shall

§ 2141. Powers of lunacy commission. The commission has power:

1. To appoint a secretary whose term of office shall be four years from and after the date of his appointment and to fix his salary, which shall not be changed during his term of office, and which shall be paid at the same time and in the same manner as are the salaries of other state officers, and to appoint such other employees as it may deem necessary and fix their compensations;

2. To appoint, by its order, a competent person to examine the books, papers, and accounts, and also into the general condition and management of any institution in this chapter mentioned, to the extent deemed necessary and specified in such order;

3. To fix the annual salaries of the resident officers and treasurers of the state hospitals, which must be uniform in all the state hospitals for the insane and as near uniform as possible in all state hospitals, and to classify the other officers and employees in grades, and determine the salaries and wages to be paid in each grade, which must be uniform in all hospitals for the insane, and as near uniform as possible in all state hospitals;

4. To determine the kind and character of all employees who shall be employed at any state hospital according to the needs and objects of the hospital;

5. To permit any religious or missionary corporation or society to erect a building on the grounds of any state hospital for the holding of religious services, said building when erected to become the property of the state and to be used exclusively for the benefit of the inmates and employees of such state hospital and subject to such regulations and conditions as may be determined or imposed by said commission;

6. To establish and supervise a training school for attendants and nurses in any state hospital, under rules and regulations of the commission. [Amendment approved May 5, 1917; Stats. 1917, p. 274.]

§ 2180. Monthly rate for insane at state hospitals. The monthly rate for the care, support, and maintenance of all insane patients at state hospitals for the insane, where there is liability to pay for such care, support and maintenance, shall be twenty dollars per month, payable in advance, as may be set by the state commission in lunacy; provided, however, the medical superintendent of a state hospital for the insane shall, on the order of the commission, reduce or remit the amount to be paid by the estate or the relatives, as the case may be, liable for the care, support and maintenance of any insane person committed thereto and confined therein, on satisfactory proof that said estate or said relatives, as the case may be, are unable to pay the said sum of twenty dollars per month. If any insane person die at any time, while his estate is liable for his care, support, and maintenance and other expenses at a state hospital, the claim for such amount as may be due, may be presented to the executor or administrator of his estate and paid in the same manner as are other debts and claims against the estate of a deceased person. [Amendment approved April 30, 1919; Stats. 1919, p. 272.]

§ 2187. Transfer of patients from one hospital to another. (a) When the building of any state hospital becomes overcrowded with patients or inmates, or the number of buildings is reduced by fire, or other casualties, or for other sufficient cause, the commission may, in its dis-

cretion, cause the transfer of patients or inmates therefrom or direct that patients or inmates required to be sent thereto, be transferred to another state hospital, where they can be conveniently received, or make, in emergencies, temporary provision for their care, preference to be given in such transfer to a hospital in an adjoining rather than a remote district. The expense of such transfer is chargeable to the state, and the bills for the same, when approved by the commission, must be paid by the treasurer of state on the warrant of the controller, out of any moneys provided for the care or support of the insane.

(b) **Transfer on request of relatives or friends.** Patients may be transferred at the request of relatives or friends; provided, there is room in the hospital to which transfer is sought, but in case of transfers made as last provided the expense of such transfers shall be paid by such relatives or friends; provided, further, that transfers as last provided, shall not be made unless the consent of the commission and the medical superintendents of the hospitals from which and to which said transfer is to be made be obtained. [Amendment approved May 5, 1917; Stats. 1917, p. 275.]

(c) **Transfer from home for feeble-minded to state hospital.** The commission, when it deems it necessary, may transfer any inmate of the home for feeble-minded for care and treatment to a state hospital for the insane for care and treatment therein and the counties, guardian, relatives or friends of such inmate shall be liable for his care, support and maintenance in said hospital for the insane in the same manner and to the same extent as if the said patient were still an inmate of said home. The commission, when it deems it necessary, may transfer any patient in any state hospital for the insane to the said home for care and treatment therein. The estate, relatives or friends of such patient, or the county from which such patient was originally committed, shall be liable for the care, support, and maintenance of such patient at the said home in the same manner and to the same extent as if the said patient had been originally committed to the said home at the date of such transfer. [Amendment approved May 5, 1917; Stats. 1917, p. 275.]

§ 2192. Petition to commit imbecile, etc., to home. Financial condition of parent or guardian. Peremptory discharge. Whenever any parent, guardian, or other person charged with the support of an imbecile or feeble-minded person, or any idiot, or epileptic who is not insane, desires him to be admitted into the home for the feeble-minded, he may petition the superior court of the county in which he resides, for an order admitting such person to such hospital; provided, that any peace officer may petition said court for an order admitting such a person to such hospital. The judge must inquire into the condition or status of such person, and if he finds him to be an imbecile, feeble-minded person, idiot or epileptic, and that he has been a resident of the state for one year next preceding the presentation of the petition, such judge must make an order that he be received, maintained and educated in such hospital, and upon the presentation of such order the superintendent must receive him therein, if the hospital is not already full, or the fund available for its support exhausted; but the imbecile, feeble-minded person, idiot, or epileptic, need not be received if, in

the judgment of the management of the hospital or the commission, he is not a suitable subject for admission thereto. The judge must inquire into the financial condition of the parent, guardian, or other person charged with the support of any such person, and if he finds him able, in whole or in part to pay his expenses at such hospital, he must make a further order requiring such parent, guardian, or other person charged with the support of such person to pay to the hospital at stated periods such sums as, in the opinion of the judge, are proper during such time as the person may remain in such hospital. This order may be enforced by such further orders as the judge deems necessary, and may be varied, altered, or revoked in his discretion, and the board of managers may, with the approval of the commission, cause the peremptory discharge of any person who has been an inmate or patient for the period of one month. For each child or other person committed to such home there shall be paid by the county from which he is committed to the state treasury such sum not exceeding twenty dollars monthly as may be set by the state commission in lunacy for, and during each month, or part of month, such person so committed remains an inmate of the hospital, in case the payments herein provided to be made by the parent, guardian, or other person, charged with the support of any such person shall not be made. [Amendment approved April 30, 1919; Stats. 1919, p. 271.]

§ 2207c. Powers of directors of Industrial Home of Mechanical Trades for Adult Blind. The board of directors has power:

1. To make by-laws for its government and the government and direction of the home, and prescribe conditions for the admission of applicants thereto, and the admission pursuant to such conditions, having regard to an equitable representation from each county of the state;

2. To designate the trades which must be regularly taught in the institution;

3. To elect a general superintendent and all subordinate officers and employees, and to determine the number thereof when not fixed by this chapter;

4. To elect a physician, not a member of the board, whose salary must not exceed one thousand two hundred dollars per annum;

5. To elect a secretary, whose salary must not exceed six hundred dollars per annum, who must give bond in the sum of five thousand dollars;

6. To prescribe in particular the duties of the superintendent, physician, and secretary;

7. To purchase, from time to time, such materials as may be suitable to the requirements of the manufacturing and other departments of the home, to audit the bills therefor, and to forward them to the state board of examiners;

8. To fix the market price of all wares manufactured in the home, and of all wares manufactured elsewhere by nonresident beneficiaries, and to provide for and regulate the sale of all such manufactured wares;

9. To fix the compensation of common laborers and of all other employees in the home, whose wages are not herein established;

10. To grade and fix the price of skilled and unskilled labor and the amount of work required in the various departments to constitute a day's labor, and to permit the inmates to work at piecework;

11. To authorize work to be let out to blind people, so that such beneficiaries as in their judgment may require it, may receive it at their residence, and for such piecework to pay liberal prices, so as to yield, as near as possible, the compensation of resident laborers; but in no case, to incur any indebtedness for labor contracts with the beneficiaries, resident or otherwise, when there is not sufficient money on hand to pay the same;

12. To take, receive, manage, and invest all moneys or property hereafter bequeathed or donated to said home, in accordance with the wishes of the testator or donor; or if no conditions are attached to the bequests or donations, then to invest such moneys or proceeds of property for the best interests of the home. If any donation or bequest is trammelled with any religious conditions of a sectarian character, or conditioned in any manner antagonistic to the provisions of this chapter, or in conflict with any necessary rule or regulation of the home, the board may refuse to accept such donation or bequest, and is hereby authorized to reject the same. Donations or bequests may be received by the state treasurer, or by the president of the board of directors; but no donation or bequest accompanied by any condition must be received until it has been ordered approved and received by the board, and notice thereof given by the secretary to the state controller. Any bequest or donation received or collected by the president of the board must be immediately paid over by him to the state treasurer, and at the same time the president must forward to the state controller a statement thereabout, verified by his oath. All moneys received by the state treasurer must be placed to the credit of the "fund of the industrial home of adult blind." The investment of funds by the board can be made only in the same manner as the approval of claims, subject likewise to the action of the state board of examiners thereon.

13. To appoint field officers or teachers to teach handicrafts to the adult blind of the state who are not inmates of the home and give them such other instruction as may ameliorate their condition, and to prescribe the duties and fix the compensation of such field officers and teachers who shall be under the direction and supervision of the superintendent of the home.

14. To discharge from the home any inmate thereof, whenever in the discretion of the board such discharge is in furtherance of the primary object of the home, to give instruction in a trade or trades to the greatest possible number of the blind of the state to enable them to become self-supporting and to effect an equitable geographical distribution of the benefits of the home. [Amendment approved May 23, 1919; Stats. 1919, p. 1197.]

§ 2207f. The superintendent.

The title to chapter 548 of the Statutes of 1919 (Stats. 1919, p. 1197) stated that it amended § 2207f. There was, however, no amendment of the section in the body of the statute.

§ 2210a. Directors of Women's Relief Corps Home. The home is managed and controlled by a board of seven directors, appointed by the governor, to hold office for two years from and after their appointment, unless sooner removed by him for cause. Each must, before entering

upon the discharge of his duties, file with the secretary of state his oath of office, in the form prescribed by law. [Amendment approved May 25, 1919; Stats. 1919, p. 1190.]

§ 2210b. Election and compensation of officers. The board of directors must elect from their number a president, a vice-president, a secretary and a treasurer, each of whom holds office for one year from his election. No member of said board other than the secretary and treasurer shall receive any compensation for his services. The secretary and treasurer shall receive for their services twenty-five dollars per month each, payable from the state treasury at the same time and in the same manner as the salaries of other state officers are paid. [Amendment approved May 25, 1919; Stats. 1919, p. 1190.]

§ 2210c. Powers of board. The board of directors must be known by the name and style of "the board of directors of the Women's Relief Corps Home of California," and by this name may sue and be sued in any of the courts of the state. Such board has power to manage such home, administer its affairs, make laws for its government, and adopt rules and regulations for its management, and a majority of its members constitute a quorum to transact its business. [Amendment approved May 25, 1919; Stats. 1919, p. 1190.]

§ 2210e. Biennial appropriation. There shall be appropriated for each biennial period such sum of money as may be deemed necessary to support the inmates of said institution in accordance with the provisions of this chapter. [Amendment approved May 25, 1919; Stats. 1919, p. 1190.]

§ 2283. Appropriation; orphan aid. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, to each and every institution in this state conducted for the support and maintenance of needy minor orphans, half-orphans, or abandoned children, and to each and every county, city and county, city, or town maintaining such orphans, half-orphans, or abandoned children, or any or all of such classes of persons, aid not in excess of the sum of one hundred twenty dollars per annum for each such orphan, half-orphan or abandoned child supported and maintained in such institution or by such county, city and county, city, or town; but each abandoned child maintained by an institution must have been an inmate thereof for one year prior to such institution receiving aid therefor, as provided in this chapter; provided, however, that upon receiving such aid, such institution shall also be entitled to reimbursement from the state for said year in a sum not in excess of one hundred twenty dollars per annum for each such abandoned child where proof of abandonment sufficient to demonstrate the genuineness of the claim is presented to the state board of control; provided, further, that, in addition to the amount paid by the state for each half-orphan maintained at home by its mother, the county, city and county, city, or town may pay for the support of such half-orphan, an amount equal to the sum paid by the state; and provided, further, that in any case where any such half-orphan is denied aid by the county, upon a petition setting forth the facts in full as to the necessity of aid, verified by five reputable citizens of the county, city and county, city, or town, the mother of such child

shall have the right of appeal direct to the state board of control for aid for her child, and should her appeal be sustained by said board, payment must be made for the child as above provided. [Amendment approved May 9, 1919; Stats. 1919, p. 473.]

This section was also amended in 1917. See Stats. 1917, p. 560.

§ 2285. Books to be kept. Every institution, county, city and county, city, or town entitled to aid under this chapter must keep the following records, which at all times must be open to the state board of control or to any person appointed by them to examine the same, or to any committee of the legislature, or to any clerk or officer thereof duly authorized to make such examination:

1. **Date of admission, etc.** A record on which must be entered the date of admission, name, age, sex, and place of birth of each and every orphan, half orphan, and abandoned child, who is or may hereafter be received or admitted into such institution, or to county aid, and the date of discharge of any such child, when such discharge is made, the parentage, if known; the estate, if any, to which the child is heir, and the insurance, if any, on the father's or mother's life; so far as can be ascertained, the place where either parent or both died, the nativity of the parents, where married, the marriage certificate, where recorded, when they came to California, place of residence in California, and habits of sobriety.

2. **Monthly accounts.** A book entitled "monthly accounts." In it must be entered on the debtor side, all the moneys received from any and all sources segregated under the proper heads; on the credit side must be entered all disbursements made, specifying for what purposes made, and the amount entered in detail so disbursed, segregated under their proper heads.

3. **Pay-roll.** A pay-roll of the employees, and the amounts disbursed to each.

4. **Amounts paid for support.** A book in which must be entered in detail the amounts paid for the specific support of every orphan, half orphan, or abandoned child and the date of such payments.

5. **Transcript of books and pay-roll.** A transcript of the books and pay-roll, verified under oath by the manager or person in charge of such institution entitled to or claiming state aid under this chapter, must, when demanded by the state board of control, be made and forwarded to the said board at the time of presenting claim for state aid.

6. **List of inmates.** A list of all the inmates other than employees or orphans supported wholly or in part by any institution presenting a claim for state aid under this chapter, must also be forwarded with such claim for aid. [Amendment approved May 15, 1917; Stats. 1917, p. 561.]

§ 2286. Board of control may inquire into institutions. Children's agents. Salaries. Expense of transporting children. County to pay one-half. The state board of control is authorized, in behalf of the state, at any time to inquire, either in person or by authorized agent,

into the management of any such institution or into the management by any county, city and county, city or town, of aid to orphans, half-orphans and abandoned children; and any institution or county, city and county, city or town refusing, upon due demand, to permit such inquiry or to comply with regulations established by said board for the proper maintenance and care of children receiving state aid must not thereafter receive any aid under this chapter until it has complied with all requirements. To carry out the provision of this act, the state board of control may appoint a chief children's agent and such other agents as may be needed who shall, under the rules of said board, visit the homes and the institutions in which are children to whom state aid is being given or for whom aid is being asked, to obtain such information as the board may need in carrying out the provisions of this chapter. Such chief agent shall receive necessary traveling expenses and a salary of two hundred twenty-five dollars per month. Such other agents shall receive their necessary traveling expenses and a salary to be fixed by the board of control, which salary shall be paid in the same manner and at the same time as the salaries of other state officers. All expenses incurred in visiting said asylums and homes, when there are not other available funds, may be audited and allowed by the state board of control out of the appropriation for support of orphans, half-orphans and abandoned children. The board of control may also pay out of these funds the expense of transporting children for whom proper homes are offered outside the state; provided, that the county from which the children are removed shall pay one-half of the total expense necessarily incurred by the state. In addition an advisory committee of three persons serving without pay or expense to the state may be appointed by the board of control, to act in any county in conjunction with the children's agents. [Amendment approved May 9, 1919; Stats. 1919, p. 474.]

This section was also amended in 1917. See Stats. 1917, p. 562.

§ 2289. In order that the provisions of this chapter shall not be abused, it is hereby declared:

1. **Institution must have twenty inmates.** That no institution which has less than twenty inmates of either or all of the classes mentioned in section two thousand two hundred eighty-three, must be deemed an institution for the support and maintenance of minor orphans, half-orphans, or abandoned children, within the intent and meaning of this chapter.

2. **Age of minor.** That no child over the age of fifteen years shall be deemed a minor orphan, half-orphan, or abandoned child, within the intent and meaning of this chapter.

3. **Receiving twenty dollars for child.** That no child for whose specific support there is paid to any such institution the sum of twenty dollars or more per month shall be deemed a minor orphan, half-orphan, or abandoned child within the intent and meaning of this chapter.

4. **Home for child. Residence in state.** That no child maintained in an institution for whom a bona fide offer of a proper home has been made shall be considered eligible for further state aid; it is further provided, however, that no institution shall be required to surrender a

child to any person of religious faith different from that of the child or the parents of the child.

That a child who has not resided in this state for a period of at least two years prior to the application for aid shall not be eligible to receive state aid unless such child is born in this state. [Amendment approved May 9, 1919; Stats. 1919, p. 475.]

This section was also amended in 1917. See Stats. 1917, p. 562.

§ 2302. Salary state librarian. The annual salary of the state librarian is five thousand dollars. [Amendment approved June 1, 1917; Stats. 1917, p. 1663.]

§ 2319. State commissioner of horticulture. Deputies, etc. Traveling expenses. Deputy commissioner. Salaries. Offices for commissioner. San Francisco office. Quarantine officers. State insectary. Superintendent. Assistant. Field deputy. The state commissioner of horticulture of California shall be a citizen and resident of this state, and his term shall be for four years, and until his successor is appointed and qualified. The governor may remove such commissioner from office at any time upon filing with the secretary of state a certificate of removal signed by the governor. In the case of vacancy in said office by death, resignation, removal from office, or other cause the governor shall fill the vacancy for the unexpired term. In appointing such commissioner and his successor or successors, it shall be the duty of the governor to disregard political affiliations, and to be guided in his selection entirely by the professional and moral qualifications of the person so selected for the performance of the duties of said office. Said commissioner shall be a civil executive officer. The salary of said commissioner shall be four thousand dollars per annum, and he shall be allowed his traveling and incidental expenses necessary in the discharge of his duties. For the direction and accomplishment of his work the said commissioner may and is hereby empowered to appoint certain deputies, secretary, quarantine officers, superintendents, assistants, and clerk as hereinafter provided, who shall hold office at the pleasure of said commissioner and perform any and all duties pertaining to their office or employment which the said commissioner may require of each of them, and may be removed from office or position at any time by said commissioner filing with the secretary of state a certificate signed by said commissioner so removing such deputy, secretary, quarantine officer, superintendent, assistant, or clerk. The traveling and other necessary expenses incurred by the officers and employees herein provided for in the performance of their duties shall be paid from the funds appropriated for the support of the office of the state commissioner of horticulture. Said commissioner may arrange his office into three divisions, to wit: executive office, quarantine division, insectary and pathological division.

Said commissioner shall appoint a deputy commissioner who shall be an expert entomologist and horticulturist, and who shall perform such duties as may be required of him by said commissioner, and shall be acting commissioner in the absence of the commissioner. Such deputy commissioner shall receive a salary of two thousand seven hundred dollars per annum. Said commissioner shall appoint two field deputies, each of whom shall be versed in horticulture and have a practical

knowledge of the methods of control of insect pests and plant diseases. Said field deputies shall receive a salary of two thousand dollars per annum each. Said commissioner shall appoint a secretary who shall be a civil executive officer. Said secretary shall perform all such duties as may be required of him by said commissioner. Such secretary shall receive a salary of two thousand seven hundred dollars per annum. Said commissioner shall appoint a clerk whose salary shall be one thousand six hundred dollars per annum. The main office of such commissioner shall be at the city of Sacramento.

The secretary of state shall furnish and set aside at the capitol rooms suitable for offices for said commissioner, and if the secretary of state shall make and file an affidavit with the said commissioner stating that it is not possible for him, as such secretary of state, to provide and set aside an office for said commissioner in the capitol or in any state building under his control, because there is no such office or rooms available, then, and after the making and delivery of such affidavit to such commissioner, the said commissioner may rent rooms convenient and suitable for his offices at a rental not to exceed one thousand dollars per year. The office of said commissioner shall be kept open every day except holidays. Said commissioner may also keep and maintain an office in the city and county of San Francisco adequate to the purposes and requirements of the quarantine division, at a yearly rental not to exceed the sum of seven hundred fifty dollars. Said commissioner shall appoint a chief deputy quarantine officer, who shall be a skilled entomologist and particularly conversant with the nature of foreign insect pests and plant diseases and effective means of preventing their introduction, and shall have charge of the work of the quarantine division provided for in this section of this act. Such chief deputy quarantine officer shall receive a salary of two thousand seven hundred dollars per annum. Said commissioner shall appoint two deputy quarantine officers who shall be competent entomologists for the purpose of quarantine work. Such deputy quarantine officers shall each receive a salary of one thousand eight hundred dollars per annum. Said commissioner shall also properly maintain and operate the state insectary located on the state capitol grounds in Sacramento from funds provided by law for such purpose, and shall appoint for the work of the insectary division a superintendent of the insectary, who shall be an expert entomologist able to perform all the necessary duties with reference to the importation, rearing and distribution of beneficial insects. The salary of the superintendent of the state insectary shall be two thousand seven hundred dollars per annum. Said commissioner shall appoint an assistant superintendent of the insectary, who shall be an economic entomologist, at a salary of one thousand eight hundred dollars per annum. Said commissioner shall appoint a field deputy for the insectary division, who shall be a practical entomologist and whose salary shall be one thousand eight hundred dollars per annum. The salaries of all the officers above mentioned shall be paid at the same time and in the same manner as the salaries of other state officers. Said commissioner may also appoint such assistants from time to time as may be required and such assistants shall receive such reasonable compensation as may be fixed by said commissioner. [Amendment approved May 17, 1917; Stats. 1917, p. 638.]

§ 2319a. Duties of commissioner of horticulture. State horticultural quarantine officer. Quarantine guardians. It shall be the duty of the state commissioner of horticulture to promote and protect the plant industry of the state; to prevent the introduction and spread of injurious insect or animal pests, plant diseases and noxious weeds; to cause to be put into execution such horticultural laws of a regulatory nature as are written into the statutes, and to introduce and distribute such insects as are useful in reducing the cost of crop production. Such commissioner shall collect books, pamphlets and periodicals and other documents containing information relating to horticulture and shall preserve the same; collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere; correspond with horticultural societies, colleges and schools, and with the county horticultural commissioners existing or that may exist in this state, and with all other persons necessary to secure the best results to horticulture in this state. He shall require reports from county horticultural commissioners in this state, and may print the same or any part thereof as he may select, either in the form of bulletins or in his annual reports or both, as he shall deem proper. He shall issue and cause to be printed and distributed to county horticultural commissioners in this state, and to such other persons as he may deem proper, bulletins or statements containing all the information best adapted to advance the interest, business and development of horticulture in this state. Such commissioner shall be deemed to be the state horticultural quarantine officer mentioned in that certain act entitled "An act for the protection of horticulture and to prevent the introduction into this state of insects, or diseases, or animals injurious to fruit or fruit trees, vines, bushes or vegetables, and to provide for a quarantine for the enforcement of this act," which became a law under constitutional provisions without the governor's approval on March 11, 1899, for the purposes of that act, and shall be empowered to perform the duties which under that act are to be performed by the state horticultural quarantine officer; provided, that in any case where it shall become necessary in the judgment of the state commissioner of horticulture to quarantine a county or district within the state against another or other county or counties or districts within the state, or to quarantine the state or a county or district of the state against another state or a foreign country or countries then it shall be necessary that said quarantine shall be made by and with the approval of the governor as provided in this chapter.

The state commissioner of horticulture may issue commissions as quarantine guardians to the county horticultural commissioners, deputies and inspectors appointed by them. [Amendment approved May 17, 1917; p. 640.]

§ 2319b. Quarantine regulations. Said commissioner may, by and with the approval of the governor, establish, maintain and enforce such quarantine regulations as may be deemed necessary to protect the nurseries, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit-pits, fruit, seeds, vegetables or other articles of horticulture, against contagion or infestation by injurious plant disease, insects, or animal or weed pests, by establishing such quarantine at the boundaries of this state or elsewhere, within the state, and he may make and en-

force, with the approval of the governor, any and all such rules and regulations as may be deemed necessary to prevent any infected or infested stock, tree, shrub, plant, vine, cutting, graft, scion, bud, fruit-pit, fruit, seeds, vegetable or other article of horticulture, from passing over any quarantine line established and proclaimed pursuant to this act, and all such articles shall, during the maintenance of such quarantine, be inspected by such commissioner or by deputies appointed in writing by said commissioner, and he and the deputies so conducting such inspection shall not permit any such article to pass over such quarantine line during such quarantine, except upon a certificate of inspection signed by such commissioner or in his name by such deputy who has made such inspection. All approvals by the governor given or made pursuant to this act shall be in writing and signed by the governor in duplicate, and one copy thereof shall be filed in the office of the secretary of state and the other in the office of said commissioner before such approval shall take effect. [Amendment approved May 17, 1917; Stats. 1917, p. 641.]

§ 2319c. Quarantine against plant diseases, etc. May enter premises. Notice in writing. Upon information received by such commissioner of the existence of any infectious plant disease, insect or other animal or weed pest, new to or not generally distributed within this state, dangerous to any article, or to the interests of the plant industry of this state, or that there is a probability of the introduction of any such infectious plant disease, insect or other animal or weed pests into this state or across the boundaries thereof, he shall proceed to thoroughly investigate same and may establish, maintain and enforce quarantine as hereinbefore provided, and may make and enforce such regulations as are in his opinion, necessary to circumscribe and exterminate such infectious plant diseases, insect or other animal or weed pests and prevent the extension thereof. Such commissioner may disinfect, or take such other action with reference to, any trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit-pits, fruit, seeds, vegetables or any crops infested or infected with, or which, in his opinion may have been exposed to infection or infestation by, any such infectious plant diseases, insect or other animal or weed pests, as in his discretion shall seem necessary to carry out and give effect to the provisions of this act. Such commissioner is hereby authorized to enter upon any ground or premises to inspect the same or to inspect any tree, shrub, plant, vine, cutting, graft, scion, bud, fruit-pit, fruit, seed, vegetable or other article of horticulture or implement thereof or box or package pertaining thereto, or connected therewith or that has been used in packing, shipping or handling the same, and to open any such package, and generally to do, with the least injury possible under the conditions to property or business, all acts and things necessary to carry out the provisions of this chapter; and provided, however, that whenever any nursery or other premises whereon are being grown for planting or propagation purposes any nursery stock, trees, plants, shrubs, vines or seeds is found to be infested or infected with any insect or other animal pest or plant disease not generally distributed over the state and which, in the opinion of the state commissioner of horticulture, would cause damage or be liable to cause damage to the orchards, vineyards, gardens or farms of any portion of this state, the owner

or person in charge of such premises shall be notified in writing to that effect by the state commissioner of horticulture. Such written notice shall include the name or names of the insects or other animal pests or plant diseases, and known host plants thereof, together with the best known means of eradicating or controlling such insects or other animal pests or plant diseases, and it shall be unlawful knowingly to sell, offer for sale, ship or deliver for shipment the host plants of, or seeds infested or infected with, any such insect or other animal pests or plant diseases. When in the opinion of the state commissioner of horticulture such insect or other animal pests or plant disease has been eradicated or satisfactorily controlled, he shall in writing release such host plants or host seeds for sale or shipment. [Amendment approved May 2, 1919; Stats. 1919, p. 256.]

This section was also amended in 1917. See Stats. 1917, p. 642.

§2319d. Pests to be reported to county horticultural commissioners. Duty of commissioner. Upon the discovery of any infectious plant disease, injurious insects or weed or other pests, such commissioner shall immediately report the same to such quarantine guardians or county horticultural commissioners of the counties wherein such discovery is made, together with a statement as to the best known means or method for circumscribing, exterminating, eradicating or controlling the same, and shall state therein specifically what treatment or method should be applied in each case, as the matter may require, with a detailed statement or prescription as to the method of making or procuring and of applying any preparation or treatment so recommended therefor, and the time and duration for such treatment, and if chemicals or articles be required other than those usually obtainable in any town, the place or places where they are most readily to be obtained; and upon the receipt of such statement by any quarantine guardian or county horticultural commissioner it shall be the duty of such quarantine guardian or county horticultural commissioner to distribute such statement in written or printed form to every person owning or having charge or possession of any orchard, nursery stock, tree, shrub, plant, fruits or other article of horticulture within their county, where there may be or is likely to be any danger to the interests of horticulture, and such a statement must be served with or be a part of the notice to be given to the owner or owners or person or persons, in possession of any orchard, nursery, tree, shrub, plant, fruits or other articles of horticulture, referred to, provided for, and required to be served in and by section two thousand three hundred twenty-two of the Political Code of the State of California. [Amendment approved May 17, 1917; Stats. 1917, p. 642.]

§2319i. Nurserymen, etc., to register. License number. Agent for nurseryman. Any nurseryman, agent, jobber, person, firm or organization operating in the state of California, who ships, sells or handles nursery stock, trees, plants, shrubs or vines which are for planting or propagation purposes within the borders of the state, shall register with the state commissioner of horticulture and shall pay the same one dollar for such registration for a period of one year. The state commissioner of horticulture shall issue to each applicant a special license number, and it shall be unlawful to ship or deliver within the state of Cali-

fornia any package or other container or shipment of nursery stock, trees, plants, shrubs or vines for planting or propagation purposes within this state, which does not bear such special license number in a conspicuous manner and place; provided, however, that an agent or agents acting as salesman for a nurseryman, jobber, person, firm or organization shall not be granted a license number but shall be required to use the license number assigned the nurseryman, jobber, person, firm or organization by whom such agent or agents are employed. [Amendment approved May 2, 1919; Stats. 1919, p. 255.]

This section was also amended in 1917. See Stats. 1917, p. 643.

§ 2319j. Permit to ship nursery stock, etc., into state. Any nurseryman, jobber, person, firm or organization doing business without the state of California who desires to ship nursery stock, trees, plants, vines, or shrubs into this state for planting or propagation purposes from any other state, territory or district of the United States, shall first make application to the state commissioner of horticulture for a permit to so do, filing with the application a statement of the location of the nursery, or place of business owned or operated by him or them, and an official certificate of inspection of such premises signed by the state inspector of the state in which said premises are located. Permits herein provided shall be issued by the state commissioner of horticulture upon request and without making any charge therefor whenever in his judgment such permits may be issued without endangering the horticultural interests of this state. Such permits shall bear a special number, and all shipments thereafter made by any nurseryman, jobber, person, firm or organization into the state of California must contain this number affixed to the package of nursery stock, trees, plants, vines or shrubs shipped by him. [Amendment approved May 17, 1917; Stats. 1917, p. 643.]

§ 2319k. Penalty. Any person, firm, corporation, company or organization who shall violate any of the provisions of this chapter or shall willfully refuse to comply with any order lawfully made under and pursuant to this chapter shall be guilty of a misdemeanor. [Amendment approved May 2, 1919; Stats. 1919, p. 256.]

This section was also amended in 1917. See Stats. 1917, p. 644.

§ 2319l. Payment of moneys. All moneys paid hereunder shall be paid by the state treasurer from moneys appropriated for the support of the officer of state commissioner of horticulture, and expenses other than the salary of the commissioner, the compensation of his deputies, secretary, quarantine officers, superintendents, assistants, and clerk, as allowed and provided by this chapter, must be certified by the said commissioner and be approved by the state board of control before being audited and paid. [New section added May 17, 1917; Stats. 1917, p. 644.]

§ 2322. Petition to board of supervisors stating existence of infectious diseases, etc. List of eligibles. Term. Bond. Qualifications of commissioner. State board of horticultural examiners. Examinations. Appointments. County board of horticultural commissioners superseded. Whenever a petition is presented to the board of supervisors of any county or city and county, and signed by twenty-five or more persons each of whom

is a resident freeholder and possessor of an orchard, or greenhouse or nursery, or rice fields, stating that certain or all orchards or nurseries or trees or plants of any variety or rice fields, are infested with any infectious diseases, or insects of any kind injurious to fruit, fruit trees, vines or other plants or vegetables, or that there is growing therein the Russian thistle or saltwort (*Salsola kali* var. *tragus*), Johnson grass (*Sorghum halepense*) or other noxious weeds, or red rice, or water-grasses or other weeds or grasses detrimental to rice culture, codlin moth or other insects, ground squirrels, gophers or other animals that are destructive to trees and plants; or that serious pests, plant diseases injurious to fruit, fruit trees, vines, or other plants or vegetables, or noxious weed seed are being shipped into the county which would cause damage or be liable to cause damage to the orchards, vineyards, gardens or farms of the county or state; and praying that a commissioner be appointed by them whose duties shall be to supervise the eradication, the control, or the destruction of said insects, ground squirrels, gopher or other animals, diseases or Russian thistle or saltwort, Johnson grass or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, when growing in fields of rice or fields adjacent thereto, or in canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, as herein provided, the board of supervisors shall immediately notify the state board of horticultural examiners to furnish them a list of eligibles or competent persons as hereinafter provided, and from such list the said supervisors shall appoint a commissioner in accordance with the provisions of this chapter, whose term of office shall be for four years and until his successor shall be appointed and qualified and who shall give a bond in the sum of one thousand dollars for the faithful performance of his duties. The said term of office of any and all county commissioners heretofore or hereinafter appointed shall commence on the date of appointment, and be for a period of four years and until his successor shall be appointed and qualified, at the end of which period the said term shall terminate, and said term shall run with and be attached to said office. In any case where such petition has already been presented or submitted, or is on file at the time of the passage of this act, as the basis for the appointment of a board of horticultural commissioners under this chapter as heretofore existing, such petition shall continue in full force and effect and the board of supervisors of any county, or city and county with which any such petition has been filed, or in which any board of horticultural commissioners has heretofore existed, must appoint a county horticultural commissioner. The person appointed to such position must be especially qualified for his duties and must be chosen and appointed by the board of supervisors from a list of eligible persons recommended and nominated to said board as hereinafter provided. Said appointment to be made within thirty days after receipt of said list by said board of supervisors; provided, this act shall in no wise affect any other act or acts providing for the destruction of ground squirrels or applying to the proceedings thereunder but it is intended to and does provide the alternative system of proceedings for the extermination of ground squirrels and gophers referred to in this act; and it shall be within the discretion of the governing body of each county, city and county, city or town herein mentioned to provide for the destruction of ground squirrels whether under the

provisions of this act or under the provisions of such other act or acts; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments as may hereafter be adopted, and no other, shall apply to all such proceedings and any provision contained in any other act or acts in conflict with the provisions hereof shall be void and of no effect as to the proceedings commenced under the provisions of this act.

The said board of supervisors shall provide a suitable office for the said county horticultural commissioner, and shall furnish and equip the said office with all necessary furniture and effects for the proper discharge of the commissioner's duties. The said board of supervisors may also provide the county horticultural commissioner with all necessary field equipment for the proper discharge of the duties of his office. All expense ordered by the board of supervisors for such office, furniture and equipment, and for stenographic and other office help and expense shall be a county charge and the board of supervisors shall allow and pay the same out of the general fund of the county. A state board of horticultural examiners is hereby created consisting of the dean of the agricultural college of the University of California, the state commissioner of horticulture and the superintendent of the state insectary, who are ex-officio members of said board. They shall serve without pay and said board shall provide convenient means for the examination of candidates for appointment as horticultural commissioner. While in the performance of their duties as members of said board they shall be allowed all their necessary expenses for traveling, printing, postage and other incidental matters to be paid out of any appropriations made for the support of the office of the state commissioner of horticulture. At least thirty days before the date of the examination of candidates for the said appointment the state board of horticultural examiners shall post or cause to be posted in three public places in said county a notice of the time and place at which such examination will be held, setting forth the conditions and subjects of said examination. At the time and place stated in said notice such examination shall be held. Said examination shall be in writing and the board of horticultural examiners may appoint one of their own number, or some other reliable, competent person to conduct the holding of such examination in each county and forward the papers of each applicant to the board for consideration. Within twenty days after the examination is held said examiners shall certify to the board of supervisors of the county, or city and county for which the examination was had, the names of such persons examined as they deem competent and qualified for the office and from the list of names so certified the supervisors shall, within thirty days after the receipt of said list of names, appoint a horticultural commissioner.

If for any reason the board of supervisors refuse or neglect to appoint a county horticultural commissioner at the expiration of the thirty days, or if they refuse or neglect to appoint a county horticultural commissioner to fill an unexpired term as elsewhere provided in this act, then the state board of horticultural examiners shall select and appoint a county horticultural commissioner from the list of qualified persons certified to the board of supervisors of that county, whose term of officer shall be for four years, and until his successor has qualified. Whenever the state board of horticultural examiners shall appoint a county horticultural commissioner as herein provided, then the county

board of supervisors must provide for the payment of such appointee's compensation and expenses in the same manner as if such appointment had been made by the board of supervisors. As far as possible the board of horticultural examiners shall consult the resident horticulturists of the county in determining the responsibility and moral qualifications of candidates for appointment as commissioners and whose names they certify to the boards of supervisors of the several counties. If no person or persons present themselves for examination before said board of horticultural examiners or if after such examination no person is found qualified, the state board of horticultural examiners shall name five competent persons and certify them to the board of supervisors and from these names the board of supervisors shall, within thirty days after the receipt thereof, appoint a county horticultural commissioner, and in such event the commissioner so appointed shall hold office for the term of one year. In case of vacancy in the office of the horticultural commissioner the vacancy shall be filled first from the list of eligibles certified to the board of supervisors under the provisions of this chapter, and if there be no person named on the said list of eligible persons as in this section first above provided, then said vacancy shall be filled from the list of competent persons named as in this section last above provided, and if said vacancy shall be filled from the said list of eligibles, the said person so appointed shall hold for the balance of the unexpired term, and if the said vacancy be filled from the said list of competent persons, the said person shall hold for the balance of the unexpired term, if the said unexpired term be not longer than one year, but if said unexpired term be longer than one year then such person shall not by virtue of such appointment hold longer than one year from the date of his appointment.

At the expiration of the term of office of the county horticultural commissioner, the state board of horticultural examiners shall submit to the board of supervisors of that county where such term shall have expired a new list of qualified persons who shall have qualified before said board of horticultural examiners by examination as provided in this section, such list to include without further examination any person who has previously qualified before the state board of horticultural examiners, and who has held office as county horticultural commissioner or deputy horticultural commissioner for a term of at least two years immediately preceding the expiration of the term of county horticultural commissioner and in the county where such term shall have expired.

Whenever elsewhere in the laws of this state reference is made to a county board of horticultural commissioners such reference must be understood to mean or relate to the county horticultural commissioner herein provided for and said county board of horticultural commissioners and the members thereof shall cease to exist; provided, that all county boards of horticultural commissioners existing at the time of the passage of this act shall continue in office, with full power as heretofore existing until the election or appointment to succeed them of a county horticultural commissioner under the provisions of this act.

Upon the petition of twenty-five resident freeholders each of whom is possessed of an orchard, greenhouse or nursery, the state board of horticultural examiners may disqualify a county horticultural commissioner for neglect of duty or malfeasance in office after a hearing of

the petition. Such hearing must be held at the county seat of the county where such petition is filed, and notice in writing of the time and place of such hearing and a copy of the petition must be served on the accused horticultural commissioner at least ten days prior to the date of said hearing. At such hearing the state board of examiners shall hear such evidence as is offered and thereafter make an order, either sustaining or disqualifying the accused. In case of such disqualification the board of supervisors of the county where the county horticultural commissioner has been disqualified shall upon the request of the state board of horticultural examiners remove said commissioner of horticulture and shall immediately proceed to fill the said office for the unexpired term as in cases of vacancy as hereinbefore provided. [Amendment approved May 17, 1917; Stats. 1917, p. 627.]

§ 2322a. Duty of commissioner. Notice to destroy pests. When pests are on public property. Nonresident owners. Declared a public nuisance. Expense of abating. Lien. Power to abate. Fumigators and sprayers. Certificate. It shall be the duty of the county horticultural commissioner in each county, whenever he shall deem it necessary to cause an inspection to be made of any premises, orchards or nurseries, or trees, plants, vegetables, vines or fruits, or any fruit-packing house, storeroom, salesroom, or any other place or article in his jurisdiction, and if found infected or infested with infectious diseases, scale insects, or codlin moth, or other insect or animal pests injurious to fruits, plants, vegetables, trees or vines, or with their eggs or larvae, or if there is found growing thereon the Russian thistle or saltwort, Johnson grass or other noxious weeds, or red rice, water-grasses or other weeds or grasses detrimental to rice culture, he shall in writing notify the owner or owners, or person or persons in charge, or in possession of the said places or orchards or nurseries, or trees or plants, vegetables, vines, or rice fields, or fields adjacent to rice fields, or canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, or fruit, or article as aforesaid, that the same are infected or infested with said diseases, insects, animals or other pests, or any of them or their eggs, or larvae, or that the Russian thistle or saltwort, Johnson grass or other noxious weeds, or red rice, water-grasses or other weeds or grasses detrimental to rice culture, is growing thereon, and require such person or persons, to eradicate, or destroy or to control, to the satisfaction of the county horticultural commissioner the said insects, animals or other pests, or their eggs or larvae, or Russian thistle or saltwort, Johnson grass or other noxious weeds or red rice, or water-grasses, or other weeds or grasses detrimental to rice culture, within a certain time to be therein specified. Said notices may be served upon the person or persons, or either of them, owning or having charge, or having possession of such infested place or orchard or nursery, or trees, plants, vegetables, vines, or fruit, or articles, as aforesaid, or premises where the Russian thistle or saltwort, Johnson grass or other noxious weeds or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, shall be growing, or upon the agents of either, by any commissioner, or by any person deputed by the said commissioner for that purpose in the same manner as a summons in a civil action. In case infectious diseases, scale insects, codlin

moth, or other insect or animal pests injurious to fruit, plants, vegetables, trees, or vines, or their eggs, or larvae, are found to exist on trees or shrubs in public parks or along streets, highways, or other property subject to the control of a city or county government, or if there is found growing in any public park, street, highway or on other property subject to the control of a city or county government any Russian thistle, or saltwort, Johnson grass, or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, when said public park, street, highway, or other property subject to the control of the city or county government is adjacent to rice fields, or canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, then said notice in writing shall be served on the chairman of the governing body of said city or county, and in case the work of eradication, or of control, or of destruction of the said pests, diseases, or noxious weeds in the said public parks, streets, highways, or other public property shall be performed by the county horticultural commissioner, then the cost thereof shall become a city or county charge, as the case may be, and shall be paid from the general fund of said city or county; provided, however, that if any such infected or infested articles, property or premises as hereinabove specified belong to any person who is not a resident of the county, and there is no person in control or possession thereof, and such nonresident person has no tenant, bailee, depositary or agent upon whom service can be had; or if the owner or owners of any such articles, property or premises cannot after due diligence be found, then such notice may be served by posting the same in some conspicuous place upon such articles, property or premises, and by mailing a copy thereof to the owner thereof at his last known place of residence, if the same is known or can be ascertained; or if not known then to the county seat of the county wherein said property is situated. Any and all such places, or orchards, or nurseries, or rice fields or fields adjacent to rice fields, or canals or ditches used for the purpose of conveying water to rice fields for the irrigation thereof, or trees, plants, shrubs, vegetables, vines, fruits, or articles thus infested or infected, or premises where the Russian thistle or saltwort or Johnson grass or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture, or where any squirrels, gophers or other predatory animals shall be found are hereby adjudged and declared to be a public nuisance; and whenever any such nuisance shall exist at any place within his county, and the proper notice thereof shall have been served as herein provided, and such nuisance shall not have been abated within the time specified in such notice, it shall be the duty of the county horticultural commissioner to cause said nuisance to be at once abated, by eradicating, or by controlling, or by destroying said diseases, insects, animals or other pests, or their eggs, or larvae, or Russian thistle or saltwort, or Johnson grass or other noxious weeds, or red rice, water-grasses, or other weeds or grasses detrimental to rice culture. The expense thereof shall be a county charge, and the board of supervisors shall allow and pay the same out of the general fund of the county; any and all sum or sums so paid shall be and become a lien on the property and premises from which said nuisance has been re-

moved or abated in pursuance of this chapter. A notice of such lien shall be filed and recorded in the office of the county recorder of the county in which the said property and premises are situated within thirty days after the right to the said lien has accrued. An action to foreclose said lien shall be commenced within ninety days after the filing and recording of said notice of lien, which action shall be brought in the proper court by the district attorney of the county in the name and for the benefit of the county making such payment or payments, and when the property is sold, enough of the proceeds shall be paid into the county treasury of such county to satisfy the lien and costs; and the overplus, if any there be, shall be paid to the owner of the property, if he be known, and if not, into the court for his use when ascertained.

Whenever a notice of eradication, or of control, or of destruction is served on any person or persons, the county horticultural commissioner may, at his option, cause a copy thereof to be filed for record in the office of the county recorder within which the said property is situated, and if the said property is encumbered with a mortgage, lien, contract, option, bond, or other encumbrance, the said county horticultural commissioner may, at his option, cause a copy thereof to be served on the person or persons holding such encumbrance.

Whenever a lien is filed on a piece of property for the purpose of collection of such sums as have been expended in the eradication, or in the control, or in the destruction of insects, diseases, weeds, or animals found upon such property and a copy of a notice of the eradication, or of the control, or of the destruction shall have been filed in the office of the county recorder of the county wherein such property is situated, and served on the person or persons holding any such encumbrance, as hereinabove provided, then such lien shall take precedence over and be paramount to all other liens upon the said land excepting only the lien of taxes.

The county horticultural commissioner is hereby vested with the power to cause any and all such nuisances to be at once abated in a summary manner.

The county horticultural commissioner shall have power and authority to prescribe and enforce rules for the examination and qualification of fumigators or sprayers who desire to engage in such business for hire, and to issue certificates to all persons whom he shall find by examination or otherwise to be duly qualified for engaging in such work. Such certificate shall be revocable whenever the county horticultural commissioner shall deem such revocation necessary. No person shall be permitted to engage in the business of fumigating or spraying for hire within the state of California for the purpose of controlling or eradicating plant pests or diseases, who has not first secured a certificate in the manner herein provided. [Amendment approved May 17, 1917; Stats. 1917, p. 631.]

§ 2322c. Record and report of commissioner. It is the duty of the said county horticultural commissioner to keep a record of his official doings, and to make a report to the state commissioner of horticulture on or before the first day of October of each year of the condition of the horticultural interests in their several districts, what is being done

to eradicate, or to control, or to destroy insect pests, also as to disinfecting, and as to quarantine against insect and other pests and diseases, and as to the carrying out of all laws relative to the greatest good of the horticultural interests, and to furnish from time to time to the state commissioner of horticulture such other information as he may require. Said state commissioner of horticulture may publish such reports in bulletin form or may incorporate so much of the same in his annual report as may be of general interest. It is also made the duty of the county horticultural commissioner to advise himself with reference to all infectious diseases, scale insects or codlin moth or other pests injurious to fruit, plants, vegetables, trees or vines, and with their eggs or larvae and all noxious weeds or grasses or animal pests that may exist in his county or be likely to exist therein and for the purpose of so advising himself and of eradicating and preventing injury from such causes, and for the purpose of advising himself on the best and most efficacious methods of performing his duties and conducting his office he shall attend the annual meeting of the state association of county horticultural commissioners, and such other meetings as the state commissioner of horticulture shall require, and he shall be paid his per diem compensation and traveling expenses while so engaged, or while on any service that requires him to go outside the county when the performance of such service has been authorized by the board of supervisors, or the state commissioner of horticulture. [Amendment approved May 17, 1917; Stats. 1917, p. 634.]

§ 2322d. **Salaries of inspectors, deputy and commissioner.** The salary of inspectors working under the county horticultural commissioner is three dollars and fifty cents per day, and the necessary traveling expenses. The salary of the deputy shall be five dollars per day when in the actual performance of his duties, and the necessary traveling expenses. In the case of the commissioner himself his compensation shall be fixed by the board of supervisors, either at not less than one thousand eight hundred dollars per year, or at not less than six dollars per day when actually engaged in the performance of his duties. He shall also be allowed the necessary traveling expenses incurred in the discharge of his regular duties as prescribed in this chapter. [Amendment approved May 17, 1917; Stats. 1917, p. 634.]

§ 2322f. **Notice of arrival of imported nursery stock, etc.** Any person, persons, firm or corporation, who shall receive, bring, or cause to be brought into any county or locality of the state of California from another county or locality within said state any nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit or vegetables, or seed, for the purpose of planting or propagating the same, or any or all such shipments of nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit or vegetables, or seed or containers thereof or other orchard appliances, which the county horticultural commissioner or the state commissioner of horticulture may consider liable to be infested or infected with dangerous insect pests or plant diseases or noxious weed seeds and which if so infested or infected would constitute a dangerous menace to the orchards, farms and gardens of the county or state, shall immediately after the

arrival thereof notify the county commissioner of horticulture, his deputy, or nearest inspector of the county in which such nursery stock, or fruit or vegetables, or seed, are received, of their arrival, and hold the same without unnecessarily moving or placing such articles where they may be harmful, for immediate inspection by such county commissioner of horticulture, his deputy, inspector, or deputy quarantine officer or guardian. [New section added May 17, 1917; Stats. 1917, p. 635.]

§ 2322g. Marking of shipments. Manifests. Each carload, case, package, crate, bale, or bundle of trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed, imported or brought into any county of the state of California from another county within said state for planting or propagation purposes, shall have plainly and legibly marked thereon in a conspicuous manner and place, the name and address of the shipper, owner or owners, or person forwarding or shipping same, and also the name of the person, firm or corporation to whom the same is forwarded or shipped, or his or its responsible agents. A manifest showing the contents of each shipment, also the name of the locality where the contents were grown and a statement of the contents therein shall be made to the county horticultural commissioner having jurisdiction at the point of destination when shipment is made. [New section added May 17, 1917; Stats. 1917, p. 636.]

§ 2322h. Infected shipments public nuisance. Shipment disinfected. When returned or destroyed. When disinfected. When any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed, imported or brought into any county or locality of the state of California from another county or locality within such state, is found to be infested or infected with any species of injurious insects, or their eggs, larvae or pupae, or other animal or plant diseases or noxious weed seeds which would cause damage or be liable to cause damage to the orchards, vineyards, gardens or farms of any county of the state of California, all material in shipment found to be so infested or infected shall be deemed a public nuisance, shall be refused delivery, and shall be immediately returned to the point of shipment or destroyed, at the option and expense of the owner or owners, or his or their responsible agents. The remainder of such shipment shall be disinfected under the directions of the county horticultural commissioner making such inspection and in a manner as provided for in section two thousand three hundred twenty-two of this act; provided, however, that when any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed or their containers or orchard appliances imported or brought into any county or locality of the state of California from another county or locality within said state, is found to be infested or infected with any species of injurious insects, or their eggs, larvae, or pupae, or other injurious animal or plant diseases or noxious weed seeds not known to exist in the county or locality in which said shipment is delivered, or if there is reasonable cause to presume it may be so infested or infected the entire shipment shall be refused admittance and shall be immediately returned to point of shipment or destroyed at the option and expense of the owner or owners, or his or their responsible

agents; provided, further, that when any shipment of nursery stock, trees, vines, plants, shrubs, cuttings, grafts, scions, buds, fruit pits, or fruit or vegetables, or seed, imported or brought into any county or locality of the state of California from another county or locality within said state, is found to be infested or infected with any species of injurious insects or their eggs, larvae or pupae, or plant diseases or noxious weed seeds which are of common occurrence in the county or locality into which it is shipped or transported, and which may be exterminated by such treatment as may be prescribed in section two thousand three hundred twenty-two i of this act and under the direction of the county horticultural commissioner of the county in which it is received, the same may be disinfected or cleaned at the expense of the owner or owners or his or their responsible agents, in a manner satisfactory to the county horticultural commissioner making the inspection, and after such treatment the shipment may be delivered to the consignee. Any and every provision of this act relating to shipment or transportation of nursery stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, or fruit pits, or fruit, or vegetables, or seed from one county of the state of California to another county of said state, shall apply equally and identically to such shipment or transportation of such articles from one locality to another locality within the same county of said state. [New section added May 17, 1917; Stats. 1917, p. 636.]

§ 2322i. Names of insects, etc., promulgated. Advice on treatment. The state commissioner of horticulture is hereby empowered and directed from time to time to ascertain and determine, and promulgate the names and descriptions of insects, animals and diseases that may cause injury to orchards, vineyards, gardens, fruit or nut bearing or ornamental trees, vines, plants, nursery stock, fruit, nuts, vegetables or seed, and to ascertain, and advise the proper methods of treatment, disposal and disinfection of nursery stock, trees, vines, plants, fruit, nuts, vegetables or seed, and the containers thereof which may be found to be infested or infected with, or which may have been exposed to infection or infestation by any such insect or its eggs, larvae or pupae, or any such animal or plant diseases. [New section added May 17, 1917; Stats. 1917, p. 637.]

§ 2323j. Penalty. Any person, persons, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding five hundred dollars, or by both fine and imprisonment. [New section added May 17, 1917; Stats. 1917, p. 638.]

§ 2524. Possession and control of portion of bay of San Francisco. Boundaries. Jurisdiction of harbor commissioners. Seawalls. Wharves. Repairs. Preserving piles. Contracts. Dockage. Rules. Landings. Leases. Railroads. Spur-tracks. The commissioners shall have possession and control of that portion of the bay of San Francisco, together with all the improvements, rights, privileges, easements, appurtenances connected therewith, or in any wise appertaining thereto, for the purposes in this article provided (excepting such parcels thereof as are held

by the lessees, or their assigns, on valid leases, which parcels so held it is hereby made the duty of the commissioners to take possession of, together with the improvements thereon, as soon as said leases terminate, and also to see that the lessees, or their successors or assigns, do not exercise rights and privileges that are not conferred by said leases), bounded as follows, to wit: Commencing at the point where the easterly line of the Presidio reservation intersects the water-line front, as established by the board of state tide-land commissioners; thence easterly along said water-line front to the center of Webster street; thence southerly along the center of Webster street to the center of Lewis street; thence easterly along the center of Lewis street to the center of Polk street; thence southerly along the center of Polk street to the center of Tonquin street; thence easterly along the center of Tonquin street to the center of Larkin street; thence southerly along the center of Larkin street to the center of Jefferson street; thence easterly along the center of Jefferson street to the center of Powell street; thence southerly along the center of Powell street to the center of Beach street; thence easterly along the center of Beach street to the center of Dupont street; thence southerly along the center of Dupont street to the center of North Point street; thence easterly along the center of North Point street to the center of Kearny street; thence southerly along the center of Kearny street to the center of Francisco street; thence easterly along the center of Francisco street to the center of Montgomery street; thence southerly along the center of Montgomery street to the center of Chestnut street; thence easterly along the center of Chestnut street to the center of Sansome street; thence southerly along the center of Sansome street to the center of Lombard street; thence easterly along the center of Lombard street to the center of Battery street; thence southerly along the center of Battery street to the center of Greenwich street; thence easterly along the center of Greenwich street to the center of Front street; thence southerly along the center of Front street to the center of Vallejo street; thence easterly along the center of Vallejo street to the center of Davis street; thence southerly along the center of Davis street to the center of Pacific street; thence easterly along the center of Pacific street to the westerly line of East street; thence southerly along the westerly line of East street to the center of Folsom street; thence westerly along the center of Folsom street to the center of Steuart street; thence southerly along the center of Steuart street to the center of Harrison street; thence southerly on a direct line with said Steuart street two hundred fifty-three feet nine inches, to the center of a street the name of which is not on the map; thence at right angles westerly along the center of said street to the center of Spear street; thence southerly along the center of Spear street to the center of Bryant street; thence westerly along the center of Bryant street to the center of Beale street; thence southerly along the center of Beale street to the center of Brannan street; thence westerly along the center of Brannan street to the center of First street; thence southerly along the center of First street to the center of Townsend street; thence westerly along the center of Townsend street five hundred fifty feet, to the center of a street the name of which is not on a map; thence at right angles southerly along the center of said street to the center of King street; thence westerly along the center of King street to the center of Second street; thence southerly

along the center of Second street to the center of Berry street; thence westerly along the center of Berry street to the center of Third street; thence southerly along the center of Third street to the northerly line of Channel street; thence westerly along the last-mentioned line to the easterly line of Fifth street; thence southerly along said last-mentioned line to the southerly line of said Channel street; thence easterly along said last-mentioned line to the center of Kentucky street; thence southerly along the center of Kentucky street to the center of Fourth street; thence along the center of Fourth street to the center of Louisiana street; thence southerly along the center of Louisiana street to the center of El Dorado street; thence westerly along the center of El Dorado street to the center of Illinois street; thence southerly along the center of Illinois street to the center of Solano street; thence easterly along the center of Solano street to the waterfront line established by the board of state tide-land commissioners; thence southerly along said last-mentioned line to the center of Tulare street; thence westerly along the center of Tulare street to the center of Texas street; thence southerly along the center of Texas street to the center of Islais street; thence easterly along the center of Islais street to the center of Waterfront street; thence southerly along the center of Waterfront street to the center of India street; thence westerly, southerly and easterly along the center of said India street to the center of Waterfront street, to the center of China street; thence westerly along the center of China street to the center of Third avenue; thence southerly along the center of Third avenue to the northerly line of the property of the California Dry Dock Company; thence easterly along said last-mentioned line to the waterfront established by the board of state tide-land commissioners; thence southerly along and around said Dry Dock Company's land to the southeasterly corner thereof; thence westerly along the line of said land to the center of Waterfront street; thence southerly along the center of Waterfront street to the center of Nineteenth avenue; thence westerly along the center of Nineteenth avenue to the center of Dock street; thence southerly along the line of Dock street to the center of Twenty-third avenue; thence westerly along the center of Twenty-third avenue to the center of H street; thence southerly along the center of H street to the center of Twenty-fourth avenue; thence easterly along the center of Twenty-fourth avenue to the center of Waterfront street; thence southerly along the center of said Waterfront street to the southern boundary of the city and county of San Francisco; thence along the southerly, easterly and northerly boundary lines of said city and county to a point due north of the place of commencement, and thence south to the place of commencement. But no harbor embankment of seawall shall be constructed outside of the following named points and lines, to wit: Commencing at the point where the eastern boundary line of the Presidio reservation, extended in a northerly direction, intersects the three-fathom contour line shown upon the chart of the United States survey, and running thence in an easterly and southerly direction, upon straight or curved lines, in such a manner as to approach as near as practicable the extreme outer projections of the water-line front, as described in an act to provide for the disposition of certain property of the state of California, passed March twenty-sixth, in the year of our Lord eighteen hundred and fifty-one, to a point at or near the intersection of Second

and Berry streets; thence continuing southerly, upon straight or curved lines, in such a manner as to approach as near as practicable the extreme outer projections of the water-line front, as established by the board of state tide-land commissioners, to the southerly boundary of said city and county of San Francisco; and said commissioners, in addition to a general control over said premises shall have authority to use for loading and landing merchandise, with a right to collect dockage, wharfage and tolls thereon, such portion of the streets of the city and county of San Francisco, ending or fronting upon the waters of said bay as may be used for such purposes without obstructing the same as thoroughfares; and authority to rent an office in the city and county of San Francisco, between Montgomery, Market and Pacific streets and the city front; and purchase from time to time suitable books for the records of the secretary and accounts of the wharfingers, together with such stationery as may be required by the board; and to fix and regulate, from time to time, the rates of dockage, wharfage, crannage, tolls and rents; and collect such an amount of revenue therefrom as will enable the commissioners to perform the duties required of them by authority of this article. The commissioners shall construct such number of wharves as the wants of commerce shall require, and shall locate such wharves at such points and upon such lines as the board may deem most suitable for the best interests of commerce, and shall repair and maintain all the wharves, piers, quays, landings and thoroughfares the wants of commerce may require, and generally to erect all such improvements as may be necessary for the safe landing, loading and unloading, and protection of all classes of merchandise, and for the safety and convenience of passengers passing into and out of the city and county of San Francisco by water. And for the purpose of repairing said wharves, piers, quays and landings, the commissioners are hereby authorized and empowered to purchase or construct pile-drivers, and the necessary machinery to be used therewith, and employ men for operating the same; nor shall any such wharf be constructed upon such place or line as will cause any slip or dock to be less than one hundred and thirty-six feet wide at the most narrow point between the wharves. The commissioners are hereby authorized and empowered to purchase or construct works for preserving piles and timber, and the necessary machinery to be used therewith, and operate said works, and for that purpose to employ men and purchase chemicals, or such other materials as may be necessary for the preserving of piles and timber. The purchase of chemicals can be made without advertising for proposals therefor. When they determine that a new wharf shall be erected, or any other necessary improvement constructed, or repairs made, or dredging machines, pile-drivers, scows, steam tugs, or any necessary machinery or material obtained, the costs of which shall exceed three thousand dollars, they shall advertise for sealed proposals for a period not less than ten days, in one or more of the daily newspapers in the city and county of San Francisco. Every proposal shall be accompanied by a certified check for an amount equal to five per cent of the amount of such proposal, such check to be made payable to the order of the secretary of said board; conditioned, if the proposal is accepted and the contract awarded, and if the bidder shall fail or neglect to execute the contract and give the bond required within six days after the award is made, in that case, the said

sum mentioned in said check shall be paid into the state treasury by said secretary, as liquidated damages for such failure and neglect, as a portion of the San Francisco harbor improvement fund. Such advertisement shall contain a general description of the work to be done, the material to be used, the place where to be used, and must refer to specifications, which must contain a full and accurate description of the work to be performed, the material to be used, and where it is to be used; which specifications shall be kept in the office of the secretary of the board in such manner that all persons may inspect the same during the usual business hours of all days except Sundays and holidays. On a day named in the advertisement, the commissioners shall open the bids in the presence of such bidders as are present, and award the contract to the lowest bidder, who shall furnish sufficient sureties to guarantee the performance of the work. If, in the opinion of the commissioners, the bids are too high, they may reject them, and advertise anew in like manner as before. If, in the opinion of the commissioners, the second bids are too high, they may reject them likewise, and enter into contract with responsible parties without giving further notice. Any contract entered into without giving public notice and receiving bids, must be at least ten per cent lower than the lowest rejected bid. The board may construct such harbor embankment or seawall as shall be necessary to protect the harbor of San Francisco, and dredge such number of slips and docks as the commerce of the port of San Francisco may require, to a depth that will admit of the easy and free ingress and egress of all classes of water craft that load and discharge cargoes at the wharves, piers, quays, landings, and thoroughfares in the harbor of San Francisco; to perform which dredging the board of state harbor commissioners are hereby authorized and empowered to purchase or construct dredging machines, scows, steam tugs, and the necessary machinery, and employ men for operating the same. When any portion of the premises described in this article shall be dredged, the sand, mud, or other substance shall be deposited in a place designated by the board, in not less than fifteen fathoms of water. All classes of water craft that uses or makes fast to any wharf, pier, quay, landing, or thoroughfare, and lands upon or loads therefrom any goods, wares, or merchandise, shall be liable and must pay the commissioners such rates of dockage as shall be fixed by authority of this article; and all such water craft as shall discharge or receive any goods, wares, or merchandise, while moored in any slip, dock or basin within the jurisdiction of the commissioners, shall pay one-half the regular rates of dockage. Any water craft that shall leave any wharf, pier, quay, landing, thoroughfare, slip, dock, or basin, unless forced to do so by stress of weather, without first paying the dockage due from such vessel, shall be liable to pay double the regular rates. The charge for wharfage and tolls shall be a lien upon all goods, wares and merchandise landed upon any of the wharves, piers, quays, landings or thoroughfares upon the premises described in this article; and the commissioners, their agents or lessees, may hold possession of any such goods, wares, or merchandise so landed as aforesaid, to secure the payment of such wharfage and tolls; and for the purpose of such lien are deemed to have possession of such goods, wares and merchandise so landed until such charge for wharfage and tolls are paid. The commissioners shall have power to make reasonable rules and regulations con-

cerning the control and management of the property of the state which is intrusted to them by virtue of this article, and said commissioners are hereby authorized and required to make, without delay, and from time to time, and publish not less than thirty days in a daily newspaper of general circulation published in the city and county of San Francisco, all needful rules and regulations not inconsistent with the laws of the state or of the United States in relation to the mooring and anchoring of vessels in said harbor, providing and maintaining free, open, and unobstructed passageways for steam ferry-boats and other steamers navigating the waters of the bay of San Francisco and the fresh-water tributaries of said bay so that such steamers can conveniently make their trips without impediment from vessels at anchor or other obstacles. And said commissioners may also make all needful rules and regulations governing the removal of such vessels from the wharves and other landings, and from slips and docks as are not engaged in receiving or discharging cargo, prescribing the time during which goods, wares, and merchandise landed upon any wharf, pier, quay, landing, or thoroughfare shall be permitted to remain thereon, and may divide the same into several classes, and may, by such rules and regulations, provide that in case any such goods, wares, or merchandise remain upon any wharf, pier, quay, landing, or thoroughfare beyond the term so prescribed, the respective wharfinger may, under the order of the commissioners, remove and deposit the same in a suitable place, at the charge, risk, and expense of the owner thereof. When any goods, wares, or merchandise shall have remained upon any wharf, pier, quay, landing, or thoroughfare more than twenty-four hours, the commissioners may, in their discretion, charge such additional rates for each subsequent day as in their opinion is just and equitable. The commissioners may, in their discretion, set apart and assign for the exclusive use of the water craft used by the officers of the federal government, such convenient and safe landings as such officers may require, together with suitable premises near such landings as may be set apart and assigned for their use, upon which premises such officers may cause to be erected offices and storehouses to suit their convenience; and the commissioners shall charge a reasonable compensation per month for the use of such landings and office and storehouse premises; set apart and assign a suitable and proper locality for the use of the harbor police of the city and county of San Francisco, and also a suitable place for a boathouse station, for the exclusive use of the quarantine and health officers of said city and county, without compensation; set apart and assign, for the exclusive use of steam ferry-boats, suitable slips, in which such structures may be erected as will secure the safe and convenient landing of passengers and safe landing and delivery of freight; set apart and assign suitable wharves, berths, or landings for the exclusive use of vessels; to construct suitable sheds, gates and other temporary structures as may be necessary for the safe and convenient landing of passengers and safe landing and delivery of freight; and set apart and assign, for the sole and exclusive use of the fishermen of the city and county of San Francisco, such place or places as the said commissioners shall deem proper, sufficient, and adapted for the requirements and necessities of said fishermen; provided, the premises set apart by said commissioners shall be used only for the legitimate business of said fishermen, and for no other purpose; and provided, said commission shall

charge said fishermen for the use thereof such rates as said commission shall fix from time to time. The commissioners may assign suitable places for the landing of horses, cattle, sheep, swine; and when such places have been assigned, it shall be a misdemeanor for a commander of any water craft to land any greater number than ten at any one time from any water craft at any other place. The commissioners may set apart, for the uses and purposes of drydocks and marine railways, such portions of the waterfront northwesterly of the northerly end of Kearny street, and southerly of the easterly end of Solano street, as the wants of commerce may require. The commissioners shall not have the right to renew any lease, or to lease any premises under their control for any purpose whatever, except as otherwise specially provided, but they may permit any property under their control to be used by any corporation, firm, association, person, or company, but in no case shall any corporation, firm, association, person, or company enjoy the use of any of the property under the commissioners' charge, except such use as shall be terminated as herein provided; and the said commissioners may condemn, purchase, and pay a reasonable compensation for such structures as may have been erected upon the said premises, which structures, in the opinion of the board and engineer may be useful for such commercial purposes as this article is intended to promote. No person or company shall land or remove any goods, wares or merchandise, or other things, upon or from any wharf, pier, quay, landing, or thoroughfare situated upon the premises described in this article; nor shall any corporation, firm, association, company or person collect dockage, wharfage, cranage, or toll within the boundaries of the premises described in this article, without first obtaining permission to do so from said commissioners. Any use permitted of the property by the commissioners may be terminated at any time by them, on thirty days' previous notice to the party or parties so using the same. Said board may, when the wants of commerce require, lay down such number of tracks along and on any portion of said waterfront as may be necessary to meet such wants, and permit the use thereof to any corporation or association, or any person or persons, under such rules, regulations, and at such compensation as said board may determine; and make such agreements with persons, firms and corporations owning spur or industry tracks relative to the use by the state of such tracks as said board may determine to be necessary; provided, that no special privileges shall be awarded thereon to any corporation, association, person or persons; provided, that nothing herein shall apply to or restrict the use of any premises leased for terminal facilities under or by reason of an act of the legislature entitled "An act to amend an act entitled 'An act to amend an act entitled "An act to amend section six of an act entitled 'An act concerning the waterfront of the city and county of San Francisco,' approved March 15, 1878, and to confer further powers upon the board of state harbor commissioners," approved March 17, 1880,' approved March 19, 1889, conferring further powers upon said board," approved March 26, 1895, and which has not been declared forfeited by the board of harbor commissioners; and provided, further, that switches from said railroad track or tracks may, with the permission of said board, and under the limitations and conditions of this act, be constructed by corporations, or any person or persons, leading to any warehouse or place of business. Nor shall any per-

son or company place, or cause to be placed, any obstructions in that portion of the bay of San Francisco described in this article, nor upon any wharf, pier, quay, landing, or thoroughfare, without the consent of the board. Whenever any wharf, pier, quay, landing, or thoroughfare in the harbor of San Francisco shall be encumbered, or their free use interfered with, by goods, wares, merchandise, or other substance, whether loose, or built upon, or fixed to any such wharf, pier, quay, landing, or thoroughfare, it shall be the duty of the commissioners to notify, in writing (which service may be served by a wharfinger, or the secretary or assistant secretary of the board), the owner, agent, or occupant, or person placing or keeping such obstruction thereon, to remove the same within twenty-four hours after the serving of such notice; and in case of failure to comply with such notice, and remove such obstructions, the owner, agent, occupant, or person notified shall be liable to pay the commissioners the sum of twenty-five dollars for each and every day during which such obstruction shall remain upon any such wharf, pier, quay, landing, or thoroughfare; and the commissioners shall have power, in their discretion, to remove any such encumbering substance, and store the same in any suitable, convenient, and safe place, and a sum equal to the amount of the expenses of the removal, together with all other necessary charges, shall be paid by the owner of such encumbering substance to the commissioners, and such sum and necessary charges shall be a lien on such substance until paid. Dockage shall not be collected on any vessel lying at anchor outside of dock, wharf, or slip. Nothing in this section shall be construed as authorizing the board of harbor commissioners to construct any railroad along and upon any open canal extending inland from said waterfront. But said harbor commissioners may, when a waterfront railroad shall be constructed by them, construct the same across the outlet of such open canal.

§ 2. Repealed. All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. Time of taking effect. This act shall take effect and be in force immediately after its passage. [Amendment approved May 7, 1919; Stats. 1919, p. 343.]

§ 2528. Disposition of moneys collected by state harbor commissioners. All moneys collected shall be paid into the state treasury and be credited to the San Francisco harbor improvement fund, at least once in each month, except so much thereof as may be necessary to pay the salaries of officers and employees, office rent, cost of office furniture, books, stationery, lights, fuel, expense of dredging, expense of pile-driving and piles, expense of preserving piles and timber, cleaning the wharves and bulkheads, legal and other incidental expenses, and in addition ten thousand dollars per month for urgent repairs, which last sum, if so much be required, may be used in repairing the wharves, piers, landings, thoroughfares, sheds, and other structures, and the streets bounding on the waterfront under the jurisdiction of the board, without advertising for proposals therefor. [Amendment approved May 10, 1919; Stats. 1919, p. 486.]

§ 2552. Salaries of harbor commissioners, etc. The monthly salaries of the officers of the board shall be as follows: The president, four

hundred sixteen and sixty-six hundredths dollars; each of the other two commissioners, two hundred fifty dollars; the secretary, two hundred fifty dollars; the attorney, two hundred dollars; the wharfingers, not less than one hundred sixty dollars nor more than one hundred seventy-five dollars; and the collectors, one hundred twenty-five dollars. The board must fix the compensation of the other employees. Said salaries and compensation shall be paid out of the San Francisco harbor improvement fund. No ex-officio officer nor consulting engineer shall receive any compensation, except traveling and other incidental expenses. The president shall be chief executive officer of the board and business manager of harbor affairs and shall actively superintend and supervise the conduct of the dock system and the state belt railway and all other departments of the harbor business. [Amendment approved May 27, 1919; Stats. 1919, p. 1208.]

§ 2643. Powers of supervisors over roads. The boards of supervisors of the several counties of the state shall have general supervision over the roads within their respective counties. They must by proper order:

(1) **Surveys, etc.** Cause to be surveyed, viewed, laid out, recorded, opened, and worked, such highways as are necessary to public convenience, as in this chapter provided.

(2) **Record highways.** Cause to be recorded as highways all highways which have become such by usage, dedication or abandonment to the public, or by any other means provided by law, and to prepare and record proper deeds and titles thereto.

(3) **Abandon.** Abolish or abandon such as are not necessary.

(4) **Right of way.** Acquire the right of way over private property for the use of public highways, and for that purpose require the district attorney to institute proceedings, under Title seven, Part three, of the Code of Civil Procedure, and to pay therefor from the general road fund or the district road fund of the county.

(5) **Road tax.** Levy a property tax for road purposes.

(6) **Guide-posts.** Cause to be erected and maintained, at the intersections and crossings of highways, guide-posts, properly inscribed.

(7) **Apportionment of road tax.** Cause the road tax collected each year to be apportioned to the several road districts entitled thereto, and kept by the county treasurer in separate funds.

(8) **Audit claims.** Audit all claims on the funds set apart for highway purposes, and specify the fund, or funds, from which the whole or any part of any claim, or claims, must be paid.

(9) **Gates.** In their discretion, they may provide for the establishment of gates on the public highways, in certain cases, to avoid the necessity of building road fences, and prescribe rules and regulations for closing the same, and penalties for violating said rules; provided, that the expense for the erection and maintenance of such gates shall in all cases be borne by the party or parties for whose immediate benefit the same shall be ordered.

(10) **Sprinkling.** Work costing over three thousand dollars. For the purpose of sprinkling the roads in any part of the county with oil or

water, the board of supervisors may erect and maintain waterworks and oil tanks and reservoirs, and for such purposes may purchase or lease real or personal property. The costs of such waterworks, oil tanks and reservoirs and the sprinkling of said roads with oil or water may be charged to the general county fund, the general road fund, or the district fund of the district or districts benefited.

Whenever it is determined by a four-fifths vote of the board of supervisors of any county that the public convenience and necessity demand the acquisition or construction of a new road in excess of three miles in length or the grading, regrading, paving or macadamizing of any existing road, in excess of three miles in length, and that the cost of such new road when acquired and constructed, or the cost of grading, regrading, paving or macadamizing such existing road, will be too great to pay out of any of the road funds of the county, the board of supervisors may, by resolution passed by a four-fifths vote of said board, determine to acquire or construct such new road, or grade, or regrade, pave, or macadamize such existing road, and if the cost of such new road when constructed, or the cost of grading, regrading, paving or macadamizing such existing road, when completed, shall exceed three thousand dollars, such cost may be charged to the general county fund, the general road fund or the district fund of the district or districts benefited.

(11) **Surveyor to submit estimates of cost. Advertising for bids. Form of advertisement. Awards. In counties with charters.** Whenever it shall be determined that any grading, graveling, macadamizing, ditching, sprinkling, or other work upon highways is necessary, and is to be done, and where the estimated cost of such work amounts to more than one thousand dollars, the board of supervisors must, by proper order, direct the county surveyor to make definite surveys of the proposed work, and to prepare profiles and cross-sections thereof, and to submit the same with the estimate of the amount or amounts of work to be done, and cost thereof, and with specifications thereof. Said report shall be prepared in duplicate, one copy to be filed in the surveyor's office, and the other to be filed with the clerk of the board of supervisors. The board upon receipt of such report must advertise for bids for the performance of the work specified. Such advertisement for bids must be published prior to the day fixed for the opening of bids, for at least once a week for a period of two weeks in a newspaper of general circulation printed and published in the county.

Such advertisement shall be in substantially the following form:

"Office of the clerk of the board of supervisors.
— county, —, 19—

Sealed bids will be received by the clerk of the board of supervisors of — county, at his office, until — o'clock —M., —, 191—, for —, on —, in — district, in — county.

Specifications for this work are on file in the office of the said board, to which bidders are hereby referred.

—, —,
Clerk of the board of supervisors of the county of —."

Bids must be inclosed in sealed envelopes, addressed to the clerk of the board of supervisors, and must be indorsed, "Bids for —," and

must be delivered to said clerk prior to the hour specified in the advertisement. The board shall publicly open and read such bids as may be submitted, and must award the contract for the work to the lowest bidder; unless it shall appear to the board that the bids are too high, and the work can be done more cheaply by day labor, in which case the bids must be rejected, and the work ordered done by the road commissioner or commissioners, in whose district or districts the work may be situated. In case the work shall be let by contract, monthly or quarterly payments may be made thereon upon the receipt of a certified estimate by the county surveyor of the amount of work done during the preceding month or quarter, to the extent of seventy-five per cent of the value of said work, the remaining twenty-five per cent being due on the completion of the work. Upon the completion of the work, the county surveyor must examine the same, and if completed in accordance with the specifications thereof, he must submit to the board of supervisors a certificate over his signature and official seal to the effect that such work by the contractor therefor, has been completed in accordance with the specifications therefor, and recommending its acceptance. The board shall thereupon audit the same and direct its payment out of the proper fund or funds.

Whenever any county has adopted a county charter under article eleven, section seven and one-half of the constitution of the state of California, providing for the appointment of a road commissioner as a county officer, and the organization of a permanent road department for the construction and maintenance of highways and bridges, the board of supervisors of such county shall have charge of construction, maintenance and repair of all highways and employ an engineer as road commissioner to have charge of the construction and the repairing and maintenance of all roads in such county, under the orders and direction of said board, and may employ such workmen and purchase such materials, equipment, tools and appliances as may be necessary to construct and maintain said roads and to keep them in repair, the cost of such construction, maintenance and repair to be paid out of the county road funds or the general fund of the county, as provided for by the law.

(12) **Side paths.** In their discretion, they may set apart on any public road or highway a strip of land for a side path, and make an order designating the width of such path and cause the lines separating the path from the road to be located and marked by stakes or posts, placed at such distances apart as they shall deem proper. After said paths have been set apart, and the lines separating the same from the road have been located and marked, as aforesaid, the use of the same is hereby restricted to pedestrians and riders of bicycles and other vehicles propelled solely by the power of the rider.

Expense of erecting and maintaining such path may be charged to the general county fund, the general road fund, and the district fund of the district or districts benefited.

(13) **Use of highway in adjoining county.** The boards of supervisors of any county in the state may by and through an ordinance duly passed permit the use of any of its public highways connecting with any main public highway of an adjoining county by the board of supervisors or highway commissioners of such adjoining county, for the purpose of

constructing and maintaining thereon a highway or boulevard serving the needs of residents of both counties; and the board of supervisors of any such adjoining county, if it accepts the provisions of the ordinance adopted by the board of supervisors of the county granting the use, shall have the power to construct and maintain any such highway or boulevard, or to construct or maintain such bridge or bridges on such highway or boulevard as it may deem necessary, or to macadamize, pave, curb or gutter such highway or boulevard in such manner as it may determine, and the cost or expense thereof shall be paid out of the general fund of the county treasury, or such other fund as the board of supervisors may designate, or which shall otherwise be provided, of the county to which the use is granted. The board of supervisors of any counties proceeding under the provisions of this act may acquire real property adjacent to such public highway in an adjoining county for county purposes, and may expend thereon such funds as said board of supervisors shall deem necessary for county purposes. The boards of supervisors of any counties proceeding under the provisions of this act may by mutual consent, expressed through ordinances of the respective boards, retransfer the use, control, maintenance and jurisdiction of any highway or boulevard constructed under the provisions hereof to the county originally granting the use. [Amendment approved May 5, 1919; Stats. 1919, p. 167.]

There was an amendment of section 2643 passed at the same session on March 25, 1919. See Stats. 1919, p. 14. The sections were substantially the same except that the earlier section omitted the last paragraph of subdivision 11. Section 2643 was also amended twice in 1917. See Stats. 1917, pp. 196, 1208.

§ 2646. Highways in charge of supervisors. Whenever any of the highways of a county have been constructed or improved under the provisions of an act entitled "An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor," approved March 19, 1907, and all acts amendatory thereof or supplementary thereto, the board of supervisors of said county shall have the charge of the maintenance and repair of said highways and may employ a superintendent or inspector to have charge of the repairing and maintenance of all of said roads under the orders and direction of said board, and may employ such workmen and purchase such materials, equipments, tools and appliances as may be necessary to maintain said roads and keep them in repair, the cost of such maintenance and repair to be paid out of the general fund of the county. Nothing herein contained shall prevent the board from having any such work of repair or maintenance done by contract under the provisions of section two thousand six hundred forty-three, if they deem it advisable. At the option of the board of supervisors, expressed by resolution, the provisions of this section shall apply to such highways of the county as may be specified in such resolution, constructed or improved under the provisions of subdivision ten of section two thousand six

hundred forty-three of the Political Code, and paid for out of the general fund of said county. [Amendment approved April 16, 1917; Stats. 1917, p. 137.]

§2692. Opening of private ways for canals. Bond. Private or by-roads or private ways for an irrigation, seepage or drainage canal may be opened, laid out, or altered for the convenience of one or more residents or freeholders of any road district in the same manner as public roads are opened, laid out, or altered, except that only one petitioner shall be necessary, who must be either a resident or freeholder in said road district; and the board of supervisors may for like cause order the same to be veiwed, opened, laid out, or altered, the person for whose benefit said road or private way for an irrigation, seepage or drainage canal is required paying the damages awarded to land owners, and keeping the same in repair; provided, that the petitioners must accompany the petition with the bond mentioned in section two thousand six hundred eighty-three, conditioned as provided in said section, and with a further condition that the bondsmen will pay to the person over whose land said road or private way for an irrigation, seepage or drainage canal is sought to be opened, his necessary costs and disbursements in contesting the opening of such road or private way for an irrigation, seepage or drainage canal, in case the petition be not granted, and the road or private way for a canal finally not opened; provided, that all private roads laid out, under the provisions of this act, shall be upon section or half section lines wherever practicable; provided, further, that any private way for an irrigation, seepage or drainage canal shall follow as nearly as possible the line of natural watercourses, but where this is not practicable, it shall follow as nearly as practicable section or half section lines. [Amendment approved April 18, 1919; Stats. 1919, p. 117.]

§2697. Petition to abandon highways. Any ten freeholders, two of whom must be residents of the road district in which some part of the property affected is situated, and who are taxable therein for road purposes, may petition the board of supervisors in writing to vacate, discontinue, abandon and abolish any public highway, road, street, avenue, alley, lane or place, or any part of any such road, street, avenue, alley, lane or place. [Amendment approved March 23, 1917; Stats. 1917, p. 24.]

§2713. Construction and repair of bridges. In counties with charter. No bridge, the cost of construction or repair of which will exceed the sum of five hundred dollars, must be constructed or repaired except on the order of the board of supervisors. When ordered to be constructed or repaired, the contract therefor may, in their discretion, be let out, and if let, it must be after reasonable notice given by the board of supervisors, by publication at least once a week for two weeks in a county newspaper; and if no paper is published in said county, then by three posted notices, one at the courthouse, one at the point to be bridged, and one at some other neighboring place in the county. All bids shall be sealed; they shall be opened at the time specified in the notice, and the contract awarded to the lowest responsible bidder. The board may, however, reject any and all bids. The contract and bond for its performance must be entered into and approved by the

board of supervisors; except, however, in cases of great emergency, by the unanimous consent of the whole board they may proceed at once to replace or repair any and all structures of whatever nature, without notice. Bridges crossing the line between counties must be constructed by the counties into which such bridges reach, and each of the counties into which any such bridge reaches shall pay such portion of the cost of such bridge as shall have been previously agreed upon by the boards of supervisors of said counties; provided, that where such bridge or bridges, crossing the line between counties shall reach within the limits of an incorporated town, or city, or city and county, the provisions of this section shall apply.

Whenever any county has adopted a county charter under article eleven, section seven and one-half, of the constitution of the state of California, providing for the appointment of a road commissioner as a county officer, and the organization of a permanent road department for the construction and maintenance of highways and bridges, the board of supervisors of such county shall have charge of construction, maintenance and repair of all highways and employ an engineer as road commissioner to have charge of the construction and the repairing and maintenance of all roads in such county, under the orders and direction of said board, and may employ such workmen and purchase such materials, equipment, tools and appliances as may be necessary to construct and maintain said roads and to keep them in repair, the cost of such construction, maintenance and repair to be paid out of the county road funds or the general fund of the county, as provided for by the law. [Amendment approved May 5, 1919; Stats. 1919, p. 162.]

§ 2745. **Municipal corporation may be included in road division.** Any portion of a county not contained in a permanent road division may be formed into a permanent road division under the provision of this act, and when so formed shall have the powers herein enumerated and such as may hereafter be conferred thereon by law; provided, that a municipal corporation for the purpose of this act shall not be considered a permanent road division and may be included therein. [Amendment approved April 19, 1917; Stats. 1917, p. 144.]

§ 2979a. **Duties of coroner regarding contagious diseases. Duties of physician. Duties of state board of health.** It is the duty of each coroner, and of every county, city and county, city or town health officer, knowing or having reason to believe, that any case of cholera, plague, yellow fever, malaria, leprosy, diphtheria, scarlet fever, smallpox, typhus fever, typhoid fever, paratyphoid fever, anthrax, glanders, epidemic cerebrospinal meningitis, tuberculosis, pneumonia, dysentery, erysipelas, uncinariasis or hookworm, trachoma, dengue, tetanus, measles, German measles, chickenpox, whooping cough, mumps, pellagra, beriberi, Rocky Mountain spotted (or tick) fever, syphilis, gonococcus infection, rabies, poliomyelitis, or any other contagious or infectious disease exists, or has recently existed, within the city, county, city and county, town, or township of which he is such officer, to take such measures as may be necessary to prevent the spread of such disease, and to report at once in writing such cases to the secretary of the state board of health at Sacramento.

It is also the duty of every attending or consulting physician, nurse, or other person having charge of or caring for any person afflicted with any of said contagious diseases, to report at once in writing to the local health officer the nature of the disease, the name of the person afflicted and the place of his or her confinement; provided, however, that syphilis and gonococcus infection shall be reported by office number only; provided, further, that official records of tuberculosis cases shall be for official use only and not open to private inspection.

The state board of health, or its secretary, upon being informed of any such contagious or infectious disease, may thereupon take such measures as may be necessary to ascertain the nature of such disease and prevent the spread of such contagion, and to that end, said state board of health, or its secretary, may, if deemed proper, take possession or control of the body of any living person, or the corpse of any deceased person, and may direct and take such means as may be deemed expedient to arrest or prevent the further spread of such disease. [Amendment approved April 24, 1917; Stats. 1917, p. 171.]

§ 2984. Rules of state board of health: duty of local officers. Reports to state board. Registration of deaths, enforcement of act for. It shall be the duty of the health officer of each municipality and incorporated town within this state to enforce within such municipality and incorporated town all orders, rules, and regulations concerning health and quarantine, and the registration, certification, and reporting of births, marriages and deaths as prescribed or directed by the state board of health, and it shall be the duty of such health officer to report in writing to the state board of health at such times as said board shall require, all infectious, contagious and communicable diseases in man or beast which shall come to his knowledge, upon blanks furnished by the state board of health. Said health officer, in cases of local epidemic of disease shall report to the state board of health all facts concerning the disease and the measures taken to prevent or abate its spread, infection, or contagion. Every such health officer shall strictly observe and enforce within such municipality or incorporated town the provisions of "An act for the registration of deaths, the issuance and registration of burial and disinterment permits and the establishment of registration districts in counties, cities and counties, cities and incorporated towns, under the superintendence of the state bureau of vital statistics and prescribing the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and fixing penalties for the violation of this act," approved March 18, 1905, and also the provisions of chapter three of title seven of part three (sections three thousand seventy-four to three thousand eighty-four) of the Political Code of the state of California relating to the registration, certification and reporting of marriages, births, and deaths, and shall promptly report to the state board of health all violations of the state health laws and of the law relating to the registration, certification and reporting of marriages, births and deaths which shall come to his knowledge. [Amendment approved April 24, 1917; Stats. 1917, p. 172.]

§ 3061. Health officer appointed. Duties. The board of trustees, council or other legislative body, by whatever name known, of any

incorporated city or town of this state, shall by ordinance adopt for the regulation of sanitary matters within the city or town, such rules and regulations relative thereto as are necessary and proper, and not contrary to law, and shall supervise all matters pertaining to the sanitary condition of the city or town; provided, that no part of this section shall be construed to prevent the appointment by the board or council or other legislative body of a board of health which shall be advisory to the health officer.

Every such board or council or other legislative body shall appoint a health officer who shall receive for his services such compensation as may be determined by said appointing body and shall hold office at its pleasure. Immediately after the appointment of the health officer the board or council shall notify the secretary of the state board of health of the appointment and the name and address of the appointee.

Each health officer of an incorporated city or town must:

First—Enforce and observe—

(a) All orders and ordinances of the board of trustees or council of his city or town pertaining to health and sanitary matters.

(b) All orders, quarantine regulations and rules prescribed by the state board of health.

(c) All statutes relating to the public health and to vital statistics.

Second—Report to the secretary of the state board of health at Sacramento at such times as the state board may require:

(a) The sanitary condition of his locality.

(b) The number of deaths, with the cause of each, as near as can be ascertained, within its jurisdiction during the preceding month.

(c) The presence of epidemic or other dangerous, contagious, or infectious diseases and such other matters within his knowledge or jurisdiction as the state board may require. [Amendment approved April 24, 1917; Stats. 1917, p. 171.]

§ 3062. Appointment of public health nurses in cities. The board of trustees, council or other corresponding board of any incorporated town or city of this state may employ one or more public health nurses, each of whom shall be a registered nurse possessing such qualifications as may, at the date of her employment, be prescribed by the state board of health. The public health nurse shall attend to such matters pertaining to the health and sanitary conditions of the town or city wherein she is employed, as the board of trustees, council or other corresponding board may, from time to time, assign to her, and shall receive such compensation as may be determined by said board. [New section added April 30, 1919; Stats. 1919, p. 180.]

The old section 3062 was repealed in 1917. See Stats. 1917, p. 144.

§ 3064. Failure to provide health officer. The board of supervisors must fix the salary or compensation of health officers, and provide for the expenses of enforcing the provisions of this article. If the board of supervisors or board of trustees, council, or other corresponding board of any incorporated town, neglects to provide a health officer by the first day of July, eighteen hundred and eighty-seven, the state board of health may direct the district attorney of the county to begin an action against such board of supervisors, or board of trustees, or

corresponding board, to compel the performance of their duty, or may appoint a health officer for such town or city, and the expenses of such health officer shall be a charge against the incorporated city or town for which such appointment shall be made; and when the appointment is made for unincorporated towns, the expenses of the health officer are a charge against the county. [Amendment approved April 24, 1917; Stats. 1917, p. 173.]

§ 3074. Bureau of vital statistics. Duty of state registrar. The state board of health shall maintain, at the city of Sacramento, a bureau of vital statistics for the complete and proper registration of births, marriages and deaths, for legal, sanitary and statistical purposes, which bureau shall be under the supervision of the state registrar of vital statistics. The duty of the state registrar of vital statistics shall be to promulgate and enforce all rules and regulations required to carry out the provisions of this chapter and that may be adopted from time to time by the state board of health. [Amendment approved April 5, 1917; Stats. 1917, p. 41.]

§ 3075. Employees of state board of health. There shall be a clerk of the state board of health who shall receive an annual salary of one thousand six hundred dollars, such salary to be paid in the same manner and at the same time as salaries of state officers. The state board of health may employ and fix the compensation of other additional clerical and professional assistants, but such compensation shall be paid from its fund for contingent expenses provided for in the general appropriation act. [Amendment approved May 14, 1917; Stats. 1917, p. 436.]

§ 3366. Power to impose business license tax. Boards of supervisors of the counties of the state, and the legislative bodies of the incorporated cities and towns therein, shall, in the exercise of their police powers, and for the purpose of regulation, as herein provided, and not otherwise, have power to license all and every kind of business not prohibited by law, and transacted and carried on within the limits of their respective jurisdictions, and all shows, exhibitions and lawful games carried on therein, to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise; provided, that every honorably discharged soldier, sailor, or marine of the United States or confederate states who has served in the Civil War, any Indian War, the Spanish-American War, any Philippine insurrection or in the Chinese relief expedition, who is physically unable to obtain a livelihood by manual labor, and who shall be a qualified elector of the state of California, shall have the right to distribute circulars, and to hawk, peddle, and vend any goods, wares or merchandise, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or state, and the board of supervisors or legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor; provided, however, no license can be collected or any penalty for the nonpayment thereof enforced against any commercial traveler whose business is limited to the goods, wares, and merchandise sold or dealt in in this state at wholesale.

§ 2. Construction of. This act shall not be deemed to repeal any act vesting municipal corporations with power to license for revenue purposes. [Amendment approved May 5, 1917; Stats. 1917, p. 279.]

§ 3446. **Petition for formation of reclamation district.** Whenever the holders of title or evidence of title representing one-half or more of any body of swamp and overflowed, salt marsh, or tide-lands, or other lands subject to flood or overflow, susceptible of one mode of reclamation, desire to reclaim the same, they may present to the board of supervisors of the county in which the lands, or the greater part thereof are situated, at a regular meeting of the board, a petition setting forth that they propose to form a district for the reclamation of the same. Said petition must also set forth the following:

- (1) A description of the exterior boundaries of the proposed district.
- (2) The total number of acres situate within the said exterior boundaries.
- (3) The names of each and every owner of record of real property situate within the said exterior boundaries.
- (4) The county or counties within which said proposed district lies, and if in more than one county, the number of acres of said district in each county. [Amendment approved May 26, 1917; Stats. 1917, p. 1191.]

§ 3447. **Verification and publication.** The petition must be verified by the affidavit of one of the petitioners, and must be published for two weeks preceding the hearing thereof in some newspaper of general circulation published in the county in which the greater part of the lands are situated, together with a notice of the time when said petition will be presented to the board of supervisors; an affidavit of publication must be filed with such petition. [Amendment approved May 26, 1917; Stats. 1917, p. 1191.]

§ 3449. **Hearing. Petition approved.** If the board of supervisors find, on the hearing of the petition, that its statements are correct, they must make an order approving the same. If it is shown that any land has been improperly included in the proposed district, they must, in their order, exclude the same therefrom. If the board shall conclude that any lands susceptible of the same mode of reclamation have been improperly omitted from the proposed district, and the owners thereof shall not have appeared at such hearing, the board of supervisors shall by order continue the further hearing of the said petition, and direct that notice shall be given to all such nonappearing landowners, requiring them to appear before said board, and show cause, if any they have, why their lands should not be included in the proposed district. Said notice must be given either by publication in the same manner as the original petition and for the same period or by personal service thereon of each such nonappearing land owner. If such notice be given by personal service, such service must be made at least three days prior to the date fixed for said further hearing. Proof of publication of the said notice or of any such personal service shall be filed with the clerk of said board on or before the day to which such continuance is had.

The board may grant further continuances, by order entered upon its minutes to the end that a full hearing may be had. Upon the final hearing of said matter the board shall make an order approving the said

petition, as originally presented, or in a modified form. Such order shall describe the exterior boundaries of the district, as determined by the board, and shall be indorsed upon or attached to the petition, and be signed by the chairman and attested by the clerk of the board. [Amendment approved May 26, 1917; Stats. 1917, p. 1192.]

§ 3452. By-laws for government of district. The owners of land embraced in the district, or those owning a majority in acreage thereof, must adopt by-laws, not inconsistent with the laws of the state, for the government and control of the affairs of the district. The by-laws thus adopted must be signed by the holders of certificates of purchase, patents, or other evidences of title, representing a majority in acreage of the land embraced in the district, and must be by them filed for record with the county recorder of the county, and by him recorded in a book kept by him for the purpose of recording instruments and writings relating to reclamation. By-laws thus adopted may be amended at any time in the same manner that the original by-laws were adopted. [Amendment approved May 26, 1917; Stats. 1917, p. 1192.]

§ 3453. Election of district trustees. Proceeding to determine legality of district. No proceeding against district existing five years. After the formation of the district and the adoption of by-laws the board of supervisors of the county where the greater part of the district is situated, on the application of any land owner of the district, must call an election in compliance with the provisions of section three thousand four hundred ninety-one of this code, at which election there must be elected under and in pursuance of the provisions of said section three thousand four hundred ninety-one, three eligible persons, each of whom must be the owner of record of land within the said district or a duly authorized representative of a corporation which is an owner of record; who shall constitute, when elected and qualified, the board of trustees of the district, for the management of the affairs thereof, and who shall hold office until their successors are elected and qualified under and in pursuance of the provisions of said section three thousand four hundred ninety-one. From and after the election of said trustees said district shall be deemed organized and shall have power to sue and be sued.

The trustees of any reclamation district may commence a proceeding in the superior court of the county where the greater portion of the district is situated to determine the legality of the existence of such district. The complaint in such proceedings shall describe the district by number and the exterior boundaries thereof, and shall contain a prayer that such district be adjudged a legal reclamation district. The summons in such proceeding shall be served by publishing a copy thereof for two weeks in some newspaper of general circulation published in each county where any part of said district is situated. Within thirty days after the last publication of said summons any person who may be interested may appear and answer said complaint, in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed, the court must render judgment, as prayed for in the complaint. If any answer shall be filed, the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has for five years prior to the commencement of such proceeding been prosecuting or maintaining its works of reclamation in good faith. The proceeding under this section is hereby declared to be

a proceeding in rem, and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California.

No proceeding in quo warranto, nor any similar action, or proceeding, shall be maintained in the name of the people of the state of California against any reclamation district that shall have continuously for five years next preceding the commencement of such proceeding been acting as such and prosecuting or maintaining its works of reclamation in good faith; provided, that this provision shall not affect proceedings that are now pending. [Amendment approved May 26, 1917; Stats. 1917, p. 1192.]

§ 3454. Powers of trustees. A. Said board of trustees shall have powers and duties as follows, to wit:

(1) To keep an office in or near the district for the transaction of the business thereof, and, the books, maps, papers, records, contracts, and all other documents pertaining to the affairs of the district must be open to inspection at all times by any person interested.

(2) **President.** To elect one of its members president of said board of trustees.

(3) **Secretary.** To elect one of its members or any other person secretary of said board of trustees. It shall be the duty of the secretary to have charge of the office of the board of trustees and to keep the minutes of all meetings and to attest all documents requiring the signature of the president and to keep true and accurate accounts of all expenditures made in behalf of said district, which accounts, and all contracts that may be made by the said board of trustees shall be open to the inspection of the board of supervisors and every person interested.

(4) **Money from reclamation board.** To receive from the reclamation board any money allowed on account of uncollected assessments previously levied on lands purchased by said board for rights of way, and to distribute said money among the land owners of said district in proportion to their payments on the last assessment-roll or place the same in the county treasury to the credit of said district.

(5) **Revolving fund.** To create by order duly entered in the minutes of the board of trustees a revolving fund. No warrant for creation or replenishment of this fund shall be paid by the county treasurer unless a bond in double the amount of said fund, signed by the members of the board of trustees with sureties and conditioned as security for the safety and proper disbursement of said fund, approved by the board of supervisors, shall be on file with the county treasurer. Said fund shall be disbursed by checks or drafts, signed by at least two members of the board of trustees, or some person by unanimous vote of the board of trustees authorized to do so. The board of trustees shall within thirty days after any payment from this fund file the vouchers therefor in the office of the county treasurer retaining a duplicate thereof in the office of the secretary of the board of trustees. The board of trustees shall have authority by order entered in the minutes of said board to issue warrants for the creation and replenishment of said fund. No warrant for the replenishment of said fund shall be approved by the board of supervisors or paid by the county treasurer, except to the extent that proper vouchers for previous legal disbursements from said

fund have been filed with the county treasurer as hereinbefore provided. Said fund shall not exceed the sum of two thousand dollars. The order creating said revolving fund must receive the unanimous vote of the board of trustees.

Any land owner within the district may maintain an action for the benefit and in behalf of the reclamation district in the superior court of the county in which the district, or any part thereof is situated against any member or members of the board of trustees for any improper disbursement of the funds of the district made with his or their consent and also against the members of the board of trustees and their sureties upon the said bond for any improper disbursement from said revolving fund.

(6) **Engineers, etc.** To employ engineers and others to survey, plan, locate and report on the works necessary for the reclamation of the lands of the district, and estimate the cost thereof; thereafter, at any time, modify or change such original plan or plans, or adopt new, supplemental, or additional plan or plans, when, in its judgment, the same shall become necessary.

(7) **Rights of way, etc.** To acquire by purchase, condemnation, gift, or other legal means, whatever real property, rights of way, materials, or labor that it shall deem necessary for the construction of the works of reclamation or necessary or useful in connection with carrying out the original plan or plans of reclamation, or any supplemental or additional plan of reclamation.

(8) **Canals, sluices, etc.** To acquire by purchase, condemnation, gift, or other legal means, such drains, canals, sluices, bulkheads, water-gates, levees, embankments, pumping plants, and to purchase, construct, or otherwise acquire, maintain, and keep in repair all things reasonably necessary or convenient for the reclamation of the lands embraced in said district either within or without the boundaries of the district.

(9) **Labor and machinery.** To employ such labor and to purchase and operate or hire such tools, machinery, material and equipment and to make and enter into such contracts and agreements as they shall deem necessary in order to accomplish the proper construction, maintenance, repair or operation of the works of reclamation of the said district.

(10) **Disposal of property.** To sell, convey, transfer, lease to others or otherwise dispose of such real or personal property belonging to the said district which said board of trustees shall find no longer necessary for the construction, maintenance or operation of the works of reclamation of said district; also to lease to others or to operate for hire any tools or machinery belonging to the said district which is not at the time needed by the district.

(11) **Proceedings to determine legality of district.** To commence proceedings in the superior court of the county where the greater portion of the district is situate to determine the legality of the existence of such district in the manner provided by section three thousand four hundred fifty-three of this code.

(12) **Distribution of funds not needed.** To distribute, among the land owners of the district, after having first provided by order duly entered

in their minutes, any funds in the treasury belonging to said districts and not needed for the purposes of reclamation, such distribution to be made among the several land owners in the said district in proportion as said owners were assessed on the last assessment made by said district.

(13) **Report of plans.** To report to the supervisors every original plan, and every new, supplemental or additional plan for the reclamation of the lands within said district in the manner provided by section three thousand four hundred fifty-five of this code.

(14) **Cancel warrants.** To cancel all warrants of the district not paid within four years after date of issuance unless the payment thereof is extended in the manner provided by section three thousand four hundred fifty-seven of this code.

(15) **Collection of assessments.** To perform such duties with respect to the collection of assessments as is provided by section three thousand four hundred sixty-six of this code.

(16) **Bond elections.** To perform such duties with respect to the calling of bond election and the issuance of bonds as is provided in section three thousand four hundred eighty.

(17) **Reapportionment of assessments.** To reapportion the assessment or assessments upon any tract of land that has been subdivided into smaller parcels in such manner as will charge each of said smaller parcels with a just proportion of the assessment or assessments previously made upon said tract so subdivided, in the manner provided by section three thousand four hundred sixty hereof.

(18) **General supervision over works.** To exercise a general supervision and complete control over the construction, maintenance and operation of the works of reclamation and generally over the affairs of the district.

(19) **Seal.** To provide a seal which shall contain the number of the district and the county in which the lands or the greater portion thereof are located and all documents requiring the approval by the board of trustees shall hereafter bear the seal of the district.

(20) **General powers.** And to do and perform all acts and things which the said trustees may deem advisable, necessary or convenient for constructing, maintaining, or operating the works of reclamation, or accomplishing the purposes for which said reclamation district was formed.

B. Compensation. The several members of the board of trustees shall each be entitled to receive such compensation for services actually and necessarily performed as the said board of trustees may determine to be just and reasonable, and shall be reimbursed for such expenses as they may necessarily incur in the performance of their said duties as trustees. All claims by or in behalf of trustees for services rendered or expenses incurred shall be presented to the board of trustees, and if allowed shall be paid in the same manner as other indebtedness of the district, but no warrants drawn in favor of a trustee shall be valid until approved by the board of supervisors of the proper county. No

trustee shall be disqualified from participating in any and all proceedings of the board of trustees, excepting that he shall not cast the deciding vote upon a motion of resolution approving a claim or awarding a contract in favor of himself.

C. Regular meeting. All meetings of the board of trustees at which all trustees are present or of which all members of the said board of trustees shall have received notice in writing of such meeting at least one day prior to the time set for such meeting to convene shall be deemed a regular meeting at which any business may be transacted. [Amendment approved May 26, 1917; Stats. 1917, p. 1193.]

§ 3455. (a) **Within Sacramento and San Joaquin drainage district.** If and when any such district is located, in whole or in part, within the Sacramento and San Joaquin drainage district;

(1) **Plans to be reported to supervisors.** The board of trustees of such reclamation district must report to the board of supervisors of the county within which the district, or the greater part thereof, is situate, by filing, with the county clerk of said county, three copies of the original plan or plans of the works of reclamation and three copies of every new, supplemental, or additional plan, if any, together with the estimates of the cost of the contemplated works of the district, including incidental expenses, maintenance and repair necessary for the reclamation of the lands of the district in pursuance of any such plan or plans. The term "works of reclamation" as used in this chapter shall include not only such public works and equipment, as are necessary for the unwatering of lands in reclamation districts, but shall also include such like works as may be necessary to water or irrigate the same lands in such districts.

(2) **Two copies to be certified.** Within five days after said three copies of such plans and estimates are filed with him, the said county clerk shall certify two of said copies and transmit the same to the secretary of the reclamation board.

(3) **Hearing for objections to plans. Notice. Form of notice.** Upon receipt of said certified copies of said plan or plans, the secretary of the reclamation board shall immediately set a date when the reclamation board will hold a meeting for considering objections, if any, to said plans. All such hearings by the said reclamation board shall be held not less than twenty, nor more than sixty days after the day the secretary of the reclamation board receives the certified copies of the said plans. Notice of said hearing before the said reclamation board shall be given by the secretary of said board by publishing a notice of such hearing once a week for two weeks in some newspaper of general circulation published within said district or, if there be no such newspaper so published, then in the county seat of the county within which the said district or the greater part thereof, is situate. Said notice shall be in substantially the following form:

"Notice to the land owners of reclamation district ——. Notice is hereby given to the land owners of reclamation district number — that there has been filed with the county clerk of the county of — and with the secretary of the reclamation board, original (supplemental or new, as the case may be) plans for the reclamation of lands

of said district; that the reclamation board will hold a meeting at its office in the city of Sacramento, county of Sacramento, state of California, on the — day of —, A. D. 191—, at — o'clock, at which time any interested party may appear and object to the said plans."

(4) **Action on plans at hearing.** At said hearing the reclamation board shall hear such evidence as may be offered with respect to said plans, and thereafter shall approve, modify, amend or reject the said plans; provided, however, that the said reclamation board shall not have the power to modify, amend or reject any plans so submitted on the ground that said plans provide for a levee which in their judgment is of excessive strength either in height, slopes or crown width; but no claim for compensation shall thereafter be made against the reclamation board or the Sacramento and San Joaquin drainage district for any part of such levees which said board may consider to be in excess of what is required to comply with its plans for flood control. The reclamation board shall have power to continue or adjourn the said hearing from time to time and shall have authority to cause such investigation and report of said plans to be made by the engineers connected with the reclamation board or by such other competent authority as said board shall deem necessary.

(5) **Action taken shall be final.** When the said reclamation board shall have taken action approving, modifying, or rejecting any such original, supplemental or new plan of reclamation after a hearing as herein provided, such action shall be final, and thereafter the sufficiency of said plans shall not be subject to attack either before the reclamation board or in any court; provided, however, that nothing herein contained shall prevent the board of trustees of any district from at any time filing with the county clerk of the county within which the district, or the greater part thereof, is situate, three copies of any amendatory, additional or supplemental plan of reclamation. In the event any such amendatory, additional or supplemental plan of reclamation is filed with the said clerk, two certified copies thereof shall be transmitted to the secretary of the reclamation board, who shall set the time for hearing, and thereafter the same proceedings shall be had and with like effect with respect to said amendatory, additional or supplemental plan as is herein provided for the original plan.

(b) **Outside of Sacramento and San Joaquin drainage district.** If and when neither the whole nor any part of such district is situate within the boundaries of the Sacramento and San Joaquin drainage district;

(1) **Plans to be reported to supervisors.** The board of trustees of such reclamation district must report to the board of supervisors of the county in which the district, or the greater part thereof is situate, by filing with the county clerk of said county two copies of every new, supplemental, or additional plan, if any, together with estimates of the cost of the contemplated works of the district, including incidental expenses, maintenance and repairs, necessary for the reclamation of the lands of the district in pursuance of any such plan.

(2) **Commissioners to view and assess lands.** Thereupon the board of supervisors of such county must appoint three commissioners, who shall have no interest in any real estate within said district, each of whom,

before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of a commissioner to the best of his ability. Said commissioners must view and assess upon the land within said district the said sum so estimated and shall apportion the same according to the benefits that will accrue to each tract of land in said district, respectively, by reason of the expenditures of said sums of money, and shall estimate the same in gold coin of the United States. The same must be collected and paid into the county treasury as hereinafter provided, and be placed by the treasurer to the credit of the district, and paid out for the works of reclamation upon the warrants of the trustees, approved by the board of supervisors, or, if bonds of such district have been issued upon said assessment, then said treasurer shall set the same apart as a separate fund for the purpose of paying the principal and interest of such bonds, and shall not pay any part of the moneys received from such assessment for any purpose other than the payment of the principal and interest of such bonds.

(c) **What plans and estimates may include.** Any of the said plan or plans and estimates may include any levees or other reclamation works already constructed or in course of construction and payments therefor may be made to the person or persons who constructed the same or to the grantee of the lands for the benefit of which such levees or other works of reclamation were constructed by the owner of such lands, and no trustee shall be disqualified to make or approve such plans or estimates because of his ownership of any levee or other reclamation works included in such plan, or the cost of which is embraced in said estimates but he shall be disqualified to vote for the issuance of any warrant or order to himself in payment therefor. [Amendment approved May 16, 1919; Stats. 1919, p. 604.]

This section was also amended in 1917. See Stats. 1917, p. 1197.

§ 3456. (a) Commissioners to assess lands. Sums paid to county treasury. If such reclamation district is located, in whole or in part, within the Sacramento and San Joaquin drainage district, then if and when the said reclamation board shall have approved the plan or plans of the works of reclamation, after a hearing as provided in section three thousand four hundred fifty-five of this code, then the board of trustees of the reclamation district shall so report to the board of supervisors of the county within which the district or the greater part thereof is situate, and shall set forth in their said report the estimated cost of the said works of reclamation, and petition the said board of supervisors to appoint three commissioners who shall have no interest in any real estate within said district, each of whom, before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of a commissioner to the best of his ability. Upon receipt of said petition from the board of trustees the board of supervisors to whom the same was presented must within not more than sixty days appoint said assessment commissioners above referred to. Said commissioners must view and assess upon the land within said district the said sum so estimated and shall

apportion the same according to the benefits that will accrue to each tract of land in said district, respectively, by reason of the expenditures of said sums of money, and shall estimate the same in gold coin of the United States. The sums must be collected and paid into the county treasury as hereinafter provided, and be placed by the treasurer to the credit of the district, and paid out for the works of reclamation upon the warrants of the trustees, approved by the board of supervisors, or, if bonds of such district have been issued upon said assessment, then said treasurer shall set the same apart as a separate fund for the purpose of paying the principal and interest of such bonds, and shall not pay any part of the moneys received from such assessment for any purpose other than the payment of the principal and interest of such bonds.

(b) Funds for maintenance and repair. Commissioners to prepare assessment list. Hearing. Action in superior court. Amounts needed thereafter. New assessment list. In all cases when the work contemplated by the original or any supplemental plan of reclamation of any reclamation district shall have been completed, the trustees may so report to the board of supervisors of the county in which the district, or the greater part thereof is situate, together with a petition to the said board of supervisors to appoint assessment commissioners. Said report and petition shall set forth that the work contemplated by the original or supplemental plan of reclamation has been completed, and that hereafter the said reclamation district will only require funds for the maintenance and repair of the said works of reclamation. Upon filing said report and petition the said board of supervisors shall appoint three commissioners, each of whom shall be similarly qualified, and shall make and subscribe the same oath as is provided hereinabove for commissioners. When so appointed and so qualified such commissioners shall prepare an assessment-list, which list shall contain the following information in separate columns:

1. A description of each tract assessed by legal subdivisions, swamp-land surveys, or other boundaries sufficient to identify the same.
2. The number of acres in each tract.
3. The names of the owners of each tract, if known; and if unknown, that fact; but no mistake or error in the name of the owner or supposed owner of the property assessed, and no mistake in any other particular, shall render the assessment thereof invalid.
4. The assessment valuation per acre of each tract assessed.
5. The total assessment valuations of each said tract.
6. A blank column for rate to be fixed as shown hereinafter.
7. A blank column for amount of assessment to be computed as shown hereinafter.

Thereafter said assessment valuations shall be used as a basis for assessments in raising funds for the maintenance and repair of the works of reclamation and incidental expenses of said district. Said assessment list, when completed, shall be filed with the clerk of the board of supervisors in the same manner as a report made under an original or modified plan of reclamation. Thereupon the said board of supervisors shall appoint a time when it will meet for the purpose of hearing objections; said objections, if any, must be in writing, verified, and filed with the clerk of said board of supervisors. Notice of the

said hearing shall be given in the same manner and for the same time as notice of hearing objections to an original assessment. At said hearing, the board of supervisors shall hear such evidence as may be offered in support of said written objections, and may modify or amend the said assessment valuations in any particular. No objections to said assessment valuations shall be considered by the board of supervisors, or allowed in any other action or proceeding, unless said objections shall have been made in writing to the board of supervisors within thirty days after the first publication of notice of hearing objections, if any, to said assessment valuations.

Any person aggrieved by the decision of the board of supervisors may commence an action in the superior court of the county in which the greater part of the said district is situate, to have said assessment valuations corrected, modified or annulled. Such action must be commenced within thirty days after said assessment valuations have been approved by the board of supervisors. If said action shall not be commenced within thirty days, no action of defense shall thereafter be maintained attacking the legality of said assessment valuations in any respect.

Thereafter, whenever, in the opinion of the trustees of the district, it shall be necessary to raise any sum for the construction, maintenance or repair of the works of reclamation, or for the incidental expenses of the district, the said board of trustees shall make an order, which order shall be entered in the minutes of the board and shall recite the total amount necessary to be raised and shall fix a rate designating the number of cents to be levied on each one hundred dollars of assessment valuation shown on the list prepared and approved in the manner hereinabove provided.

Thereafter the board of trustees must complete said assessment list by inserting the rate and the total assessment in columns six and seven as provided therefor.

The assessment made in pursuance hereof shall be filed with the county treasurer and thereafter collected in the same manner provided for the collection of any original assessment; provided, however, that the board of trustees may, in their discretion, direct the payment of any such assessment in one installment.

The report of assessment commissioners as herein provided, fixing the assessment valuations for reclamation purposes, after having first been approved by the board of supervisors as hereinabove provided, shall continue in force as the basis for raising necessary funds for construction, maintenance and repair of the works of reclamation, and for incidental expenses of the district until the trustees of said district, or the holders of title or evidence of title representing fifteen per cent or more of the lands within the district, shall petition said board of supervisors to make an order directing the commissioners who made the original assessment list or other commissioners, to be named in such order to prepare a new assessment list. Such commissioners must have the same qualifications and take the same oath as the original assessment commissioners.

The assessment list when so prepared by said commissioners shall be filed with the clerk of the board of supervisors, and shall thereafter in all respects be subject to the same provisions as an original assessment list. All provisions of this code relating to collection of assessments

and sale of land for delinquent assessments, shall be applicable to assessments levied in accordance with the provisions of this section. [Amendment approved May 16, 1919; Stats. 1919, p. 607.]

This section was also amended in 1917. See Stats. 1917, p. 1196.

§ 3457. Form of warrants. Interest on warrants. Warrant outstanding one year or more. Determination of amount due. All warrants drawn by the trustees must be in substantially the following form:

FACE.

No. —.

\$—.

Office of the Board of Trustees of
Reclamation District No.—.

The Treasurer of — County will pay to the order of — out of Reclamation District No. — fund the sum of — dollars for — allowed by the board of trustees of said Reclamation District No. —.

Dated —, 191—.

— —,
— —,
— —,

Trustees.

Attest:

— —,
Secretary.

REVERSE.

Pay to — or order:

— —
— —

Presented for payment but not paid for want of funds, this — day of —, 191—.

Treasurer of — County.

Approved by the Board of Supervisors of — County this — day of —, 191—.

— —,
Chairman of board of supervisors.

Attest:

— —,

Clerk of board of supervisors.

When registered this warrant bears seven per cent interest annually, computed from its date to the date of payment.

This warrant will outlaw and cannot legally be paid four years after date.

The warrants drawn by the trustees must be presented to the treasurer of the county, and if they are not paid on presentation, such indorsement must be made thereon, and they must be registered and bear interest from their date at the rate of seven per cent per annum, and such warrants are and shall be considered as contracts in writing for

the payment of money, and the period prescribed for the commencement of an action based upon said warrants, or connected therewith, is and shall be the term of four years from the date of said warrants; provided, however, that all warrants shall be approved by the board of supervisors before the same shall be paid or registered by the county treasurer.

All warrants shall be paid by the county treasurer strictly in the order in which they shall have been registered.

Whenever a warrant shall have been outstanding one year or more, the board of trustees shall on the demand of the holder of said warrant cancel the same and issue a new warrant for the face value of the old warrant and a separate warrant for the amount of interest then due thereon; or, the board of trustees may allow a claim for the amount of interest due on any warrant so outstanding one year or more and may draw a warrant therefor; upon drawing this warrant they shall indorse on the reverse of the old warrant the fact that interest has been paid to the date of drawing the warrant for interest and the warrant drawn for the interest must state that it is for interest on warrant No. — to — (date); the board of trustees shall notify the county treasurer upon drawing these warrants for interest and he shall note on his register of warrants the fact that interest has been paid on such warrants; provided, that any warrant not paid or presented for reissuance may within four years after its date upon the demand of the holder, be extended for a like period of four years, upon presentation to the board of trustees of the district, such extension being indorsed thereon by said board. The board of trustees and the county treasurer may cancel all warrants not paid, reissued or extended within four years after their date.

In case an action or proceeding based upon any warrant or connected therewith, be commenced within four years after the date of such warrant, and final judgment be obtained in favor of the holder or owner thereof, such warrant shall be paid the same as if it had been paid before the expiration of said four years from the date of said warrant.

In any proceeding for a writ of mandate to compel the trustees to issue a warrant, if a controversy arises as to the amount that may be due to the plaintiff, the court must determine the same in the manner provided for determining controversies in other civil actions, and shall cause a writ to issue for such sums as may be found to be due. The date of a warrant shall be the day on which the same is signed by the board of trustees. [Amendment approved May 26, 1917; Stats. 1917, p. 1202.]

§ 3459. Additional assessments. If the original assessment is insufficient to provide for the complete reclamation of the lands of the district, or if further assessments are from time to time required to provide for the protection, maintenance and repair of the reclamation works, the trustees may file with the clerk of the board of supervisors of the county in which the district or the greater part thereof, is situated two copies of the plan of reclamation and a statement of the work done or to be done and its estimated cost, and the same proceedings shall be had thereon as provided in section three thousand four hundred fifty-five for an original plan of reclamation. If the reclamation

district is located, in whole or in part, within the Sacramento and San Joaquin drainage district, then when said plan shall have been approved by the state board of reclamation, and if a reclamation district is not so situate, then at any time, the trustees of the district shall report to the board of supervisors, and such board must make an order directing the commissioners who made the original assessment, or other commissioners, to be named in such order, to assess the amount of such estimated cost as a charge upon the lands within the district, which assessment must be made and collected in the same manner as the original assessment. [Amendment approved May 16, 1919; Stats. 1919, p. 610.]

This section was also amended in 1917. See Stats. 1917, p. 1204.

§ 3460. Commissioners to make assessment list. The commissioners appointed by the board of supervisors must make a list of the charges assessed against each tract of land; and if there be any error or mistake in the description of the land, or in the name of the owner, or if any land which should be assessed has been or shall be omitted from the list, or if there is any error or mistake in any other respect, the commissioners may amend or correct the same at any time before the lists shall have been approved by the board of supervisors as hereinafter provided. When any tract of land upon which an assessment or assessments shall have been made shall be subdivided into smaller parcels, the board of trustees of the district shall reapportion the assessment or assessments upon such tract in such manner as will charge each of said smaller parcels with a just proportion of assessment or assessments previously made upon said tract so subdivided. Said board of trustees shall file with the clerk of the board of supervisors of the county a list or lists of the charges assessed against each of said parcels. Said reapportionment shall be approved by the board of supervisors in the manner provided in section three thousand four hundred sixty-two of this code. Said lists after such approval shall be filed with the county treasurer of the county and shall have the same effect as on original assessment. [Amendment approved May 26, 1917; Stats. 1917, p. 1204.]

§ 3462. List filed with clerk of supervisors. Objection to assessment. Action in superior court. Said lists, when completed, shall be filed with the clerk of the board of supervisors of the county. The board of supervisors shall appoint a time when it will meet for the purpose of hearing objections to said assessment, and notice of such hearing shall be given by publication for two weeks in some newspaper of general circulation published in said county.

At any time before the date of such hearing, any person interested in any land upon which any charge has been assessed may file written objections to such assessment, stating the grounds of such objections, which said statement shall be verified by the affidavit of such person, or some other person who is familiar with the facts. At said hearing the board of supervisors shall hear such evidence as may be offered in support of said written objection and may modify or amend the said assessment in any particular, or make a reapportionment of the entire assessment. If the amount of any assessment in said list shall be changed, the board of supervisors shall set a day for hearing objections

to said assessment as changed, and shall give notice thereof by publication for two weeks in some newspaper published in the county. At such hearing objections in writing may be made by any person interested, and the board of supervisors shall proceed to hear the same in the same manner as upon the original hearing. If the amount of any assessment shall again be changed the board of supervisors shall proceed as before to give notice and to hear objections thereto, and shall proceed in a similar manner until the amount of each assessment shall be finally fixed and approved. The board of supervisors shall then make an order approving said assessment, and shall indorse such order upon said assessment list, which said indorsement shall be signed by the chairman of said board of supervisors and attested by the clerk thereof, and such decision of said board of supervisors shall be final, and thereafter said assessment list shall be conclusive evidence that the said assessment has been made and levied according to law, except in an action commenced as hereinafter provided. The lists shall then be filed with the county treasurer, or, if the district is situated in more than one county, then the original list must be filed in the county where the greater portion of the lands of said district is situated, and copies thereof certified by the treasurer must be filed with the treasurer of each of the other counties.

No objection to such assessment shall be considered by the board of supervisors, or allowed in any other action or proceeding, unless such objection shall have been made in writing to the board of supervisors as above specified.

Any person aggrieved by the decision of the board of supervisors may commence an action in the superior court of the county in which the greater part of said district is situated to have said assessment corrected, modified or annulled. Such action must be commenced within thirty days after said assessment list has been filed in the office of the county treasurer. If said action shall not be commenced within thirty days, no action or defense shall thereafter be maintained attacking the legality of said assessment in any respect.

The provisions of this section shall apply in all respects to an assessment list made under the provisions of subdivision B of section three thousand four hundred fifty-six. [Amendment approved May 26, 1917; Stats. 1917, p. 1204.]

§ 3463. Charges assessed become lien. Assessment may not be invalidated. When the board of supervisors shall have finally taken action modifying or approving any assessment liens as provided in section three thousand four hundred sixty-two of this code, the charges assessed thereby upon tracts of land within the county shall constitute a lien thereon and shall impart notice thereof to all persons.

When the board of trustees of any reclamation district shall cause assessment lists to be prepared and filed with the clerk of the board of supervisors, whereon they shall assess any sum necessary to be raised to the several tracts of land within the said district in the manner provided in section three thousand four hundred fifty-five, or in section three thousand four hundred fifty-six of this code, the charges so assessed upon any said tract shall constitute a lien thereon and shall impart notice thereof to all persons.

No subsequent act or conduct of the trustees of the reclamation district shall invalidate any such assessment, after the same shall have become a lien in the manner herein provided, but such trustees may be compelled by mandate, or other proper proceeding, to perform their duties as required by law. [Amendment approved May 16, 1919; Stats. 1919, p. 610.]

This section was also amended in 1917. See Stats. 1917, p. 1206.

§ 3465. Payments. The lists must remain in the office of the county treasurer for thirty days; and during the time they so remain any person may pay the amount of the charge assessed against any tract of land to the county treasury in gold coin of the United States or in warrants of the district drawn by order of the trustees thereof, and approved by the board of supervisors of the county. [Amendment approved May 26, 1917; Stats. 1917, p. 1206.]

§ 3466. Collection of unpaid assessments. Sale of property. Purchase by district. Redemption. At the end of thirty days unless bonds shall have been authorized the treasurer must return the list to the board of trustees of the district, and all unpaid assessments shall thereafter bear interest at the rate of seven per cent per annum. Thereafter all unpaid assessments and accrued interest shall be collected by and paid to the county treasurer, or the board of trustees may designate an agent to effect such collection who shall deposit said moneys with the county treasurer to the credit of the district. Whenever the board of trustees shall appoint an agent to collect assessments, they shall require that such agent give a bond in such an amount as they may consider sufficient for the faithful performance of his duties. All such payments shall be made in separate installments, of such amounts, and at such times, respectively, as the said board, from time to time, in its discretion by order entered in its minutes may direct. Upon making such order the secretary shall also enter in the minutes of the board a notice in substantially the following form:

(Name of reclamation district, location or principal place of business.) Notice is hereby given that at a meeting of the board of trustees held on the (date), an installment of (amount) was ordered paid within sixty days from date thereof to — at —. Any installment which shall remain unpaid on the (day fixed) will be delinquent together with the accrued interest thereon.

The notice must be personally served upon each owner of land in said district, or in lieu of personal service, must be sent through the mail addressed to such owner at his place of residence, if known or entered upon the assessment-roll of the county, and if not known, at the place where the principal office of the district is situated, or be published once a week for two weeks successively in some newspaper of general circulation and devoted to the publication of general news, within the district, and if no such newspaper be published within the district then publication may be made in some newspaper published in the county seat of the county where the greater portion of said district is situated.

If any such installment shall remain unpaid at the expiration of said sixty days from the date of the order, then the whole remaining uncalled portion of said assessment shall become delinquent together with the

accrued interest thereon and a penalty of ten per cent of the amount of said installment and interest shall be added thereto and collected for the use of the district.

Immediately after the said installment has become delinquent, the trustee of the district must publish in one notice a list of all of said delinquencies at least once a week for two weeks in some newspaper of general circulation published in the county where said district or the greater part thereof is situated, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed, or a statement that it is assessed to unknown owners, if such is the fact; the amount then due on said property, and a notice that the property assessed will be sold on the date therein stated, in front of the courthouse of said county to pay the amount then due on said property. The date of said sale shall be not less than ten days after the date of the last publication of said notice. And at said time stated in said notice, or such other time to which said sale may have been postponed, the trustees must sell said property to the highest bidder for gold coin of the United States. Out of the proceeds of said sale the trustees must pay the amount due on said property as shown in said notice to the county treasurer who shall place the same in the proper funds of said district. The trustees must pay to the owner of said property any surplus remaining after such payment to the county treasurer. The trustees may postpone said sale from time to time for not less than ten nor more than thirty days at any one time by a written notice posted at the place of sale.

If no bid is made for said property equal to the amount due thereon, the district shall become the purchaser, and the said property must be struck off to the district for said amount. A certificate of such sale shall be executed by the trustees to the purchaser, or to the district, if the property shall have been struck off to the district, and said certificate of sale shall be recorded in the office of the county recorder of said county. Any person interested in said property may redeem the same at any time within one year after the date of said sale, by paying to the county treasurer the amount for which said property was sold, and interest on the said sums at the rate of two per cent per month from the date of said sale.

If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by said trustees, and the effect of such deed shall be to convey said property free of all liens and encumbrances, excepting state, county and municipal taxes, and any subsequent district assessment. The trustees may sell said property at any time at public auction after notice given for the said period and in the same manner as is herein provided for sales for delinquent assessments, but not for a sum less than the amount for which said property was sold, together with any subsequent assessment and the deed executed in pursuance of such sale shall convey said property free of all encumbrances, except state, county and other municipal taxes. Assessments heretofore made in any reclamation district shall be validated and collected in the manner provided by law at the time such assessments were made. [Amendment approved May 26, 1917; Stats. 1917, p. 1208.]

§ 3467. Work of reclamation to be done under direction of trustees. [Repealed May 26, 1917; Stats. 1917, p. 1208.]

§ 3468. Accounts to be kept open to inspection.' [Repealed May 26, 1917; Stats. 1917, p. 1208.]

§ 3480. Reclamation district may issue bonds. Special election and conduct of. Evidence of ownership and value. Bonds and coupons. Sale of bonds. Notice. Action to determine bonds legal obligation. Warrants. Bonds legal investment. Additional assessment and bonds. Installments. Delinquency. Sale of property. Whenever in any reclamation district in this state, now formed or which may hereafter be formed, any assessment has been levied and assessed upon the lands of said district, and remains unpaid in whole or in part, where in the judgment and opinion of the board of trustees of said district it would be for the best interest of said district or the land owners therein to issue bonds for the purpose of obtaining money to pay the costs of reclamation, the indebtedness of the district, or any other legal charge, or when a petition signed by the owners of more than one-half of the land in the district is filed with the secretary of the board, the board of trustees of such district shall by order entered upon the records of said board, order a special election to be held at some place in said district to be designated by said board of trustees, at which said special election shall be submitted to the owners of land in said district the question of whether or not bonds of said district shall be issued in an amount equal to the amount of such assessment, or the part of such assessment remaining unpaid, which said amount shall be entered by said board of trustees in its records and stated by them in the order for such special election.

For all purposes of this article relating to signing petitions and by-laws and voting at any election of reclamation districts the equalized assessment-roll for the year last preceding, in each county wherein any land of the district is situated shall be sufficient evidence of ownership and of value of lands in the district as hereinafter provided. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may sign such petitions or by-laws or may vote without obtaining special authority therefor.

Notice of such special election must be given by the board of trustees by posting notices thereof in at least three public places in the district at least twenty-one days prior thereto, and also by publication for the same length of time in some newspaper of general circulation published in each county in which any portion of said district may be situated; and such notice must specify the time and place of holding such election, the aggregate face value of bonds proposed to be issued and the names of three landholders of the district to act as a board of election. Affidavits of the publication and posting of such notice must be filed with the county clerk of the county in which said district or the greater part thereof is situated (herein designated as the main county), together with a copy of said order calling the election, certified by the president of the board of trustees.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy and shall have the right to cast one vote

for each dollar's worth of real estate owned by him in the district, such value and ownership thereof to be determined from the next preceding assessment-roll of the county or counties in which the lands of said district are situate, and the board of trustees of the district shall, prior to the election, cause to be prepared and certified by the proper officer and furnished to the board of election, a true and correct copy of the said next preceding assessment-roll of the said county or counties, which said certified roll shall be used by the said board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the votes of the estates represented by them.

No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election. The ballots cast at such election shall contain the words: "Bonds—yes," or the words "Bonds—no," and also the name of the person casting the ballot with the number of votes cast by him. A list of the ballots cast shall be made by the board of election, containing the name of each voter, and, if the ballot be cast by proxy, the name of the person casting it, and the number of votes cast by each, and whether the same be cast for or against the issuing of the bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present may appoint in his place any landholder of the district. Each member of such board of election, must, before entering upon his duties take and subscribe an official oath, which oath may be administered by an officer authorized to administer oaths or by any landholder in the district. The polls shall be kept open from ten o'clock A. M. of the day of election until four o'clock P. M. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall forward a certificate showing such result and the number of votes cast for and against the issuing of bonds, to the county clerk of the main county, and shall deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the said county clerk of the main county all ballots cast at such election and all documents and papers used at such election. Any person interested may contest such election within twenty days after such filing of said certificate with the said county clerk by bringing suit in the superior court of the main county; otherwise the declaration of the result by the board of election shall be final and conclusive.

If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of trustees of the district shall cause bonds in the amount stated in the order for the election to be executed and delivered, together with the assessment list, to the treasurer of said main county. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the board of trustees of the district and attested by the county auditor of said main county, and shall be numbered consecutively in the order of their maturity, and shall bear interest at a rate not to exceed six per cent per annum, payable semi-annually on the first day of January and the first day of July in each

year at the office of said county treasurer upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the county auditor. The principal of said bonds shall be made payable on the first day of July, or the first day of January, and in such years as the trustees may prescribe, but said bonds shall be payable serially within twenty years from their date in the manner following, to wit:

(1) Not less than ten per centum of the aggregate face value of bonds issued shall be payable within ten years from their date.

(2) Not less than ten per centum of the aggregate face value of bonds remaining unpaid at the end of ten years shall be payable each year beginning with the eleventh year from their date, until the whole amount of said bonds has been paid. Said bonds shall be substantially in the following form:

United States of America.

State of California.

County of —.

No. —.

\$—.

Reclamation District No. —.

Reclamation District No. —, for value received hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the treasurer of said — county, in the state of California, on the first day of — 19—, the sum of \$—, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of — per cent, per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of — bonds of like tenor and effect, except as to denomination and maturity, numbered from — to — inclusive, amounting in the aggregate to — dollars, issued in accordance with section three thousand four hundred eighty of the Political Code of the state of California pursuant to an election held in said reclamation district on the — day of —, 19—, authorizing its issuance, and is based upon and secured by an assessment levied on the lands in said district, and filed in the office of the county treasurer of said county of — on the — day of —, 19—, and the said reclamation district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done, precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of reclamation bonds.

In testimony whereof, the said district, by its board of trustees, has caused this bond to be signed by the president of said board and attested by the auditor of said county of — with his seal of office affixed this — day of —, 19—.

_____,
President of said board.

Attest: —.

Auditor of the county of —, State of California.

And the interest coupons may be substantially in the following form:

No. —.

\$—.

The county treasurer of — county, California, will pay to the holder hereof on the — day of —, 19—, at his office in said county of — the sum of \$— in gold coin of the United States out of the funds of Reclamation District No. — for interest on bond of said district numbered —.

— —,
County auditor.

The treasurer of said main county shall place the bonds prepared pursuant to this act to the credit of the district. Thereafter when directed by resolution of the trustees of the district, the treasurer of said county may sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the said county treasurer by publication at least once a week for two weeks in a newspaper of general circulation published in said main county, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the county treasurer shall open the bids and award the bonds to the highest responsible bidder. He may, and upon written request of a majority of the trustees must, reject any and all bids. Any sale by the county treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the county treasury to the credit of said district, and a proper record of such transaction shall be made upon the books of said county treasurer. At any time within thirty days after said bonds shall have been delivered to the treasurer of the county, an action may be commenced in the superior court of said main county by the trustees of said reclamation district in its name against the lands in said district and all persons owning the same or interested therein, to have it determined that said bonds are a legal obligation of such reclamation district, and in the event no such action is brought then the same may be commenced by any land owner in the district within thirty days thereafter. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for two weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court, and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days, after entry of judgment. Judgment for the plaintiff in such pro-

year at the office of said county treasurer upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the county auditor. The principal of said bonds shall be made payable on the first day of July, or the first day of January, and in such years as the trustees may prescribe, but said bonds shall be payable serially within twenty years from their date in the manner following, to wit:

(1) Not less than ten per centum of the aggregate face value of bonds issued shall be payable within ten years from their date.

(2) Not less than ten per centum of the aggregate face value of bonds remaining unpaid at the end of ten years shall be payable each year beginning with the eleventh year from their date, until the whole amount of said bonds has been paid. Said bonds shall be substantially in the following form:

United States of America.

State of California.

County of —.

No. —.

\$—.

Reclamation District No. —.

Reclamation District No. —, for value received hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the treasurer of said — county, in the state of California, on the first day of — 19—, the sum of \$—, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of — per cent, per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of — bonds of like tenor and effect, except as to denomination and maturity, numbered from — to — inclusive, amounting in the aggregate to — dollars, issued in accordance with section three thousand four hundred eighty of the Political Code of the state of California pursuant to an election held in said reclamation district on the — day of —, 19—, authorizing its issuance, and is based upon and secured by an assessment levied on the lands in said district, and filed in the office of the county treasurer of said county of — on the — day of —, 19—, and the said reclamation district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done, precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of reclamation bonds.

In testimony whereof, the said district, by its board of trustees, has caused this bond to be signed by the president of said board and attested by the auditor of said county of — with his seal of office affixed this — day of —, 19—.

President of said board.

Attest: —.

Auditor of the county of —, State of California.

And the interest coupons may be substantially in the following form:

No. —. \$—.

The county treasurer of — county, California, will pay to the holder hereof on the — day of —, 19—, at his office in said county of — the sum of \$— in gold coin of the United States out of the funds of Reclamation District No. — for interest on bond of said district numbered —.

— —,
County auditor..

The treasurer of said main county shall place the bonds prepared pursuant to this act to the credit of the district. Thereafter when directed by resolution of the trustees of the district, the treasurer of said county may sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the said county treasurer by publication at least once a week for two weeks in a newspaper of general circulation published in said main county, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the county treasurer shall open the bids and award the bonds to the highest responsible bidder. He may, and upon written request of a majority of the trustees must, reject any and all bids. Any sale by the county treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the county treasury to the credit of said district, and a proper record of such transaction shall be made upon the books of said county treasurer. At any time within thirty days after said bonds shall have been delivered to the treasurer of the county, an action may be commenced in the superior court of said main county by the trustees of said reclamation district in its name against the lands in said district and all persons owning the same or interested therein, to have it determined that said bonds are a legal obligation of such reclamation district, and in the event no such action is brought then the same may be commenced by any land owner in the district within thirty days thereafter. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for two weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court, and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days, after entry of judgment. Judgment for the plaintiff in such pro-

ceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and other interested persons.

The board of trustees of said district may draw warrants upon the said county treasurer against the funds provided by sale of bonds, which said warrants shall be approved by the board of supervisors of said main county.

All moneys collected by any county treasurer upon any assessment upon which bonds shall have been issued, including all moneys derived from sale of land for delinquent installments, or from redemption thereof, or from sale of lands bought by the treasurer at any such sale, shall be by such treasurer forthwith paid into the main county treasury to the credit of the bond fund of such reclamation district, and shall be used exclusively for the payment of principal and interest of said bonds issued on such assessment.

The bonds of reclamation districts issued pursuant to this act which have been investigated and certified by any officer of this state now or hereafter authorized to make such investigation and certification and by the authority of which certification are declared to be legal for investments by savings banks of this state may be lawfully purchased, or received in pledge for loans by savings banks, trust companies, insurance companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state or of any county, city or county or other municipal or corporate body within this state having or holding funds which they are allowed by law to invest or loan.

If the trustees deem it advisable they may order a special election to be held prior to making an assessment, to determine whether or not bonds shall be issued for an amount to be stated in the order for such election, but no bonds shall, in such instance, be issued until an assessment for the amount of the bonds authorized at such election shall have been made and filed with the county treasurer.

The lien of any unpaid assessment upon which bonds shall have been issued shall continue until all said bonds shall have been paid in full, and if for any reason any part of such principal or interest of said bonds shall remain unpaid after enforcement of said assessment as in this article provided, the board of supervisors of the main county shall order an additional or supplemental assessment to be made as provided in section three thousand four hundred fifty-nine, sufficient to pay such unpaid principal and interest; which additional or supplemental assessment shall be enforced and collected in the same manner as the original assessment.

If any district having authorized the issuance of a series of bonds shall issue an additional series of bonds based on another assessment, the dates of maturity of such additional series of bonds shall be such that the latest maturities thereof shall not exceed thirty years and the earliest maturity of bonds of such additional series shall be later than the latest maturity of bonds of any earlier series. All provisions of this section relative to the original issue of bonds shall apply to such additional series of bonds so far as applicable and also so far as applicable shall affect existing reclamation districts as well as those hereafter formed.

Any district which has issued bonds of different denominations, may, by an order entered in its minutes, upon request of holders thereof, and upon the deposit of the bonds issued and outstanding with the board of trustees, issue to the holders of such deposited bonds, bonds of the district in the same form but in different denominations, but having the same aggregate face value and maturity. Such bonds shall be executed by all of the persons who are required by law to execute the original bonds for which such exchange is made, and the said bonds so deposited shall be thereupon canceled by the treasurer of the main county and the board of trustees of the district.

Whenever in any reclamation district in the state a bond issue of said district has been authorized prior to this amendment then the provisions of this section hereby amended in respect to the manner of procedure by which the assessments are called in to meet payments on account of principal or interest of such bonds, and also the provision herein contained by which the assessment shall continue in full force and effect as constituting a lien upon the several tracts of land within said district under the provisions of section three thousand four hundred sixty-three of this code until the principal and interest of all bonds issued on the basis of said assessment shall have been paid in full, shall apply to and inure to the benefit of the bonds which may have been issued by any reclamation district in this state prior to the date of the enactment of this amendment.

Upon a sale of any of the bonds provided herein the county treasurer of the main county is hereby authorized to accept in payment for said bonds, either in whole or in part, outstanding warrants of such district at their face value, together with the accrued interest thereon.

Where bonds of the district have been authorized to be issued on such assessments all unpaid assessments shall bear interest at the rate of seven per cent per annum from the date of the bonds issued thereon until such bonds shall have been fully paid and discharged, and the interest due at any time on said unpaid assessments may be called without calling any installment of the said assessment. The word "installment" as used in this section shall be construed as applying to interest as well as the principal as the case may be.

At least ninety days before any interest date of the bonds, the county treasurer of the main county shall estimate the amount of money necessary to pay interest and principal maturing on such interest date after crediting thereon the funds in the treasury applicable to the payment thereof, and shall add thereto fifteen per cent of such aggregate sum to cover possible delinquencies, and said county treasurer shall thereupon cause to be published once a week for two weeks in some newspaper of general circulation published in said county a notice substantially in the following form:

(Name of reclamation district.) Notice is hereby given that an installment of assessment (describing it) of (amount or proportion thereof including interest thereon or only for interest) is payable within thirty days from (date) by all assessed land owners of said district in the county of (name of county) to the treasurer of said county. All or any part of said installment or interest which shall remain unpaid on the

(day fixed) will be delinquent, together with accrued interest thereon, with twenty per cent of such installment and interest added as penalty.

Dated (date).

(Signed) — — —,
Treasurer of — — — county.

If no newspaper is published in said county, such publication shall be made in a newspaper published in an adjoining county. If any part of such installment or any interest thereon shall remain unpaid at the expiration of thirty days from the date of said notice, it shall become delinquent and twenty per cent of the unpaid amount of said installment and interest shall be added thereto and collected by said treasurer. When any installment shall have become delinquent, said treasurer shall within ten days publish once a week for two weeks in a newspaper of general circulation in said county (or if no newspaper is published therein, then in a newspaper published in an adjoining county), a notice containing a description of each parcel of land assessed in the district in said county whereon such installment is delinquent, as such description appears on the assessment list, the name of the person to whom it is assessed, to unknown owners if such is the fact; the amount of the installment delinquent on such parcel, the amount of interest thereon reckoned to the day of sale, the amount of said twenty per cent penalty thereon, and a notice that each of said parcels will be sold at public auction by said county treasurer in front of the courthouse of said county, at a specified day and hour which shall not be less than thirty days nor more than sixty days from the date of delinquency, to pay said delinquent installment, with said accrued interest and penalty. At the time stated in said notice, the county treasurer shall sell each parcel of land described in said notice to the highest bidder, unless prior thereto he shall have received payment in full of said delinquent installment together with such interest and penalty. No bid for any parcel shall be accepted less than the aggregate sum then due on said installment thereon, with interest and penalty, and such sale shall be made for cash (except the treasurer may receive from any purchaser at their face value in lieu of cash, bonds of said district or their interest coupons, issued on said assessment and then matured or to mature within sixty days after such sale). Any bond or coupon so received in payment shall be by the treasurer forthwith canceled and filed in the office of the treasurer of the county wherein the greater part of the land of the district is situated, hereinafter called the main county. If the entire amount of any such bond or coupon tendered in payment shall not be required to complete payment of the purchase money, the treasurer shall indorse thereon as paid, the amount of such purchase money credited thereon. If no bid is made for any parcel at such sale equal to the amount of the installment delinquent thereon, with interest and penalty, the treasurer shall bid in and sell said parcel to himself and his successors in office, as trustee of the bond fund of said district, as purchaser, for the amount of said installment, interest and penalty. The treasurer shall execute to each purchaser, including himself as a trustee, a certificate of sale, and shall record a duplicate in the county recorder's office. Any person interested in the said property may redeem the same at any time within one year after the date of sale, by paying to the county treasurer for such purchaser a sum equal to the purchase price stated in the certificate, with interest thereon at the rate of twelve

per cent per annum from the date of sale to such redemption. If no redemption shall be made within one year, the treasurer upon demand and surrender of such certificate of purchase, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in such certificate, which deed shall convey to the grantee therein named the said land free and clear of all encumbrances, except state, county and municipal taxes, and except any portion of any reclamation assessment remaining unpaid at the date of said sale; each installment whereof may be called and collected as herein provided, except that no parcel sold and conveyed to the district shall thereafter be subject to sale by the treasurer for delinquent installments. Every deed by a county treasurer purporting to be executed under this section shall be prima facie evidence of the truth of the matters therein recited, and of ownership by the grantee to the lands therein described. The treasurer of the main county shall credit to the bond fund of the district all money collected by him by sale or otherwise, upon assessments against which bonds shall have been issued, including interest and penalties, and all moneys received by him from treasurers of other counties upon account of such assessments, and he shall likewise credit to said fund the amounts of purchase money paid in bonds or coupons on sales made for said assessment by himself or reported to him by any other treasurer. Each treasurer shall charge to the general fund of the district, or to its bond fund if he has no money to the credit of its general fund, the expense of publication of notices and of recording certificates of sale. The treasurer of any county other than the main county shall without delay account for and transmit to the treasurer of the main county all money collected by him upon any assessment by sale or otherwise, deducting his expenses of publication and recording and shall also transmit all canceled bonds and coupons received in payment on any delinquent sale, and a memorandum of all sums indorsed as paid upon account of purchase money on any bonds or coupons, specifying the same. All moneys collected by any treasurer upon account of an assessment on which bonds shall not have been issued shall be similarly accounted for and transmitted to the treasurer of the main county, and shall be credited by him to the general fund of the district. Any parcel of land bid in and purchased by a treasurer as aforesaid, as trustee of the bond fund of the district, may be sold and conveyed by him or his successor in office at any time after the expiration of said redemption period of one year, at public or private sale and with or without notice, to any person paying him the amount for which said parcel was bid in by said treasurer at delinquent sale, with interest thereon at the rate of seven per cent per annum, compounded yearly, from the date of said delinquent sale, and also the amount of all subsequent installments then delinquent, with accrued interest and penalties thereon. Such payment may be made either in cash or in matured bonds and coupons issued on said assessment, taken at their face value, and the treasurer shall execute a deed to such purchaser upon such sale, conveying said property free of encumbrance except state, county and municipal taxes, and the unpaid balance of said assessment. If any land so held by a county treasurer as trustee of the bond fund of a district shall remain unsold after the final installment of the assessment shall have been collected by payment or sale, then each such treasurer shall sell all said land so held by him at public auction to the highest bidder for cash, upon two

weeks published notice, and shall deposit the proceeds of such sale in the treasury of the main county, to the credit of the bond fund of the district. Any balance remaining in such bond fund, after payment in full of the principal and interest of all outstanding bonds of the district, shall be by the treasurer transferred to the general fund of the district.

In the event that ownership of any property in the district is changed after the making of the last assessment-roll for the district, the owner thereof shall be entitled to vote thereon upon production of the original or of certified copy of the record thereof in the office of the county recorder of the county in which the property is situate. Any person not legally qualified to vote who shall make any false statement in respect to his right to vote shall incur all of the penalties provided in the Penal Code of the state of California for persons illegally voting at elections. [Amendment approved May 26, 1917; Stats. 1917, p. 1181.]

§ 3513. Nonpayment of principal and interest on state lands. Certificate of purchase void, when. Land excepted. Notice of forfeiture. In case payment is not made within fifty days, the lands described in the survey or location revert to the state without suit, and the survey or location is void. All subsequent payments must be made to the county treasurer, in like manner, who must indorse the same upon the certificate of purchase. The treasurer must direct the purchaser to take the certificate of purchase so indorsed to the auditor, who must charge the treasurer with the amount received, and make his check upon the indorsed receipt. If any interest on the unpaid portion of the purchase price of said lands, be not paid on or before the thirtieth day of June following the first day of January upon which such interest becomes due, ten per centum of the amount thereof is hereby added as a penalty for such delinquency. If such delinquent interest, and penalty, be not paid on or before the thirty-first day of December of such year an additional penalty of ten per centum of the amount of such delinquent interest is hereby imposed upon the person or persons liable for the payment thereof. If such delinquent interest, and penalties, be not paid on or before the thirtieth day of June of the year following, the certificate of purchase shall ipso facto become null and void, and the lands described therein revert to the state without suit, and shall again become subject to entry and sale in the same manner and subject to the same conditions as apply to other state lands of like character. In the event of the happening of the contingency last mentioned, all moneys previously paid on account of the purchase price of such lands, whether for principal or interest, shall become, and are hereby determined and declared to be forfeited to the state, and neither such delinquent purchaser nor anyone claiming under him shall be entitled to recover the same or any part thereof. The penalties and forfeitures herein provided for shall not apply to any land for which certificates of purchase were issued prior to May first, A. D. one thousand nine hundred eleven, nor to lands within any reclamation district, after certificate of the board of supervisors that works of reclamation have been commenced in such district has been filed in the register's office. Whenever any penalty, or penalties, hereby imposed has, or have, accrued, the treasurer must in all cases collect the full amount thereof before indorsing his receipt upon such certificate, and the auditor must ascertain such fact before appending his check thereto. Immediately following the thirtieth day of June, A. D. one

thousand nine hundred eighteen, and annually thereafter, the register of the state land office shall note upon his records all forfeitures herein and hereby declared, and shall forward to the recorder of each county wherein any of said lands may be situate a notice of such forfeiture, stating therein the name and postoffice address of the purchaser, and the name and postoffice address of the assignee, grantee, or successor in interest of such purchaser in all cases wherein notice of any assignment of such certificate of purchase, or of any conveyance or other transfer of title, to any part of the lands therein described shall have been filed in his office prior to the date of such forfeiture, such notice shall also show the number and date of the survey or location and of the certificate of purchase, and shall contain a description of the lands affected thereby. It shall be the duty of the recorder to receive and file such notice and to record the same in a book of deeds. Such notice is, from the time it is filed in the recorder's office, constructive notice of the contents thereof to subsequent purchasers and mortgagees, and to all other persons who may thereafter attempt to acquire any interest in, or lien upon, any of the lands in such notice described. [Amendment approved April 5, 1917; Stats. 1917, p. 64.]

§ 3571. Certificates of lands sold by but not owned by state. Amount to be repaid. Time no bar to authority. If any land was not the property of the state of California, at the date application was filed therefor, or if the land applied for was swamp and overflowed land but the application became or was void by reason of the fact that the land had not been segregated, or if subsequent to March 20, 1889, any money has been accepted by the state as a part of or on account of the purchase price of any state land under an application or certificate of purchase which at the time of accepting such money had become invalidated by reason of an act of the legislature of the state of California entitled "An act respecting the payment in full by holders of certificates of purchase for lands sold by the state of California prior to March 27, 1872, and for which the said state has at any time heretofore issued certificates of purchase to subsequent purchasers," approved March 20, 1889, the owner of such certificate of purchase or patent aforesaid may receive in exchange therefor, from the register of state land office, a certificate showing the amount paid and the class of land upon which payment was made (if the land is lieu land or indemnity land the register's certificate shall not issue until the selection therefor is canceled by authority of the department of the interior), by conveying by quitclaim deed to the state of California, all of his right, title and interest in and to said land; provided, however, that in all cases where money has been paid since the passage of said act of March 20, 1889, on account of the purchase price of lands where said certificates or applications, became invalidated by reason of said last-mentioned act, the amount to be repaid as shown in the certificate to be issued by the register in exchange for the certificate of purchase, shall be only such amount as shall have been paid on account of the purchase price of such lands subsequent to the passage of said act of March 20, 1889.

The authority of the said register to issue such certificate and likewise the authority of the auditor and controller to issue their warrants, as provided in section three thousand five hundred seventy-two of this code, shall not be barred by any period of time which may have elapsed

since the issuance of the certificate of purchase or patent, but in the issuance of the certificate herein provided for, the said register shall first determine that the person applying for said certificate is the owner of the certificate of purchase or patent, and has not assigned or conveyed his interest therein or in the land therein described or any part thereof, and that it is a proper case for the issuance of a certificate as herein provided. A copy of a patent duly certified by the county recorder of any county where the same may have been recorded shall have the same force and effect as the original. [Amendment approved April 8, 1919; Stats. 1919, p. 55.]

§ 3607. Property subject to taxation. All property in this state, except as otherwise provided in the constitution of this state, is subject to taxation. Nothing in this code shall be construed to require or permit double taxation. [Amendment approved May 11, 1917; Stats. 1917, p. 427.]

§ 3608. Shares of stock in corporations. Shares of stock in corporations possess no intrinsic value over and above the actual value of the property of the corporation which they stand for and represent. The assessment and taxation of such shares, and also of all corporate property would be double taxation. All property belonging to corporations shall be assessed and taxed, in the manner provided by law; but no assessment shall be made of shares of stock in any corporation except as prescribed in the constitution of this state and the laws enacted pursuant to such provisions of the constitution. [Amendment approved May 11, 1917; Stats. 1917, p. 427.]

§ 3609. Shares of national banks. [Repealed 1917; Stats. 1917, p. 428.]

§ 3610. Shares of national banks. [Repealed 1917; Stats. 1917, p. 428.]

§ 3612. 1. Procedure for tax exemption of veterans. The state board of equalization shall prescribe all procedure, affidavits and forms required to carry into effect the tax exemption on property specified in section one and one-fourth of article thirteen of the constitution.

2. Affidavits of applicants for exemption. Every person entitled to or applying for the exemption from taxation specified in said provision of the constitution shall appear before the assessor or deputy assessor and shall give all information required and answer all questions contained in the forms and affidavit prescribed by said board, and thereupon shall subscribe and swear to the same before such assessor or deputy. Any false statement made or sworn to in such affidavit shall constitute and be punishable as perjury.

3. Assessor may require additional proof. Any assessor may, in his discretion, require other or additional proof of the facts stated by such affiant before allowing the exemption claimed. Failure upon the part of any person entitled to such exemption to make affidavit or furnish evidence as required by this section between the first Monday in March and the first Monday in July of each year shall be deemed and treated as a waiver of such exemption by such person.

4. **Recognized wars.** The following are recognized as wars within the intent and meaning of said section of the constitution:

- (a) Revolutionary war—April 19, 1775–January 14, 1784;
- (b) Second war with England—June 18, 1812–February 17, 1815;
- (c) Black Hawk war—April 6, 1832–August 2, 1832;
- (d) War with Mexico—April 24, 1846–May 30, 1848;
- (e) Civil war—April 19, 1861–August 20, 1866;
- (f) War with Spain—April 21, 1898–April 11, 1899;
- (g) War in Philippines—April 11, 1899–July 4, 1902;
- (h) Campaign against the Rogue River, Yakima, Nez Perce and Snake Indians in Oregon and Washington, 1855–1856;
- (i) Campaign against the Indians in southern Oregon and Idaho and northern part of California and Nevada, 1865–1868;
- (j) Campaign against the Cheyennes, Arapahoes, Kiowas, and Comanches, in Kansas, Colorado and Indian Territory, 1867, 1868 and 1869;
- (k) Modoc war, 1872 and 1873;
- (l) Campaign against the Apaches of Arizona, 1873;
- (m) Campaign against the Kiowas, Comanches and Cheyennes, in Kansas, Colorado, Texas, Indian Territory and New Mexico, 1874 and 1875;
- (n) Campaign against the Northern Cheyennes and Sioux, 1876 and 1877;
- (o) Nez Perce war, 1877;
- (p) Bannock war, 1878;
- (q) Campaign against the Northern Cheyennes, 1878 and 1879;
- (r) Campaign against the Ute Indians in Colorado and Utah, September, 1879, to November, 1880;
- (s) Campaign against the Apache Indians in Arizona, 1885 and 1886;
- (t) Campaign against the Sioux Indians in South Dakota, November, 1890, to January, 1891;
- (u) War with Germany-Austria, April 6, 1917. [Amendment approved May 6, 1919; Stats. 1919, p. 305.]

§ 3627. Assessed at full cash value. All taxable property must be assessed at its full cash value. Land and improvements thereon shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value. [Amendment approved May 11, 1917; Stats. 1917, p. 428.]

§ 3628. Assessment of taxable property. Except as otherwise provided in the constitution of this state, all taxable property shall be assessed in the county, city, city and county, town, township, or district in which it is situated. Land shall be assessed in parcels, or subdivisions, not exceeding six hundred forty acres each; and tracts of land containing more than six hundred forty acres, which have been sectionized by the United States government, shall be assessed by sections or fractions of sections. Land sold by the state for which no patent has been issued, shall be assessed the same as other land, but the owner shall be entitled to a deduction from such assessed valuation in the amount due the state as principal upon the purchase price. The assessor must, between the first Mondays in March and July of each year, ascertain the names of all taxable inhabitants, and all the property

in his county subject to taxation, except such as is required to be assessed by the state board of equalization and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was, at twelve o'clock meridian of the first Monday in March next preceding; but no mistake in the name of the owner or supposed owner of real property shall render the assessment thereof invalid. In assessing solvent credits, not secured by mortgage or trust deed on real estate, a deduction therefrom shall be made of debts due to bona fide residents of this state. [Amendment approved May 11, 1917; Stats. 1917, p. 428.]

§ 3629. Statement of property owned. The assessor must exact from each person a statement, under oath, setting forth specifically all the real and personal property owned by such person, or in his possession, or under his control, at twelve o'clock M. on the first Monday in March. Such statement shall be in writing, showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person.

2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member.

3. All property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent.

4. The county in which such property is situated, or in which it is liable to taxation, and, if liable to taxation in the county in which the statement is made, also the city, town, township, school district, road district, or other revenue districts in which it is situated.

5. An exact description of all lands, in parcels or subdivisions, not exceeding six hundred forty acres each, and the sections and fractional sections of all tracts of land containing more than six hundred forty acres, which have been sectionized by the United States government, improvements and personal property, including all vessels, steamers, and other watercraft; and all taxable state, county, city, or other municipal or public bonds, and the taxable bonds of any person, firm, or corporation, and deposits of money, gold-dust, or other valuables, and the names of the persons with whom such deposits are made, and the places in which they may be found.

6. All solvent credits, unsecured by deed of trust, mortgage, or other lien on real or personal property, due or owing to such person, or any firm of which he is a member, or due or owing to any corporation of which he is president, secretary, cashier, or managing agent, deducting from the sum total of such credits such debts only, unsecured by trust deed, mortgage, or other lien on real or personal property, as may be owing by such person, firm, or corporation to bona fide residents of this state. No debts shall be so deducted unless the statement shows the amount of such debt as stated under oath in aggregate. Whenever one member of a firm, or one of the proper officers of a corporation, has made a statement showing the property of the firm or corporation, another member of the firm, or another officer, need not include such property in the statement made by him; but his statement must show the name of the person or officer who made the statement in which

such property is included. [Amendment approved May 11, 1917; Stats. 1917, p. 429.]

§ 3641. Property of firm or corporation assessed where situated. [Repealed 1917; Stats. 1917, p. 429.]

§ 3643. Ferries. A ferry-boat is a vessel traversing across any of the waters of the state, between two constant points, regularly employed for the transfer of passengers and freight, authorized by law so to do. Where ferries connect more than one county, the wharves, storehouses, and all stationary property belonging to or connected with such ferries, must be assessed, and the taxes paid, in the county where located. The value of all watercraft, and of all toll bridges connecting more than one county, must be assessed in equal proportions in the counties connected by such ferries or toll bridges. [Amendment approved May 11, 1917; Stats. 1917, p. 429.]

§ 3650. Assessment-book. Listing of property. The assessor must prepare an assessment-book, with appropriate headings as directed by the state board of equalization, in which must be listed all property within the county, and which shall show under the appropriate head:

1. The name and postoffice address, if known, of the person to whom the property is assessed.

2. Land, by township, range, section, or fractional section; and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, not exceeding in any tract six hundred forty acres, locality, and the improvements thereon. When any tract of land is situated in two or more school, road, or other revenue districts of the county, the part in each such district must be separately assessed. The improvements to be assessed against the particular section, tract, or lot of land upon which they are located; city and town lots, naming the city or town, and the number of the lot and block, according to the system of numbering in such city or town, and the improvements thereon.

3. All property within the limits of an incorporated city or town shall be assessed in an assessment-book separate and distinct from the assessment-book containing the assessment of property situate outside the limits of such incorporated city or town; or, if but one assessment-book is used, then in a separate and distinct part of such book; provided, that all property assessed shall be arranged on the assessment-book by elementary school districts, as such districts are legally formed and exist on the first Monday in March of each year; provided, further, that where any school district embraces property situate both within and without the limits of an incorporated city or town, such property shall be assessed and kept separate and distinct on the assessment-book.

4. All personal property, showing the number, kind, amount, and quality; but a failure to enumerate in detail such personal property does not invalidate the assessment.

5. The cash value of real estate.

6. The cash value of improvements on such real estate.

7. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.

8. The cash value of all personal property, exclusive of money.

9. The amount of money.

10. Taxable improvements owned by any person, firm, association, or corporation, located upon land exempt from taxation, shall, as to the manner of assessment, be assessed as other real estate upon the assessment-book. No value shall, however, be assessed against the exempt land, nor under any circumstances shall the land be charged with or become responsible for the assessment made against any taxable improvements located thereon.

11. The school, road, and other revenue districts in which each piece of property assessed is situated.

12. The total value of all property.

13. In entering assessments containing solvent credits subject to deductions, as provided in section three thousand six hundred twenty-eight of this code, he must enter in the proper column the value of the debts entitled to exemption and deduct the same. In making the deductions from the total value of property assessed, as above directed, he must enter the remainder in the column provided for the total value of all property for taxation.

14. Such other things as the state board of equalization may require. [Amendment approved June 1, 1917; Stats. 1917. p. 1643.]

§ 3663. Water ditches. Water ditches constructed for mining, manufacturing, or irrigation purposes, and wagon and turnpike toll roads, must be assessed the same as real estate by the assessor of the county, at a rate per mile for that portion of such property as lies within his county. [Amendment approved May 11, 1917; Stats. 1917, p. 430.]

§ 3664. Taxes for state purposes. Taxes levied, assessed and collected as hereinafter provided upon railroads, including street railways, whether operated in one or more counties; sleeping-car, dining-car, drawing-room car and palace-car companies, refrigerator, oil, stock, fruit, and other car-loaning and other car companies operating upon railroads in this state; companies doing express business on any railroad, steamboat, vessel, or stage line in this state; telegraph companies; telephone companies; companies engaged in the transmission or sale of gas or electricity; insurance companies; banks, banking associations, savings and loan societies, and trust companies; and taxes upon all franchises of every kind and nature, shall be entirely and exclusively for state purposes, and shall be assessed and levied by the state board of equalization, and collected in the manner hereinafter provided. The word "company" and the word "companies" as used in section fourteen of article thirteen of the constitution of this state and in the sections of this code enacted to carry the same into effect shall include persons, partnerships, joint stock associations, companies, and corporations [New section added May 11, 1917; Stats. 1917, p. 337.]

Old section 3664, relating to statements by officers of corporations to the state board of equalization, was repealed in 1917 (Stats. 1917, p. 336).

§ 3664a. Public utilities to pay state tax. Percentage of gross receipts. 1. All railroad companies, including street railways, whether

operated in one or more counties; all sleeping-car, dining-car, drawing-room car and palace-car companies, all refrigerator, oil, stock, fruit, and other car-loaning, and other car companies, operating upon the railroads in this state; all companies doing express business on any railroad, steamboat, vessel, or stage line in this state; all telegraph and telephone companies; and all companies engaged in the transmission or sale of gas or electricity shall annually pay to the state a tax upon their franchises, roadways, roadbeds, rails, rolling stock, poles, wires, pipes, canals, conduits, rights of way, and other property, or any part thereof, used exclusively in the operation of their business in this state, computed as follows: Said tax shall be equal to the percentages hereinafter fixed upon the gross receipts from operation of such companies and each thereof within this state.

2. **Companies partly within and without state.** When such companies are operating partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts on business beginning and ending within this state, and a proportion, based upon the proportion of the mileage within this state to the entire mileage over which such business is done, of receipts on all business passing through, into, or out of this state.

3. **Percentages.** The percentages above mentioned shall be as follows: On all railroad companies, including street railways, five and one-fourth per cent; on all sleeping-car, dining-car, drawing-room car, palace-car companies, refrigerator, oil, stock, fruit, and other car-loaning, and other car companies, three and ninety-five hundredths per cent; on all companies doing express business on any railroad, steamboat, vessel or stage line, nine-tenths of one per cent; on all telegraph and telephone companies, four and two-tenths per cent; on all companies engaged in the transmission or sale of gas or electricity, five and six-tenths per cent.

4. **In lieu of other taxes.** Such taxes shall be in lieu of all other taxes and licenses, state, county, and municipal, upon the property above enumerated of such companies except as otherwise provided in section fourteen of article thirteen of the constitution of this state.

5. **"Municipal" defined.** The word "municipal" as used in section fourteen of article thirteen of the constitution of this state and in the sections of this code enacted to carry the same into effect shall apply to incorporated towns and cities formed under article eleven of the constitution of this state and to none other. [New section added May 11, 1917; Stats. 1917, p. 337.]

§ 3664b. **Tax on gross premiums of insurance companies.** Every insurance company or association doing business in this state shall annually pay to the state a tax of two per cent upon the amount of the gross premiums received upon its business done in this state, less return premiums and reinsurance in companies or associations authorized to do business in this state; provided, that there shall be deducted from said two per cent upon the gross premiums the amount of any county and municipal taxes paid by such companies on real estate owned by them

in this state. This tax shall be in lieu of all other taxes and licenses, state, county, and municipal, upon the property of such companies, except county and municipal taxes on real estate, and except as otherwise provided in the constitution of this state; provided, that when by the laws of any other state or country, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this state, doing business in such other state or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, imposed upon insurance companies, of such other state or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind must be imposed by the insurance commissioner upon insurance companies of such other state or country doing business in this state. [New section added May 11, 1917; Stats. 1917, p. 337.]

§ 3664c. Tax on bank stock. 1. The shares of capital stock of all banks, organized under the laws of this state, or of the United States, or of any other state and located in this state, shall be assessed and taxed to the owners or holders thereof by the state board of equalization, in the manner hereinafter provided, in the city or town where the bank is located and not elsewhere. There shall be levied and assessed upon such shares of capital stock an annual tax, payable to the state, of one and sixteen hundredths per centum upon the value thereof. The value of each share of stock in each bank, except such as are in liquidation; shall be taken to be the amount paid in thereon, together with its pro rata of the accumulated surplus and undivided profits. The value of each share of stock in each bank which is in liquidation shall be taken to be its pro rata of the actual assets of such bank.

2. **In lieu of other taxes.** This tax shall be in lieu of all other taxes and licenses, state, county, and municipal, upon such shares of stock and upon the property of such bank, except county and municipal taxes on real estate and except as otherwise provided in the constitution of this state.

3. **Value of real estate deducted.** In determining the value of the capital stock of any bank there shall be deducted from the value, as defined above, the value, as assessed for county taxes, of any real estate, other than mortgage interests therein, owned by such bank and taxed for county purposes.

4. **Banks liable for tax.** The banks shall be liable to the state for this tax and the same shall be paid to the state by them on behalf of the stockholders in the manner and at the time hereinafter provided, and they shall have a lien upon the shares of stock and upon any dividends declared thereon to secure the amount so paid.

5. **Tax on unincorporated banks.** The moneyed capital, reserve, surplus, undivided profits, and all other property belonging to unincorporated banks or bankers of this state, or held by any bank located in this state which has no shares of capital stock, or employed in this state by any branches, agencies, or other representatives of any banks doing business outside of the state of California, shall be likewise assessed

and taxed to such banks or bankers by the said board of equalization, in the same manner as above provided for incorporated banks, and taxed at the same rate that is levied upon the shares of capital stock of incorporated banks, as provided in the first paragraph of this section.

6. **Branch of bank doing business outside of state.** In the case of a branch, an agency, or other representative of any bank doing business outside of this state, the capital of said branch, agency, or representative used in this state shall be taken to be the average amount owed by the said branch, agency, or representative to the bank of which it is a branch, agency, or representative during the year ending the first Monday in March. The value of said property shall be determined by taking the entire property invested in such business, together with all reserve, surplus, and undivided profits, at their full cash value, and deducting therefrom the value as assessed for county taxes of any real estate, other than mortgage interests therein, owned by such bank or banker and taxed for county purposes. Such taxes shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property of the banks and bankers mentioned in this section, except county and municipal taxes on real estate, and except as otherwise provided in the constitution of this state. All moneyed capital and property of the banks and bankers mentioned in this paragraph shall be assessed and taxed at the same rate as an incorporated bank, provided for in this section. In determining the value of the moneyed capital and property of the banks and bankers mentioned in this section, the said state board of equalization shall include and assess to such banks all property and everything of value owned or held by them which would go to make up the value of the capital stock of such banks and bankers, if the same were incorporated and had shares of capital stock.

7. **"Banks" defined.** The word "banks" as used in section fourteen of article thirteen of the constitution of this state and in the sections of this code enacted to carry the same into effect shall include banking associations, unincorporated banks and bankers, branches, agencies or other representatives of any banks doing business outside of the state of California, savings and loan societies, and such trust companies, as conduct the business of receiving money on deposit, but shall include building and loan associations. [New section added May 11, 1917; Stats. 1917, p. 338.]

§ 3664d. **Assessment and tax of franchises.** All franchises, other than those of the companies mentioned in sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b*, and three thousand six hundred sixty-four *c* of this code, shall be assessed at their actual cash value, after making due deduction for goodwill, in the manner hereinafter provided, and shall be taxed at the rate of one and two-tenths per centum each year, and the taxes collected thereon shall be exclusively for the benefit of the state. These franchises shall include the actual exercise of the right to be a corporation and to do business as a corporation under the laws of this state and the actual exercise of the right to do business as a corporation in this state when such right is exercised by a corporation incorporated under the laws of any other state or country, also the right, authority, privilege, or permission to

maintain wharves, ferries, toll roads, and toll bridges, and to construct, maintain or operate, in, under, above, upon, through or along any streets, highways, public places, or waters, any mains, pipes, canals, ditches, tanks, conduits or other means for conducting water, oil, or other substances. [New section added May 11, 1917; Stats. 1917, p. 338.]

§ 3665. Municipal franchises and privileges. Nothing in any section of this code shall be construed to release any company from the payment of any amount agreed to be paid or required by law to be paid, now or hereafter, for any special privilege or franchise granted by any of the municipal authorities of this state. [New section added May 11, 1917; Stats. 1917, p. 340.]

The old section 3665, relating to the assessment of railway franchises and property, was repealed in 1917 (Stats. 1917, p. 336).

§ 3665a. "Gross receipts from operation" defined. Hearing on claim of double taxation. 1. The term "gross receipts from operation" as used in section three thousand six hundred sixty-four *a* of this code is hereby defined to include all sums received from business done within this state, during the year ending the thirty-first day of December last preceding, including the company's proportion of gross receipts from any and all sources on account of business done by it within this state, in connection with other companies described in said section.

Any company claiming that the levy of the percentage fixed by section three thousand six hundred sixty-four *a* of this code on the total gross receipts of such company results in double taxation of the property of such company, may make application to the state board of equalization for a hearing on such matter. Said board shall have power to take evidence and determine the facts with respect to such claim and in event said board finds the claim of such company to be true, said board may authorize such company to deduct from its reported gross receipts that amount of such receipts which, if included in such total gross receipts, would cause such double taxation.

2. **Companies partly within and without state.** In case of companies operating partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts on business beginning and ending within this state, and the proportion based upon the proportion of the mileage within this state to the entire mileage over which such business is done, of receipts on all business passing through, into or out of this state.

3. **No deductions allowed.** No deduction shall be allowed from the gross receipts from operation for commissions, rebates, or other repayments, except only such refunds as arise from errors or overcharges; nor shall any deduction be allowed for payments from gross receipts to other companies for any purpose whatsoever, except such refunds as arise from errors or overcharges.

4. **Income from nonoperative property not included.** Income derived from property not defined in this section and in sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-five *b* and three thousand six hundred sixty-five *c* of this code as operative property shall not be included in the gross receipts for the purpose of determining the tax on the property and franchises provided for in section three thousand

six hundred sixty-four *a* of this code. [New section added May 11, 1917; Stats. 1917, p. 341.]

§ 3665b. "Operative property." The term "operative property" as used in any section of this code shall include:

(a) **Railroad companies.** In the case of railroad companies, including street railways: The franchises, roadway, roadbed, rails, rolling stock, rights of way, sidings, spur-tracks, switches, signal systems, cranes and structures used in loading and unloading cars, fences along the right of way, poles, wires, conduits, power lines, piers, used exclusively in the operation of the railroad business, depot grounds and buildings, ferry-boats, tugs and car-floats used exclusively in the operation of the railroad business; machine-shops, repair-shops, roundhouses, car barns, power-houses, substations, and other buildings, used in the operation of the railroad business and so much of the land on which said shops, houses, barns, and other buildings are situate as may be required for the convenient use and occupation of said buildings.

(b) **Car companies.** In the case of sleeping car, dining car, drawing-room car and palace-car companies, refrigerator, oil, stock, fruit, and other car-loaning, and other car companies operating upon railroads in this state: The franchises, cars, and other rolling stock.

(c) **Express companies.** In the case of companies doing express business on any railroad, steamboat, vessel, or stage line in this state: The franchises, cars, trucks, wagons, horses, harness, and safes.

(d) **Telegraph and telephone companies.** In the case of telegraph and telephone companies doing business in this state: The franchises, rights of way, poles, wires, pipes, conduits, cables, switchboards, telegraph and telephone instruments, batteries, generators, and other electrical appliances, and exchange and other buildings used in the telegraph and telephone business and so much of the land on which said buildings are situate as may be required for the convenient use and occupation of said buildings.

(e) **Gas and electric companies.** In the case of companies engaged in the transmission or sale of gas or electricity: The franchises, towers, poles, wires, pipes, canals, tunnels, ditches, flumes, aqueducts, conduits, rights of way, dams, reservoirs, water and water rights used exclusively in the business of the transmission or sale of gas or electricity; transformers, substations, gas-holders, gas and electric generators, switches, switchboards, meters, electrical and gas appliances, oil-tanks, power plants, power-houses, and other buildings and structures used in the operation of the business of the transmission or sale of gas or electricity and so much of the land on which said buildings and structures are situate as may be required for the convenient use and operation of said buildings; provided, that the operative property of the companies enumerated in this section, shall also include any other property not above enumerated that may be reasonably necessary for use by said companies exclusively in the operation and conduct of the particular kinds of business enumerated in section three thousand six hundred sixty-four *a* of this code. The operative property mentioned in subdivisions (a), (b), (c), (d), and (e), of this section shall not be subject to taxation for county, municipal, or district purposes except as otherwise provided for

in the constitution and laws of this state; provided, however, that when any piece or parcel of property in this state owned by any of the companies mentioned in section three thousand six hundred sixty-four *a* of this code is used partially by such company for any use reasonably necessary to the operation of any of the lines of business enumerated in said section and such property is also partially rented to or used by others or is partially used by the company for some other lines of business not among those so enumerated, or for purposes not reasonably necessary to the operation of any of said enumerated lines of business, it shall be considered operative property in that proportion only which that part of the property mentioned in this proviso used by the company in the operation of any of said enumerated lines of business bears to the whole of the property mentioned in this proviso.

2. Construction property nonoperative. Any property of the classes mentioned in this section owned by a company constructing a new railroad, street railway, telegraph or telephone system, or plant or system for the transmission or sale of gas or electricity, no part of which new road, line, plant or system is in operation, and the same classes of property when held by an operating company solely for the construction of a new railroad or railway line, a new telegraph or telephone system, or a new plant or system for the transmission or sale of gas or electricity, and not to be used for betterments or additions to roads, lines, plants, or systems already under operation, shall not be considered operative property and shall be subject to assessment and taxation for county, municipal, and district purposes. Any part of such property of any company mentioned in this section shall be classed and assessed as operative property when the state board of equalization shall determine that such property is rendering a substantial public service.

3. Rules of state board of equalization. The state board of equalization shall have power to make rules and issue instructions not inconsistent with the constitution and laws of this state for the guidance of assessors in determining what is operative property and what is non-operative property of companies named in this section. [New section added May 11, 1917; Stats. 1917, p. 341.]

§ 3665c. Annual report by companies. Such person or officer, as the state board of equalization may designate, of each of the companies mentioned in section three thousand six hundred sixty-four *a* of this code, shall within ten days after the first Monday in March of each year, file with the said board a report signed and sworn to by one or more of said persons or officers, showing in detail for the year ending the thirty-first day of December last preceding, the various items as follows:

1. Name, etc. The name of the company, its nature, whether a person or persons, a partnership (with names of partners), an association, or corporation, and under the laws of what state, territory or country organized, the nature of its business, the location of its principal place of business, the names and postoffice addresses of its president, secretary, auditor, treasurer, superintendent, and general manager, the location of its principal place of business in this state, the name and postoffice address of its chief officer or managing agent in this state, and the names and addresses of all subsidiary companies whose property and business are

operated by it and the names and addresses of any company of which it may be subsidiary.

2. Operative property. Each of the companies mentioned in said section shall report, in such detail as the state board of equalization shall prescribe, all of its property in this state which comes under the definition of operative property in section three thousand six hundred sixty-five b of this code. When any such company operates both within and without this state it shall report the mileage over which it operates both within and without this state. It shall also report the location of said property within this state by counties, cities and counties, municipalities, and districts, in such manner and in such detail as said board of equalization shall prescribe. It shall also, at the same time, furnish a duplicate of the report covering so much of said property as is located in any county, city and county, municipality, or district, to the assessor of the county, city and county, city or district in which such property is located.

The state board of equalization may require the filing in its office of maps descriptive of all the operative property of any such companies, and may prescribe the form and size of such maps and the details to be shown therein, and may require that similar maps descriptive of the operative property within each county, city and county, municipality, or district, shall be filed in the assessor's office in each county, city and county, city, or district in which any of said property is located.

3. Capital stock. The amount of capital stock issued, and the amount of money received therefor, showing separately the capital stock issued and the money received therefor of the operating company and of each subsidiary company in this state.

4. Dividends. The dividends paid during the year ending the thirty-first day of December last preceding, the surplus fund, if any, on said thirty-first day of December, or between such periods as the state board of equalization may determine, those of the operating company and of each subsidiary company in this state to be shown separately.

5. Debts. The funded and floating debts and the rate of interest thereon, showing separately the debts of the operating company and of each subsidiary company in this state, on the thirty-first day of December last preceding.

6. Value of stock. The market value of the stock and of the outstanding bonds, or, when said stock or bonds have no market value, the actual value thereof, for such periods and for such dates as the state board of equalization shall prescribe.

7. Improvements. The amounts expended for improvements during the year ending the thirty-first day of December last preceding, how expended and the character of the improvements.

8. Gross receipts. The gross receipts from operation within this state for the year ending the thirty-first day of December last preceding, the gross receipts from such classes of business as the state board of equalization may designate, to be reported separately; also, where the property and business are partly within and partly without this state, the gross receipts for said period on all business beginning and ending entirely within this state, and that proportion of the gross receipts from all business passing through, into, or out of this state, which the mileage

within this state bears to the total mileage over which such interstate business is done as further defined in section three thousand six hundred sixty-five *a* of this code.

9. Expenses. The operating and other expenses.

10. Profit and loss. The balances of profit and loss, between such periods as the state board of equalization may determine.

11. Other matters. Subsidiary companies. Defined. Such other matters as the state board of equalization may deem necessary in order to enable it to assess and levy the taxes provided for in section fourteen of article thirteen of the constitution of this state.

Each such company shall include in its report the property and business of all subsidiary companies as that term is hereinafter defined in this section, whose property and business are operated by it, whether by virtue of a lease, an operating contract or agreement, or by virtue of control through the ownership of stock or otherwise, even though such subsidiary companies maintain an independent legal existence and separate accounts.

The term "subsidiary company" is hereby defined as applying to a company which is merged in the operating system of an operating company in any of the ways above stated, whose property and franchises would be taxable under section three thousand six hundred sixty-four *a* of this code if the same were operated independently. No separate report need be rendered by a subsidiary company whose property, franchises, and operations are fully and completely covered by the report of an operating company, unless the state board of equalization shall deem such a separate report necessary.

Each such company operating the property or business of a subsidiary company in some line of business to which a different percentage of the gross receipts is applied by said section from that applied by said section to the gross receipts of the operating company, shall report such receipts of the subsidiary company separately. [New section added May 11, 1917; Stats. 1917, p. 343.]

§ 3666. Notice by assessor of property regarded nonoperative. Hearing. 1. If any assessor finds in the report of the operative property in his county, city and county, municipality, or district, furnished to him by any of the companies as required in section three thousand six hundred sixty-five *c* of this code, any piece or parcel of property which he regards as nonoperative property, or partially operative and partially non-operative, he shall, within thirty days after receiving such report, notify the state board of equalization thereof by mail, which notice shall contain a general description of the property and the assessor's reasons for regarding the same as nonoperative property. He shall also mail a copy of the notice to the company whose property is involved. The said board shall investigate the nature of the property and its use, and, if an agreement between the said board, the assessor, and the company as to the proper classification of such property cannot be reached, then the said board shall, under such rules of notice as it may deem reasonable, set a date for a hearing, at which the assessor and the company may be present or represented. At such hearing the board shall, from the evidence presented and from the best information it can obtain decide the matter in dispute, and determine whether such property is operative

or nonoperative or in what proportion operative and in what proportion nonoperative. The said board shall enter its decision in its minutes, and shall send a copy thereof to the county assessor and the company, and also to the proper officer of any municipality affected thereby. Said decision shall be binding upon all parties, the state, the county, city and county, municipality, or district, and the company, unless set aside by a court of competent jurisdiction, and each such assessor must note the decision on his assessment-roll, and must assess such property accordingly.

2. Notice by state board of equalization of property regarded nonoperative. Hearing. If the state board of equalization shall find in the report of operative property furnished to said board by any company under the provisions of section three thousand six hundred sixty-five c of this code, any piece or parcel of property which said board regards as nonoperative property, or partially operative and partially nonoperative, the board shall, within thirty days after receiving such report, notify said company thereof in writing, which notice shall contain a general description of the property and the reasons for regarding the same as nonoperative. It shall also mail a copy of the notice to any assessor in whose county, city and county, municipality, or district the property is located. If an agreement between the said board, the assessor, and the company as to the proper classification of such property cannot be reached, then the said board shall, under such rules of notice as it may deem reasonable, set a date for a hearing, at which the assessor and the company may be present or represented. At such hearing the board shall, from the evidence presented and from the best information it can obtain, decide the matter in dispute, and determine whether such property is operative or nonoperative, or in what proportion operative and in what proportion nonoperative. The said board shall enter its decision in its minutes, and shall send a copy thereof to the county assessor and the company, and also to the proper officer of any municipality affected thereby. Said decision shall be binding upon all parties, the state, the county, city and county, municipality, or district, and the company, unless set aside by a court of competent jurisdiction, and each such assessor must note the decision on his assessment-roll and must assess the property accordingly. [New section added May 11, 1917; Stats. 1917, p. 345.]

Old section 3666 relating to the record of assessment of railways was repealed May 11, 1917; Stats. 1917, p. 336.

§ 3666a. Report by insurance commissioner. List of companies subject to additional tax. Statements by companies to insurance commissioner. The insurance commissioner of this state must on or before the last day of March in each year make and file with the state board of equalization a report showing:

1. All companies, domestic and foreign, and all firms, associations, or persons, engaged in the business of insurance in this state.

2. The total amount of the gross premiums received from its business in this state by each of said companies, firms, associations, and persons during the year ending the thirty-first day of December last preceding.

3. The amount of return premiums paid on business done in this state and the amount of reinsurance on business done in this state paid to other insurance companies or associations authorized to do business in

this state, by said companies, firms, associations, and persons, during said year.

4. The amount of any county and municipal taxes paid during said year by such companies on real estate owned by them in this state, and where said real estate is located.

In making this report he shall list separately all those companies, firms, associations, or persons, which, under the second proviso in subdivision (b) of section fourteen of article thirteen of the constitution and of section three thousand six hundred sixty-four *b* of this code, are subject to a tax at a rate higher than two per cent on their gross premiums, or to any additional tax or burden, and shall indicate in each case the amount and character of said tax or burden. Every company, firm, association, or person engaged in the business of insurance in this state shall file with the insurance commissioner on or before the first Monday in March in each year such statements in addition to, or in modification of, the statements required to be rendered under the provisions of article sixteen of chapter three of title one of part three of the Political Code as said insurance commissioner shall deem necessary to enable him to prepare the report required of him in this section and said statements shall be verified in the same manner as is provided for the verification of other statements by insurance companies in section six hundred ten of the Political Code, except that, those filed by foreign companies shall be verified by the oath of the manager thereof residing within this state. [New section added May 11, 1917; Stats. 1917, p. 347.]

§ 3666b. Statement by banks. The president, secretary, treasurer, cashier, or such other officer as the state board of equalization may determine, of every bank referred to in section fourteen of article thirteen of the constitution of this state, shall on the first Monday in March or within ten days thereafter make and file with the state board of equalization a sworn statement showing the condition of said bank at the close of business on the first Monday in March, and showing the amount of its authorized capital stock, the number of shares issued and the par value thereof, the amount received for stock issued, the amount of its surplus and undivided profits, if any, a complete list of the names and residences of its stockholders and the number of shares held by each as of record on the books of the bank at the close of business on the first Monday in March; or, in the case of unincorporated banks and bankers, of banks having no capital stock and of branches, agencies, or other representatives of banks doing business outside of this state, the moneyed capital, reserve, surplus, undivided profits, and other taxable property, as further defined in section fourteen of article thirteen of the constitution of this state, used by them in the banking business in this state, also a description of the real estate, other than mortgage interests therein, and the value of each piece thereof as assessed for the purpose of county taxation for the then current fiscal year.

Branches, agencies, or other representatives of banks doing business outside of this state shall report the average amount owed by said branches, agencies, or representatives, to the banks of which they are branches, agencies, or representatives, during the year ending the first Monday in March, also a description of the real estate other than mortgage interests therein, and the value of each piece thereof as assessed for the purpose of county taxation for the then current fiscal year.

The state board of equalization shall prescribe the form of reports, the manner of their verification, and may require the submission of tax receipts, or copies thereof certified to be correct by any notary public, in order to verify the statements as to the assessed value of the real estate, and may require such further information or statements as said board may deem necessary. [New section added May 11, 1917; Stats. 1917, p. 347.]

§ 3666c. Report on corporations by secretary of state. The secretary of state shall daily report to the state board of equalization the name, corporate number, principal place of business, date of incorporation, term of existence, funded debt, if any, authorized capital stock, and postoffice address of all corporations, whether formed under the laws of this state or of any other state or country, a copy of the articles of incorporation of which is filed in his office and corporations which are authorized to do business in this state. He shall also report at said time all certificates of increase or decrease of capital stock or funded debt, dissolution, or other termination of corporate existence, change of name, consolidation and mergers, change of principal place of business, and such other information regarding corporations as said state board may require to assist it in making the assessments and levying the taxes as provided in section fourteen of article thirteen of the constitution of this state. [New section added May 11, 1917; Stats. 1917, p. 348.]

§ 3667. Report by holders of franchises. The owner or holder of every franchise subject to taxation as provided in section three thousand six hundred sixty-four of this code, shall within ten days after the first Monday in March in each year make a written report to the state board of equalization, signed and sworn to by the holder or owner himself, if an individual, or by one of the copartners if such owner or holder is a copartnership, or by the president or vice-president and the treasurer or secretary if the owner is a corporation, containing such a concise statement or description of every franchise possessed or enjoyed on said day by such owner or holder, as the state board of equalization may prescribe, a copy of the law, grant, ordinance, or contract under which the same is held, or if possessed or enjoyed under a general law, a reference to such law, a statement of any condition, obligation, or burden imposed upon such franchise, or under which the same is enjoyed, and containing also:

1. **Name, etc.** The name of the company, its nature, whether a person or persons, a partnership (with names of partners), an association, or corporation, and under the laws of what state, territory, or country organized, the nature of its business, the location of its principal place of business, the names and postoffice addresses of its president, secretary, auditor, treasurer, superintendent, and general manager, the location of its principal place of business in this state, the name and postoffice address of its chief officer or managing agent in this state, and the names and addresses of all subsidiary companies whose property and business are operated by it.

2. **Capital stock.** The amount of its authorized capital stock, the amount thereof issued and outstanding on the first Monday in March,

and the amount paid in thereon or the value of the property received therefor.

3. Debts. The funded and floating debts and the interest paid thereon showing separately the debts of the operating company and of any subsidiary companies in this state on the thirty-first day of December last preceding.

4. Value of stock. The market value of the stock and of the outstanding bonds, or, when said stock or bonds have no market value, the actual value thereof, for such periods and for such dates as the state board of equalization shall prescribe.

5. Assessed value of property. The assessed value of its property as shown by the last completed assessment-roll in each county, city and county, and city in the state for the purposes of taxation, and if any property of such corporation be assessed and taxed outside of the state of California the place where assessed, the amount of such assessment and taxes there paid the current fiscal year.

6. Value of property. The market and actual value of all non-assessable real and personal property owned by such company.

7. Amount and value of property. The amount and actual value of all of said real and personal property referred to in the last two preceding subdivisions of this section that is owned and possessed by the company at the date of its report; also, the amount and actual value of any other and additional real or personal property owned by the company at the date of said report.

8. Dividends. The dividends paid during the year ending the thirty-first day of December last preceding, the surplus fund, if any; on said thirty-first day of December, or between such periods as the state board of equalization may determine. Those of the operating company and of each subsidiary company in this state to be shown separately.

9. Gross receipts. The gross receipts from all sources for the year ending the thirty-first day of December last preceding, from the entire property and business, the gross receipts from such classes of business as the state board may designate, to be reported separately; also, the total gross receipts from intrastate business and from interstate business so far as the same relate to this state, the same to be separately stated.

10. Expenses. The operating and other expenses.

11. Profit and loss. The balances of profit and loss, between such periods as the state board of equalization may determine.

12. Other matters. Such other matters as the state board of equalization may deem necessary in order to enable it to assess and levy the taxes provided for in section fourteen of article thirteen of the constitution of this state. The state board of equalization shall ascertain and determine from the foregoing reports or from the best information it can obtain the actual cash value on the first Monday in March of each such franchise, and shall assess and levy the taxes thereon in accordance with the provisions of subdivision (d) of section fourteen of article

thirteen of the constitution of this state. [New section added May 11, 1917; Stats. 1917, p. 349.]

The old section 3667, relating to the notice to the controller of the county rate of taxation, was repealed in 1917 (Stats. 1917, p. 336).

§ 3667a. Report by assessor or auditor. Every assessor or auditor shall, in the manner, at the times, and for the year required by the state board of equalization, report to said board upon such forms as may be prescribed by said board the valuation placed by him upon the property of any company subject to an assessment upon its franchise under the provisions of sections three thousand six hundred sixty-four *d* and three-thousand six hundred sixty-seven of this code. [New section added May 11, 1917; Stats. 1917, p. 350.]

§ 3667b. Estimates by state board of equalization when no report furnished. Penalty. If any company mentioned in section three thousand six hundred sixty-four of this code shall fail or refuse to furnish to the state board of equalization within the time prescribed by law the verified report provided for by law, the state board of equalization must note such failure or refusal in the record of assessments for state taxes provided for in section three thousand six hundred sixty-eight *a* of this code, and must make an estimate of the amount of the gross receipts, gross premiums, value of the shares of capital stock, or value of the franchises, of such company and must assess the same at the amount thus estimated, which assessment shall be the assessment upon which the taxes upon the property or franchise of the company for such year shall be levied and collected. And if in the succeeding year any such company shall again fail or refuse to furnish the verified report required by law, the state board shall make an estimate of the amount of the gross receipts, gross premiums, value of the shares of capital stock, or value of the franchise of such company, which estimate shall not be less than twice the amount of the estimate made by said board in the previous year, and shall note such failure or refusal as above provided, and the said estimate so made shall be the assessment upon which the taxes upon the property or franchise of the company for such year shall be levied and collected. In case of each succeeding consecutive failure or refusal the said board shall follow the same procedure until a true statement shall be furnished.

Any company failing or refusing to make and furnish any report prescribed by law to be made to the state board of equalization, or rendering a false or fraudulent report shall be guilty of a misdemeanor and subject to a fine of not less than three hundred dollars and not exceeding five thousand dollars for each such offense.

Any person required to make, render, sign, or verify any report, as aforesaid, who makes any false or fraudulent report, with intent to defeat or evade the assessment required by law to be made, shall be guilty of a misdemeanor, and shall for each such offense be fined not less than three hundred dollars and not more than five thousand dollars, or be imprisoned not exceeding one year in the county jail of the county where said report was verified, or be subject to both said fine and imprisonment, at the discretion of the court. [New section added May 11, 1917; Stats. 1917, p. 350.]

§ 3667c. Extension of time for report. The state board of equalization may, for good cause shown, by order entered upon its minutes, extend for not exceeding thirty days, the time fixed for filing any report required by said board. [New section added May 11, 1917; Stats. 1917, p. 351.]

§ 3668. Assessment and levy of taxes. Request of bank to assess entire taxable value of shares of stock. Form. Notice of completion of assessments. The state board of equalization must meet at the state capital on the first Monday in March of each year, and continue in open session from day to day, Sundays and holidays excepted, until the first Monday in July. Between the first Monday in March and the third Monday before the first Monday in July the board must assess and levy the taxes as and in the manner provided for in section fourteen of article thirteen of the constitution of this state, and sections of this code enacted to carry the same into effect.

The assessments must be made to the company, person or association owning or operating the property subject to said tax, or, in the case of banks, banking associations, savings and loan societies and trust companies, to the stockholders therein; provided however, that in the case of banks of liquidation the assessment shall be made to the receiver, trustee or officer in charge of such liquidation, as the case may be, as the representative of the stockholders thereof.

If the name of the owner is unknown to the board, such assessment must be made to unknown owners.

Clerical errors occurring or appearing in the name of any company, person, association, or stockholder whose property is correctly assessed, or in the making, or extension of any assessment upon the records of the state board of equalization, which do not affect the substantial rights of the taxpayer, shall not invalidate the assessment.

Provided, however, that if any bank shall by resolution of its board of directors, request the state board of equalization to assess to and in the name of such bank so requesting, the entire taxable value of all the shares of the capital stock of such bank, as determined by said state board, instead of assessing such shares to and in the name of the individual stockholders or shareholders owning the same, and if such bank shall promise that it will, upon being notified by said state board, of such assessment thereof to said bank, and of the amount of taxes to be paid upon such assessment, pay such taxes at the times when taxes assessed and levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect are due and payable, which request to assess said bank and promise to pay said tax shall be in substantially the following form:

The state board of equalization is hereby instructed to assess in the name of this bank and not to the individual stockholders or shareholders therein, the taxable value of all the shares of capital stock in this bank and such bank hereby promises to pay to the state treasurer the amount of the tax levied upon such assessment when such taxes are due and payable under the laws of this state.

By (here insert title of official signing).

Then the state board may assess the capital stock to and in the name of such bank and said promise to pay the taxes shall be binding upon such bank and collection of such taxes from such bank may be enforced in the manner and by the same method as is provided for the collection of other taxes assessed and levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect.

On the third Monday before the first Monday in July the said board shall publish a notice in one daily newspaper of general circulation published at the state capital, in one daily newspaper of general circulation published in the city and county of San Francisco, and in one daily newspaper of general circulation published in the city of Los Angeles, that the assessment of property for state taxes has been completed, and that the record of assessments for state taxes will be delivered to the controller on the first Monday in July, and that if any company, person, or association is dissatisfied with the assessment made by the board, it may, at any time before the taxes thereon shall become due and payable, apply to the board to have the same corrected in any particular. The board shall have power at any time on or before the first Monday in July to correct the record of assessments for state taxes and may increase or decrease any assessment therein if in its judgment the evidence presented or obtained warrants such action. [New section added May 11, 1917; Stats. 1917, p. 351.]

The old section 3668, relating to the publication by the controller, was repealed in 1917 (Stats. 1917, p. 336).

§ 3668a. Record of assessments for state taxes. Certificate. The state board of equalization must prepare each year a book, in one or more volumes, to be called the "record of assessments for state taxes," in which must be entered, either in writing or printing, or by both writing and printing, each assessment and levy made by said board upon the property and franchises mentioned in section three thousand six hundred sixty-four of this code, describing the property assessed, and such assessments shall be classified and entered, in such separate parts of said record as the board shall prescribe. On the first Monday in July the secretary of the state board of equalization must deliver to the controller of state the record of assessments for state taxes, certified to by the chairman and secretary of the board, which certificate shall be substantially as follows: "We, —, chairman, and —, secretary, of the state board of equalization of the state of California do hereby certify, that between the first Monday in March and the first Monday in July, 19—, the state board of equalization made diligent inquiry and examination to ascertain all property and companies subject to assessment and taxation for state purposes, as required by the constitution of this state; that said board has faithfully complied with all the duties imposed upon it by the constitution and laws of the state of California; that said board has not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any company or property to escape a just assessment through favor or reward, or otherwise."

But the failure to subscribe such certificate to such record of assessments for state taxes, or any certificate, shall not in any manner affect

the validity of any assessment. Such record of assessments shall constitute the warrant for the controller to collect the taxes assessed and levied upon the property and franchises mentioned in section three thousand six hundred sixty-four of this code. [New section added May 11, 1917; Stats. 1917, p. 353.]

§ 3668b. Taxes payable, when. Taxes not fully secured by personal property. Sale of property at public auction. Notice. Bill of sale. Notice by state controller. The taxes assessed and levied as provided in section fourteen of article thirteen of the constitution of this state, and in and by the provisions of this code enacted to carry the same into effect, shall be due and payable on the first Monday in July in each year, and one-half thereof shall be delinquent on the sixth Monday after said first Monday in July at six o'clock P. M., and unless paid prior thereto, fifteen per cent shall be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent shall be added to the amount thereof; and the unpaid portion, or the remaining one-half of said taxes shall become delinquent on the first Monday in February next succeeding the day upon which they became due and payable, at six o'clock P. M.; and if not paid prior thereto five per cent shall be added to the amount thereof; provided, that all taxes provided for or levied under said section fourteen of article thirteen of the constitution of this state and the provisions of this code enacted to carry the same into effect which are not fully secured by real property are due and payable at the time the assessment is made. When in the opinion of the state board of equalization any of the taxes provided for in this section are not a lien upon real property sufficient to secure the payment of the taxes, said board may direct the controller, or his duly authorized representative, to collect the same at any time before the first Monday in August thereafter, and the controller may collect the taxes by seizure and sale of any property owned by the company against whom the tax is assessed.

The sale of any property so seized shall be made at public auction and of a sufficient amount of the property to pay the taxes, penalties and costs, and be made after one week's notice of the time and place of such sale given by publication in a newspaper of general circulation published in the county where the property seized is situate, or if there be no newspaper of general circulation published in such county, then by posting of such notice in three public places in such county.

Said notice shall contain a description of the property to be sold together with a statement of the amount of the taxes, penalties and costs due thereon and the name of the owner of said property and a further statement that unless the taxes, penalties and costs are paid on or before the day fixed in said notice for such sale of said property, or so much thereof as may be necessary to pay said taxes, penalties and costs, said property will be sold in accordance with law and said notice.

On payment of the price bid for any property sold, the delivery thereof with bill of sale executed by the controller vests the title in the purchaser. The unsold portion of any property so seized, may be left at the place of sale at the risk of the owner. All of the proceeds of any such sale in excess of the taxes, penalties, and costs, must be

returned to the owner of the property sold, and until claimed must be deposited with the state treasurer, as trustee for such owner, and subject to the order of the owner thereof, his heirs, or assigns.

Within ten days after the receipt of the record of assessments for state taxes, the controller must begin the publication of a notice to appear daily for two weeks, in one daily newspaper of general circulation published at the state capital, in one daily newspaper of general circulation published in the city and county of San Francisco, and in one daily newspaper of general circulation published in the city of Los Angeles, specifying:

1. That he has received from the state board of equalization the record of assessments for state taxes.

2. That the taxes therein assessed are due and payable on the first Monday in July and that one-half thereof will be delinquent on the sixth Monday after the first Monday in July at six o'clock P. M., and that unless paid to the state treasurer at the capital prior thereto, fifteen per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent will be added to the amount thereof; and that the remaining one-half of said taxes will become delinquent on the first Monday in February next succeeding the day upon which they became due and payable, at six o'clock P. M.; and if not paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof. [New section added May 11, 1917; Stats. 1917, p. 354.]

§ 3668c. Taxes lien on property and franchises. The taxes levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect shall constitute a lien upon all the property and franchises of every kind and nature belonging to the companies subject to taxation for state purposes, which lien shall attach on the first Monday in March of each year. Every tax herein provided for has the effect of a judgment against the company, and every lien created by the constitutional and statutory provisions aforesaid has the effect of an execution duly levied against all property of the delinquent; the judgment is not satisfied nor the lien removed until such taxes, penalties, and costs are paid, or the property sold for the payment thereof. No final discharge in bankruptcy or decree of dissolution shall be made and entered by any court, nor shall the county clerk of any county or the secretary of state file any such discharge or decree, or file any other document by which the term of existence of any corporation shall be reduced or terminated until all taxes, penalties, and costs due on assessments made under the constitutional and statutory provisions aforesaid shall have been paid and discharged. [New section added May 11, 1917; Stats. 1917, p. 355.]

§ 3669. Taxes paid to state treasurer. 1. All taxes assessed and levied under the provisions of section fourteen of article thirteen of the constitution of this state and sections of this code enacted to carry the same into effect shall be paid to the state treasurer, upon the order of the

controller, without deduction for any taxes assessed and levied to pay the principal and interest of any bonded indebtedness mentioned in subdivision (c) of section fourteen of article thirteen of the constitution of this state, and the amount due to the cities, cities and counties, counties, towns, townships, and districts on account of said taxes assessed and levied for such bonded indebtedness shall be paid to said cities, cities and counties, counties, towns, townships, or districts in the manner provided by law. The controller must mark the date of payment of any tax on the record of assessments for state taxes.

2. **Controller's receipt.** The controller must give a receipt to the person paying any tax, or any part of any tax, specifying the amount of the assessment and the tax, or part of tax, paid, and the amount remaining unpaid, if any, with a description of the property assessed; provided, that the receipt for the second half of the taxes may refer, by number or in any other intelligible manner, to the receipt given for the first half of said taxes, in lieu of a description of the property assessed.

3. **Taxes in excess of what was legally due.** Whenever any taxes, penalties, or costs collected and paid to the state treasurer as hereinbefore provided, shall have been paid more than once, or shall have been erroneously or illegally collected, or when any taxes shall have been collected and paid pursuant to said provisions of law upon a computation erroneously made by reason of clerical mistake of the officers or employees of the state board of equalization, or shall have been computed in a manner contrary to law, the state board of equalization shall certify to the state board of control the amount of such taxes, penalties, or costs, collected in excess of what was legally due, from whom they were collected or by whom paid, and if approved by said board of control, the same shall be credited to the company or person to whom it rightfully belongs, at the time of the next payment of taxes. No claim for such credit shall be so audited, approved, allowed, or paid unless presented within one year after the payment sought to be refunded.

4. **Cancellation of assessment.** In case the assessment of any property or any company is duplicated upon the record of assessments for state taxes, or there appears thereon the assessment of any company whose charter has been forfeited or right to do business in this state has been forfeited, or the assessment of any company which, for any reason, could not be legally assessed, the state board of equalization or the controller shall certify such fact to the state board of control and said board of control shall authorize the cancellation of such assessment. [New section added May 11, 1917; Stats. 1917, p. 356.]

The old section 3669, providing that certain taxes were to be paid to the state treasurer, was repealed in 1917 (Stats. 1917, p. 336).

§ 3669a. **Action for recovery of tax.** 1. Any company, person or association claiming and protesting as herein provided that the assessment made against him or it by the state board of equalization is void in whole or in part may bring an action against the state treasurer for the recovery of the whole or any part of such tax, penalties or costs paid on such assessment upon the grounds stated in such protest, but no such action may be brought later than the third Monday in February next following the day on which the taxes were due, nor unless such com-

pany, person or association shall have filed with the state controller at the time of payment of such taxes a written protest stating whether the whole assessment is claimed to be void, or if a part only, what part, and the grounds upon which such claim is founded; and when so paid under protest the payment shall in no case be regarded as voluntary.

2. Procedure. Whenever under the provisions of this section an action is commenced against the state treasurer, a copy of the complaint and of the summons must be served upon the treasurer, or his deputy. At the time the treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The attorney general must defend the action. The provisions of the Code of Civil Procedure relating to the pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. A failure to begin such action within the time herein specified shall be a bar against the recovery of such taxes. In any such action the court shall have power to render judgment for plaintiff for any part or portion of the tax, penalties or costs found to be void and so paid by plaintiff upon such assessment.

3. No judgment for plaintiff, when. In no case shall any judgment be rendered in favor of plaintiff in any action brought against the state treasurer to recover any tax, when said action is brought by or in the name of an assignee of the person, company or corporation paying said tax, or by any person, company or corporation other than the person, company or corporation that has paid said tax. [New section added May 11, 1917; Stats. 1917, p. 357.]

§ 3669b. Reassessment. Every assessment of property made after November 8, 1910, under the provisions of section fourteen, article thirteen of the constitution and under the provisions of any law enacted to carry into effect said section of the constitution which is, or may hereafter be adjudged to be invalid by reason of any illegality, invalidity, or irregularity, declared or existing, in the assessment of such property, or in the mode provided for the assessment thereof, shall be remade and the property reassessed and equalized for each year for which such assessment is invalid as aforesaid, and for the year for which the assessment of such property was invalid as aforesaid, and such reassessment and equalization shall be made by the same officers and boards, at the same time or times, as are prescribed by law for the assessment and equalization of property, of the same classes or kinds as the property which hereby is required to be reassessed. The assessment and equalized assessment of such property shall be entered on the several assessment-rolls or books in the same manner that assessments of such property are or were required by law to be entered for the year or years for which such reassessments shall be made. And there is hereby levied for state purposes the same rates of taxation for each of such respective years as were levied upon such property for each of said years for said state purposes.

2. Manner of reassessment. All property herein and hereby authorized to be reassessed shall be reassessed and equalized by the proper officers and boards at the value to which and to the person or corporation to whom or to which such property ought, for each of such years, to have been assessed, under such rules of notice and at the times and in the

modes as are prescribed for the assessment and equalization of like classes of property; and the assessment and equalization thereof, and the levy and collection of taxes thereunder, shall be made by the proper officers at the time, upon like notice and in the manner now or hereafter provided by law for making assessments and equalizing the same, and for the levy and collection of taxes on like classes of property; and if the taxes so relieved shall become delinquent; there shall be added thereto and the amount thereof the same percentage as a penalty for such delinquency as is added to other delinquent taxes on like classes of property; and such delinquent taxes and penalties added thereto shall be collected by the proper officers in the manner now or hereafter provided by law for the collection of delinquent taxes and penalties upon like classes of property, the collectors of such taxes to allow as credits thereon all payments theretofore made on the tax as first levied.

3. **No limitation on action for collection of taxes.** There shall be no limitation or limitations as to the time in which actions for the collections of taxes levied under this section may be commenced, and all the provisions of law now or hereafter provided in respect to assessments, equalization, levy, and collection of taxes shall, where applicable, apply to reassessments, equalization, and relieves and collections of taxes made under the provisions of this section. [New section added May 11, 1917; Stats. 1917, p. 357.]

§ 3669c. **Suspension of corporate powers on failure to pay taxes. List sent to county clerk and county recorder.** 1. Within ten days after the first Monday in February, the controller shall send by mail to the last known address of any company whose taxes are delinquent a notice of the amount of said taxes, penalties, and costs, and that if the said taxes, penalties, and costs are not paid on or before the Saturday preceding the first Monday in March next thereafter at six o'clock P. M. of said day, the corporate powers, rights and privileges of such delinquent company, if it be a domestic corporation, will be at that time suspended and thereafter incapable of exercise, and that if the delinquent company be a foreign corporation it will thereupon forfeit its right to do intrastate business in this state. If the taxes, penalties, and costs are not paid within the time specified in said notice, the controller shall, on said Saturday preceding the first Monday in March at six o'clock P. M. of said day, mark on the record of assessments for state taxes opposite the assessment of the delinquent corporation the words "corporate powers suspended," if the delinquent corporation be a domestic corporation, and thereupon said corporate powers shall be suspended and incapable of exercise until restored as hereinafter provided; and if the delinquent corporation be a foreign corporation, the controller shall mark on the record of assessments for state taxes opposite the assessment of such delinquent corporation the words "right to do intrastate business forfeited" and thereupon said right to do such business shall be so forfeited. He shall at once report to the secretary of state the name and number of charter of each corporation whose corporate powers have been suspended or right to do business has been forfeited for nonpayment of taxes.

On or before the first Monday in April of each year the controller shall make a list of all corporations subject to the tax imposed under sections three thousand six hundred sixty-four a, three thousand six

hundred sixty-four *b*, three thousand six hundred sixty-four *c*, and three thousand six hundred sixty-four *d* of this code and which have failed to pay the same and transmit a certified copy thereof to each county clerk and county recorder in this state. Said county clerks and county recorders shall file such certified copies in their respective offices in such manner that the same shall be preserved in the form of a permanent record of such office and easily identified by and available to the public. Said copies so certified by the controller and filed as herein provided shall in the case of each corporation state whether such corporation is a domestic or foreign corporation and specify the penalty which each corporation has incurred for failure to pay the tax imposed by this act. Such certified copies so filed with either of said county officers, or any copy thereof certified by the controller shall be received in evidence in any court in lieu of the original record on file with the controller and shall be prima facie evidence of the truth of all statements contained therein.

2. Corporate powers suspended, when. Penalty for exercising powers after suspension. After six o'clock P. M. of the Saturday preceding the first Monday in March in any year, the corporate rights, privileges and powers of every domestic corporation which has failed to pay said tax and money penalty shall, from and after said hour of said day, be suspended, and incapable of being exercised for any purpose or in any manner, except to defend any action brought in any court against such corporation, until said tax with all accrued penalties, and all taxes and charges due the state under the corporation license act are paid as hereinafter provided. The right and privilege of every foreign corporation to transact intrastate business in this state shall, for failure to pay said tax and money penalty, be forfeited at said hour of said day, and the controller shall make a record of such forfeiture. In the case of foreign corporations such forfeiture may be relieved and the corporation's privilege to transact intrastate business in this state restored in the manner hereinafter provided. After said hour of said day and until such taxes, penalties and charges are paid, every person who attempts or purports to exercise any of the rights, privileges or powers of any delinquent corporation, or, who transacts or attempts to transact any intrastate business in this state in behalf of any forfeited foreign corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business was had or occurred. Every contract made in violation of this section is hereby declared to be void.

3. Procedure for restoration of powers. Controller's certificate. All corporate powers, rights and privileges suspended, or forfeited may be revived and restored to full force and effect by the payment of all accrued taxes and penalties due to the state under sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b*, three thousand six hundred sixty-four *c*, and three thousand six hundred sixty-four *d* of this code and also, in addition thereto, a sum

of money equal to the tax last assessed under the provisions of said sections of this code, for each year succeeding the year in which such tax was levied, and to the time of such revivor. "Year" within the meaning of the preceding sentence is hereby defined as the period between the first Monday in March of any calendar year and the first Monday in March of the following calendar year. In addition to the payment of the amounts above provided for, such reviving corporation shall pay to the secretary of state that proportion of the license tax specified in section three of any act known as the "corporation license act," as now in force or as hereafter amended, which the unexpired number of months of the calendar year in which such revivor or reinstatement occurs (including the month in which such revivor or reinstatement occurs), bears to the entire year. Upon payment of all such taxes and penalties the state controller shall issue a certificate under his seal evidencing such payment and restoration, which certificate, when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such controller's certificates recorded by him. Upon presentation of such controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the secretary of state that subsequent to the date of such certificate of revivor the powers of said corporation have been suspended or its right to do intrastate business forfeited.

4. Action by controller to collect delinquent taxes. Duty of attorney general. Service of summons. Evidence of unpaid taxes. The controller may, on or before the thirtieth day of April next following said delinquency and suspension or forfeiture, bring an action in a court of competent jurisdiction in the county of Sacramento in the name of the people of the state of California, to collect any delinquent taxes, together with any penalties, or costs, which have not been paid in accordance with the provisions of this code and appearing delinquent upon the record of assessments for state taxes hereinbefore mentioned.

The attorney general must prosecute such action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings herein provided for. In such action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of said attachment is required.

In the case of companies whose right to do business has been forfeited or corporate powers suspended, service of summons may be made upon the persons provided for by law to be served as agents or officers of any of such companies and such persons shall be deemed to be the agents of such companies for all purposes necessary in order to prosecute such action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors thereof shall have the power and right to defend such action. Payment of the taxes and penalties, or amount of the judgment recovered in such action

must be made to the state treasurer. In such actions the record of assessments for state taxes, or a copy of so much thereof as is applicable in said action, duly certified by the controller, or by the secretary of the state board of equalization, showing unpaid taxes against any company, person or association assessed by the state board of equalization, is prima facie evidence of the assessment upon the property and franchises, the delinquency, the amount of the taxes, penalties, and costs due and unpaid to the state, and that the company, person, or association is indebted to the people of the state of California in the amount of taxes and penalties therein appearing unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with. [Amendment approved April 30, 1919; Stats. 1919, p. 181.]

This section was added in 1917. See Stats. 1917, p. 358.

§ 3669d. Procedure for relieving forfeiture. 1. Any corporation which has heretofore failed to pay any tax and penalty imposed under the provisions of section fourteen, article thirteen, of the constitution, and chapter three hundred thirty-five, statutes 1911 and amendments thereof, and for such nonpayment suffered a forfeiture of the charter of such corporation or of its right to do business in this state, may be relieved of such forfeiture, or may be restored to its right to do business in this state, upon making application therefor in writing and paying the tax and penalties for nonpayment of which such forfeiture occurred. Application for restoration, under the provisions of this section, shall be made in writing, shall be signed by four-fifths of the surviving trustees or directors of said corporation, duly verified by said trustees or directors, and filed with the state controller. In case such application for revivor is made in any year other than the year in which such forfeiture occurred then upon payment of twice the amount of the tax and penalty due the state for the year in which such forfeiture occurred, together with the amount of the license fee due the state under the corporation license tax act for the year in which such forfeiture occurred and for the year in which such revivor is sought, the state controller shall issue a certificate of revivor to such corporation, and thereupon such corporation is revived and its powers restored to full force and effect.

The revivor of a corporation under the provisions of this section shall be without prejudice to any action or proceeding, defense or right, which has occurred by reason of the original forfeiture.

2. **Reviving corporation under new name.** In case the name of any corporation which has suffered a forfeiture under the provisions of chapter three hundred thirty-five, statutes of 1911 or amendments thereof, has been adopted by any other corporation since the date of said forfeiture, or in case any corporation has adopted subsequent to such forfeiture any name so closely resembling the name of such reviving corporation as will tend to deceive, then such reviving corporation shall be entitled to a certificate of revivor pursuant to the terms of this section only upon the adopting by such corporation seeking revivor of a new name, and in such case nothing in this section contained shall be construed as permitting such reviving corporation to carry on any business under its former name. Such reviving corporation shall have the right to use its former name or take such new name only upon filing

an application therefor with the secretary of state, and upon the issuing of a certificate to such corporation by the secretary of state, setting forth the right of such corporation to take such new name or use its former name as the case may be. The secretary of state shall not issue any certificate permitting any corporation to take or use the name of any corporation heretofore organized in this state and which has not suffered a forfeiture under either of the acts in this section first above mentioned, or to take or use a name so closely resembling the name of any corporation heretofore organized in this state as will tend to deceive.

The provisions of title nine, part three of the Code of Civil Procedure, in so far as they conflict with this section of this code are not applicable to corporations seeking revivor under this section. [New section added May 11, 1917; Stats. 1917, p. 361.]

§ 3669e. Powers of state board of equalization. In addition to the powers and duties prescribed elsewhere in this code, it is the duty of the state board of equalization, and the said board shall have power, for carrying into effect the provisions for assessments under section fourteen of article thirteen of the constitution of this state:

1. **Prescribe forms.** To prescribe the forms upon which the reports required by sections three thousand six hundred sixty-five *c*, three thousand six hundred sixty-six *b* and three thousand six hundred sixty-seven of this code shall be made.

2. **Inspect property.** Whenever deemed necessary, to visit as a board, or by the individual members thereof, or to send its secretary or duly appointed representative to any portion of this state for the purpose of inspecting property and learning the value thereof, and of collecting information to enable it to justly assess and levy the taxes provided for as aforesaid.

3. **Call public officials.** To call before it, or any member thereof, or before its secretary or duly appointed representative on such visit, any public official, and to require him to produce any public record, papers or documents in his custody.

4. **Issue subpoenas.** To issue subpoenas for the attendance of witnesses or the production of books before the board, or any member thereof; which subpoenas must be signed by a member of the board and may be served by any person.

5. **Require attendance.** To require any person having knowledge of the business of any of the companies mentioned in section fourteen of article thirteen of the constitution of this state, or having the custody of the books and accounts of such companies, to attend before the board or any member thereof, or before the secretary or the duly appointed representative of said board and bring with him for inspection any books, or papers, of such company in his possession or under his control, and to testify under oath touching any matter relating to the assessment to be made under the provisions of the constitution aforesaid. A member of the board, its secretary, or duly appointed representative is authorized to administer such oath.

6. **Examine books and accounts.** Said board of equalization is hereby authorized and empowered to examine the books and accounts of all

companies required by law to report to it and to employ an expert accountant or accountants to assist in the examination of the books and accounts of any such companies when in the judgment of said board the exigencies of the case may so require.

7. Unlawful to divulge information. It shall be unlawful for any member or ex-member of the state board of equalization, or for any agent employed by it, or for the controller, or ex-controller, or for any person employed by him or for any person who may at any time have obtained such knowledge from any of the foregoing officers or persons, to divulge or make known in any manner whatever not provided by law, any of the following items of information concerning the business affairs of companies reporting to the said board:

(a) Any information concerning the business affairs of any company which is gained during an examination of its books and accounts or in any other manner, and which information is not required to be reported to the state board of equalization in the reports or statements provided for in paragraphs numbered one to twelve of section three thousand six hundred sixty-five *c* and paragraphs numbered one to ten of section three thousand six hundred sixty-seven of this code.

(b) Any information, other than the assessment and the amount of taxes levied, obtained by the state board of equalization in accordance with the provisions of sections three thousand six hundred sixty-five *c* and three thousand six hundred sixty-seven of this code, from any company other than any of those enumerated in sections three thousand six hundred sixty-four *a*, three thousand six hundred sixty-four *b* and three thousand six hundred sixty-four *c* of this code.

(c) Any particular item or items of information relating to the disposition of its earnings contained in the report of a quasi-public corporation which any such corporation may, by written communication specifying the items and presented at the time when it files its report, request shall be treated as confidential.

Provided, however, that the governor may authorize examination of such reports by other state officers, in which event the information obtained by such officers shall not be made public, and he may also direct that any of the information herein referred to be made public, in which event it shall no longer be unlawful to divulge or make known the same.

Any violation of the provisions of subdivision seven of this section shall be a misdemeanor and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, at the discretion of the court. [New section added May 11, 1917; Stats. 1917, p. 363.]

§ 3670. Equalization of assessments on real estate of banks. On the second Monday in August of each year the auditor of each county must report to the state board of equalization, in addition to the items required to be so reported by him under section three thousand seven hundred twenty-eight of this code, the value of each piece of real estate other than mortgage interests therein belonging to each bank in his county as assessed and equalized for purposes of county taxation.

Whenever the state board of equalization is satisfied after investigation that any county assessor, or board of equalization, has assessed any

real estate belonging to any bank above its full cash value and has thereby unjustly reduced the amount of taxes due the state from said bank, said state board shall, under such rules of notice to the clerk of the board of supervisors of the county affected thereby as the said state board shall deem reasonable, equalize the assessed value of such real estate and shall upon completion of said equalization issue an order to said assessor or board of equalization and to the county auditor of the county in which said real estate is located, fixing the assessed value of said real estate.

The value so equalized and fixed, and no other, shall be deemed the value, as assessed for county taxes, of such real estate, and the sole basis of taxation upon such real estate for county taxes.

A copy of the order certified by the secretary of the state board of equalization shall be prima facie evidence of the regularity of all proceedings of the board resulting in the action which is the subject matter of the order. [New section added May 11, 1917; Stats. 1917, p. 364.]

The old section 3670 relating to actions by the controller for taxes was repealed May 11, 1917. Stats. 1917, p. 336.

§ 3670a. Equalization of assessments on real estate of insurance companies. The state board of equalization shall immediately after the county and city assessments have been completed, ascertain the value of any real estate belonging to any insurance company as assessed and equalized for purposes of county and of city taxation.

Whenever the state board of equalization is satisfied after investigation that any county, city and county, city, or district assessor, or board of equalization, has assessed any real estate belonging to any insurance company above its full cash value and has thereby unjustly reduced the amount of taxes due the state from said insurance company, said state board shall, under such rules of notice to the clerk of the board of supervisors of the county or the proper officer of the city affected as the board shall deem reasonable, equalize the assessed value of such real estate and shall upon the completion of said equalization, issue an order to said assessor or board of equalization and to the county, city and county, city or district auditor or clerk of the county, city and county, city, or district in which said real estate is located, fixing the assessed value of said real estate.

The value so equalized and fixed, and no other, shall be deemed the value, as assessed for county, city and county, city, or district taxes, of such real estate, and the sole basis of taxation upon such real estate, for county, municipal and district taxes.

A copy of the order certified by the secretary of the state board of equalization shall be prima facie evidence of the regularity of all proceedings of the board resulting in the action which is the subject matter of the order. [New section added May 11, 1917; Stats. 1917, p. 365.]

§ 3670b. Segregation by assessor. Each county, city and county, city and district assessor must segregate on his assessment-roll, as directed by the state board of equalization:

1. **Assessments by state board of equalization.** The assessments made by the state board of equalization, and apportioned to the county, city and county, city, town, township, or district, upon the franchises, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this state under the provisions of the Political Code as the same existed and were in force on the seventh day of November in the year one thousand nine hundred ten; and

2. **Assessments by assessors. Equalization of assessments. Separate tax rate for bonded indebtedness. Payment by controller to county treasurer.** The assessments made by said assessors of any other property enumerated in subdivisions (a), (b), and (d) of section fourteen of article thirteen of the constitution of this state, which is located in the county, or city and county, or any city, town, township, or district in which it is subject to taxation for paying the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township, or district prior to the eighth day of November in the year one thousand nine hundred ten, as provided in subdivision (e) of section fourteen of article thirteen of the constitution of this state.

Immediately upon completion of the assessment and equalization of property for the purposes of taxation in each year the auditor or clerk of each county, city and county, city, town, or district must transmit to the state board of equalization a duplicate of that part of the assessment-roll containing the assessments and apportionments referred to in paragraphs one and two of this section.

Whenever the state board of equalization is satisfied after investigation that any county, city, or other assessor, or board of equalization, has assessed for taxation to pay the principal and interest of any bonded indebtedness created and outstanding by any county, city and county, city, town, township, or district prior to the eighth day of November in the year one thousand nine hundred ten, as provided in subdivision (e) of section fourteen of article thirteen of the constitution of this state, any of the property taxed exclusively for state purposes as provided in subdivisions (a), (b) and (d) of section fourteen of article thirteen of the constitution of this state, or has assessed for purposes of county, city and county, city or district taxation the property other than the franchise of any company taxable for a franchise under subdivision (d) of said section and article of the constitution, above its full cash value and has thereby unjustly reduced the amount of taxes due the state on such property, said state board shall, under such rules of notice to the clerk of the board of supervisors of the county, or city and county, or to the city clerk of the city, affected thereby as the board shall deem reasonable, equalize the assessed value of such property, and shall issue an order to said assessor or board of equalization and to the county or city auditor or clerk of the county, city and county, or city in which the property is located, fixing the assessed value of such property.

The value so equalized and assessed, and no other, shall be deemed the value of said property, and its assessment for taxes levied to pay the principal and interest of any such outstanding bonded indebtedness, and in the case of companies taxable for franchise under said subdivision (d) of said section and article of the constitution shall be deemed

the value of the said property, and its assessment for taxes for county, city and county, municipal and district purposes.

When making the tax levy and fixing the rates of taxation for county, city and county, city, town, township, or district purposes, the board of supervisors of any county, or city and county, and the corresponding authority in any city, having bonded indebtedness issued and outstanding on the eighth day of November in the year one thousand nine hundred ten shall fix the tax rate for such bonded indebtedness separate and apart from all other tax rates, whether for subsequent bonded indebtedness or for other purposes.

The county, city and county, or city auditor or clerk shall extend on the assessment-roll against the assessments segregated as herein provided, the taxes necessary to pay the principal and interest of said bonded indebtedness at the same rate as said taxes for payment of principal and interest of said outstanding bonded indebtedness shall be levied upon the other classes of property within the same county, city and county, city, town, township, or district, and the amount of each such taxes shall be certified by said auditor or clerk to the controller and the amount so certified shall then be credited by the controller to the county, city and county, city, town, township, or district to which it is due; and said amount shall be paid by said controller to the treasurer of such county, or city and county, as provided in section three thousand six hundred seventy c of this code, and upon such payment said treasurer shall forthwith certify such fact to the auditor who shall thereupon mark upon the assessment-roll the date of payment and the words "paid by the state treasurer." The city clerk or auditor shall in the certificate mentioned in this paragraph also state the date when taxes in such city shall become delinquent. [Amendment approved May 7, 1919; Stats. 1919, p. 340.]

This section was added in 1917. See Stats. 1917, p. 366.

§ 3670c. Money credited to what fund. 1. The controller shall out of the taxes collected by him under the provisions of section fourteen of article thirteen of the constitution of this state and the provisions of the sections of this code applicable thereto, credit to the fund created by an act of the thirty-ninth session of the legislature entitled: "An act appropriating money for the purpose of payment of that part of the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township or district on the eighth day of November in the year one thousand nine hundred ten, which is provided for in section fourteen of article thirteen of the constitution of this state, and as provided in an act of the thirty-ninth session of the legislature entitled 'An act to carry into effect the provisions of section fourteen of article thirteen of the constitution of the State of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations for the benefit of the state, all relating to revenue and taxation,'" or any act or acts amendatory thereof or supplementary thereto, the money due to each county, city and county, city, town, township, or district on account of taxes to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and

county, county, town, township or district, on the eighth day of November in the year one thousand nine hundred ten.

2. Time for settlements with county treasurer. The controller shall in the months of October and March in each year settle with the treasurer of each county and city and county for the money collected by said controller under this section, for the moneys due said county or city and county and the townships and districts within such county or city and county, in the same manner as settlements are made between the county or city and county treasurers and the controller as provided for in section three thousand eight hundred sixty-six of this code.

3. Settlement with city and town treasurers. The controller shall at the same times, settle with each city and town for the moneys due such city or town for the purposes mentioned in this section, and when ready for such settlement shall notify the city or town treasurer of the amount of money due the city or town for said purposes, and that upon receipt of proper authority so to do, he will forward to said city or town treasurer a warrant for the amount thereof; provided, however, that upon receipt of notice from any such city or town treasurer that any bond issue matures for principal or interest before the date of such settlement, which notice shall state the amount thereof due from the state and the date of maturity, and that said amount due from the state is required in order to pay the same, the said controller must, before said date of maturity, forward his warrant to such city or town treasurer in the manner above provided for the amount ascertained by him to be due. The treasurer of the county or city and county shall forthwith, upon receipt by him of the moneys so hereinbefore directed to be paid by said controller, credit the amount so received by him to the county, city and county, township or district, respectively entitled thereto, and pay the same in the manner provided by law.

4. Repayment of excess. Any excess paid by the controller to a county, city and county, city, town, or to a county or city and county or any township or district, over and above the state's share of the amount actually expended by such county, city and county, city, town, township or district, to pay the interest and principal of said bonded indebtedness in any year, shall be repaid to the state in such manner as the controller shall direct. [New section added May 11, 1917; Stats. 1917, p. 367.]

§ 3671. Reimbursement of counties until 1918. Until the year one thousand nine hundred eighteen the state shall reimburse any and all counties which sustain loss of revenue by the withdrawal of railroad property from county taxation for the net loss in county revenue occasioned by the withdrawal of railroad property from county taxation in the manner, at the times, and in the amounts specified in an act of the thirty-ninth session of the legislature entitled "An act to provide for the reimbursement of counties in this state which sustain net loss of revenue by the withdrawal of railroad property from county taxation, under the provisions of section fourteen of article thirteen of the constitution of this state," or any act or acts amendatory thereof or sup-

plementary thereto. [New section added May 11, 1917; Stats. 1917, p. 369.]

The old section 3671, relating to the basis for county taxation was repealed May 11, 1917. Stats. 1917, p. 336.

§ 3671a. Expenses of county treasurer. The provisions of section three thousand eight hundred seventy-six of the Political Code shall not apply to the settlements made with the state treasurer under sections three thousand six hundred seventy c and three thousand six hundred seventy-one of this code, but the county board of supervisors may if it deem necessary allow the county treasurer the actual expenses incurred in collecting the money due the county from the state. [New section added May 11, 1917; Stats. 1917, p. 369.]

§ 3671b. Reimbursement of districts. The board of supervisors of each county shall in the month of September of each year determine the amount of loss to each district in the county where loss is occasioned in such district by the withdrawal from local taxation of property taxed for state purposes only, and in the month of December next thereafter shall reimburse such district from the general funds of the county for one-half of such loss, and in the month of May next thereafter shall reimburse such district from the general fund of the county for the remaining one-half of such loss. [New section added May 11, 1917; Stats. 1917, p. 369.]

§ 3671c. Tax to meet deficiency in state revenue. Any tax required to be levied for state purposes as provided in subdivision (e) of section fourteen of article thirteen of the constitution as amended the eighth day of November in the year one thousand nine hundred ten, to meet any deficiency in the state revenue shall be assessed, levied and collected on all property in the state, not exempt from taxation including the classes of property enumerated in section fourteen of article thirteen of the constitution of this state, under the provisions of the Political Code relating to the assessment, levy and collection of state and county taxes as said provisions were in force on the seventh day of November in the year one thousand nine hundred ten. [New section added May 11, 1917; Stats. 1917, p. 369.]

§ 3671d. Laws in effect. All laws in force prior to the eighth day of November in the year one thousand nine hundred ten, relating to taxation, in so far as said laws may be necessary for the assessment, levy, and collection of state, county, city and county, municipal or district taxes, or in so far as said laws may be necessary for the assessment, levy and collection of the taxes for state purposes, on all the property in the state, not exempt from taxation, to meet a deficiency in the revenues for the support of the state government, or to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township, or district, both as provided in subdivision (e) of section fourteen of article thirteen of the constitution as amended on the eighth day of November in the year one thousand nine hundred ten shall be and remain, for such purposes, in full force and effect. [New section added May 11, 1917; Stats. 1917, p. 370.]

§ 3678. Statement by auditor. To assist the assessor in the performance of his duties, the auditor must annually transmit to the assessor, within ten days after the first Monday in March of each year, a complete and true statement of all property which has been redeemed under or by virtue of any sale made to the state for delinquent taxes, together with a complete and true statement of all property sold to the state and remaining unredeemed. [Amendment approved May 11, 1917; Stats. 1917, p. 430.]

§ 3679. Supervisors to use record in equalizing assessments. [Repealed May 11, 1917; Stats. 1917, p. 427.]

§ 3700a. Salary, secretary state board of equalization. The annual salary of the secretary of the state board of equalization is four thousand dollars, payable monthly in the same manner as the salaries of other state officers are paid. [New section added May 14, 1917; Stats. 1917, p. 473.]

§ 3701. Duties of secretary. It shall be the duty of the secretary to keep an accurate record of the proceedings of the board in a book specially provided for such purposes. When required by the board or the chairman he shall visit the several counties and collect data and information relative to the assessment of property therein, or the railway property therein, and consult and advise with all officers charged with enforcement of the revenue laws, and report such data and information to the board. To prepare, biennially, the report of the board to the governor, and when printed, to distribute such report, as required by law and as directed by the board. To do and perform all other acts and things enjoined by law or required by the board. The secretary is a civil executive officer and is authorized to administer and certify oaths in any county in the state. [Amendment approved May 11, 1917; Stats. 1917, p. 430.]

§ 3714. Limit for bonded indebtedness. The board of supervisors of each county must on the first Tuesday after the first Monday of September of each year, fix the rate of county taxes, designating the number of cents levied for each fund on each one hundred dollars of property, and must levy the state and county taxes upon the taxable property in the county; provided, that it shall not be lawful for any board of supervisors of any county in the state to levy, nor shall any tax greater than fifty cents on each one hundred dollars of property be levied and collected in any one year, to pay the bonded indebtedness, or judgment arising therefrom, of this state, or of any county or municipality in this state. [Amendment approved March 20, 1917; Stats. 1917, p. 13.]

§ 3714a. Statement of tax rate sent to controller. When the board of supervisors of each county, and city and county shall have fixed the rate of county, or city and county taxation, the clerk of the board of supervisors must, within three days after such rate has been fixed, transmit by mail, postage paid, to the controller, in such form as the controller shall direct, a statement of the rate of taxation levied by the board of supervisors for county, or city and county taxation. If the clerk fails to transmit such statement in the time herein provided for, he shall forfeit to the state one thousand dollars, to be recovered in an action

brought by the attorney general, in the name of the controller. [New section added May 11, 1917; Stats. 1917, p. 430.]

§ 3719. **Levy of state school tax.** [Repealed 1917; Stats. 1917, p. 431.]

§ 3728. **Statements from "assessment-book."** The auditor must, on or before the second Monday in August in each year, prepare from the "assessment-book" of such year, as corrected by the board of supervisors, duplicate statements, showing in separate columns—

1. The number of acres of land.
2. The total value of all property.
3. The value of real estate.
4. The value of improvements thereon.
5. The value of personal property, exclusive of money.
6. The amount of money.

7. Such other information as the state board of equalization may require. [Amendment approved May 11, 1917; Stats. 1917, p. 431.]

§ 3734. **Tax collector charged with taxes levied. Taxes due county charged to state.** On delivering the assessment-book to the tax collector the auditor must charge the tax collector with the full amount of the taxes levied and forthwith transmit by mail to the controller of state in such form as the controller may prescribe a statement of the amount so charged, but the taxes to be paid to the county by the state under the provisions of section three thousand six hundred seventy c of this code shall be charged to the state by the auditor. Any auditor failing to forward the statement herein provided for to the controller within ten days after the roll has been delivered to the tax collector forfeits to the state one thousand dollars, to be recovered in an action brought by the attorney general, in the name of the controller. [Amendment approved May 7, 1919; Stats. 1919, p. 342.]

This section was also amended in 1917. See Stats. 1917, p. 431.

§ 3739. **Notice of redemption of property.** Currently as property is redeemed from tax sales the auditor shall notify the tax collector of such redemptions. The tax collector must use such information in the enforcements of sections three thousand seven hundred seventy-one, three thousand eight hundred thirteen, and three thousand eight hundred fourteen. [Amendment approved May 3, 1919; Stats. 1919, p. 174.]

§ 3746. **Publication of collector's notice that taxes are due, etc.** On or before the third Monday in October, the tax collector must publish a notice specifying:

1. That the taxes on all personal property secured by real property, and one-half of the taxes on all real property, will be due and payable on the third Monday in October, and will be delinquent on the first Monday in December next thereafter, at five o'clock P. M., and that unless paid prior thereto fifteen per cent will be added to the amount thereof, and that if said one-half be not paid before the last Monday in April next, at five o'clock P. M., an additional five per cent will be added thereto. That the remaining one-half of the taxes on all real property will be payable on and after the second Monday in January next, and will be delinquent on the last Monday in April, next there-

after, at five o'clock P. M., and that unless paid prior thereto, five per cent will be added to the amount thereof.

2. That all taxes may be paid at the time the first installment, as herein provided, is due and payable.

3. The times and places at which payment of taxes may be made. [Amendment approved April 4, 1919; Stats. 1919, p. 29.]

§ 3753. Statement by tax collector. On the first Monday in each month the tax collector must settle with the auditor for all moneys collected for the state or county, and pay the same to the county treasurer, and on the same day must deliver to and file in the office of the auditor a statement under oath, showing:

1. An itemized account of all his transactions and receipts since his last settlement, which account must show the amount collected for each fund or district extended on the assessment-book.

2. That all money collected by him as tax collector has been so paid to the county treasurer. [Amendment approved May 11, 1917; Stats. 1917, p. 431.]

§ 3757. When taxes become delinquent. [Repealed 1917; Stats. 1917, p. 431.]

§ 3758. Entry of penalty for delinquency. On the third Monday in December of each year, in each of the counties, and cities and counties of this state, the tax collector must attend at the office of the auditor with the assessment-book, having all items of taxes collected marked "paid." The auditor shall thereupon compute and enter against all the items of taxes due and unpaid the penalty for delinquency, foot up the total amount of penalties then due, and must, within ten days thereafter, deliver to said tax collector the assessment-book and charge him with the amount of said penalties. [Amendment approved April 4, 1919; Stats. 1919, p. 30.]

§ 3759. When delinquent list must be completed. On the fourth Monday in May of each year, in each of the counties, and cities and counties of this state, the tax collector must attend at the office of the auditor with the assessment-book, having all items of taxes and penalties collected marked "paid," and at the same time he shall deliver to the auditor a complete delinquent list of all persons and property then owing taxes. [Amendment approved April 4, 1919; Stats. 1919, p. 31.]

§ 3764. Annual publication of delinquent tax-lists. Arrangement of lists. On or before the eighth day of June of each year, the tax collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of taxes, penalties, and costs due, opposite each name and description, with the taxes due on personal property, the delinquent state poll, road and hospital tax, the taxes due each school, road, or other lesser taxation district, added to the taxes on real estate, where the real estate is liable therefor, or the several taxes are due from the same person; provided, however, that before publication of said list

the tax collector and auditor shall jointly arrange said list in such manner that said publication shall designate in some particular manner the property contained in said list which was sold to the state five years previous under the provisions of section three thousand seven hundred seventy-one of this code, on which the taxes remain unpaid, or which property has not been redeemed or the sale thereof canceled, and which property the state would otherwise be entitled to a deed thereof after the lapse of five years from said previous sale. [Amendment approved April 4, 1919; Stats. 1919, p. 31.]

§ 3769a. Land sold for taxes encumbered by trust deed or mortgage.
[Repealed 1917; Stats. 1917, p. 431.]

§ 3771. Property sold to state. On the day and hour fixed for the sale, all the property delinquent, upon which the taxes of all kinds, penalties, and costs have not been paid, shall, by operation of law and the declaration of the tax collector, be sold to the state, and said tax collector shall make an entry, "Sold to the state," on the delinquent assessment list, opposite the tax, and he shall be credited with the amount thereof in his settlement, made pursuant to sections three thousand seven hundred ninety-seven, three thousand seven hundred ninety-eight and three thousand seven hundred ninety-nine; provided, that on the day of sale the owner or person in possession of any property offered for sale for taxes due thereon, may pay the taxes, penalties, and costs due; and provided, further, that when the original tax amounts to the sum of three hundred dollars or more upon any piece of property or assessment delinquent, the state may bring suit against the owner of said property for the collection of said taxes, penalties, and costs, as provided in section three thousand eight hundred ninety-nine; and provided, further, that any property contained in the advertised list as provided for in section three thousand seven hundred sixty-four of this code, which has not been redeemed from the sale made to the state five years previously, shall be sold by the tax collector at public auction to the highest bidder for cash in lawful money of the United States; but no bid shall be accepted at such sale for less than the amount of all taxes, penalties and costs due as shown in said advertised list. After such bid has been made and accepted the right of redemption shall cease, except as to the purchaser, who shall have thirty days within which to make redemption, as provided in section three thousand seven hundred eighty-five of this code, and if not so redeemed or if no sale is had under the provisions of this paragraph, then said property shall be deeded to the state as provided in section three thousand seven hundred eighty-five of this code; and provided, further, when any property is to be sold at public auction as provided in this section, within five days after the first publication of said delinquent list, the tax collector shall mail a copy of said list or publication, postage thereon prepaid and registered, to the party to whom the land was last assessed next before such sale, at his last known postoffice address, or in lieu of mailing the entire printed list said tax collector may mail to the party to whom the land was last assessed next before the sale at his last known postoffice address, postage thereon prepaid and registered, a printed notice of such sale, which notice shall be in substance, and may be in form as follows:

"NOTICE OF TAX SALE.

In pursuance of law, notice is hereby given that unless sooner redeemed, the undersigned will on the — day of —, 19—, commencing at — o'clock, — M., and continuing from day to day thereafter if additional time is required to complete the sale, offer for sale at public auction to the highest bidder, all properties which were sold to the state for delinquent taxes for the year 19—, on which the taxes remain unpaid, of which the following described property is a part and which property was assessed for the year 19— to

— — —
 — — —
 — — —

and described as follows:

Redemption of the above-described property may be had at any time prior to said sale.

For full information as to the amount necessary to redeem the property, apply to the county auditor of said — county.

(Signed) — — —,

Tax collector of said — county."

The money received hereunder shall be distributed as provided in section three thousand eight hundred ninety-eight of this code. The charge for advertising shall be at the rate fixed by the board of supervisors for other advertising in said county. [Amendment approved May 3, 1919; Stats. 1919, p. 142.]

§ 3787. Tax deed conclusive evidence. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the assessor, inclusive, up to the execution of the deed.

Such deed conveys to the state the absolute title to the property described therein, free of all encumbrances, except any lien of taxes levied for municipal or irrigation district purposes and except when the land is owned by the United States or this state; in which case it is the prima facie evidence of the right of possession, accrued as of the date of the deed to the state. [Amendment approved May 5, 1917; Stats. 1917, p. 241.]

§ 3801. List of land sold for delinquent taxes. It shall be the duty of the tax collector within thirty days after the sale of any land for delinquent taxes to furnish to the auditor a complete printed list of all such land so sold, and thereupon the auditor shall enter upon the assessment-book of the current year immediately after the description of the property the fact that said property has been sold for taxes and the date of such sale. The auditor shall transmit said list to the assessor who shall thereupon enter upon the proper books of his office the fact that said property has been sold for taxes and the date of such sale. [Amendment approved April 30, 1919; Stats. 1919, p. 157.]

§ 3804. Refund of erroneously collected taxes, etc. In school district. Verified claim. Action for enforcement of claim. Any taxes, penalties

or costs thereon heretofore or hereafter paid more than once, or heretofore or hereafter erroneously or illegally collected, or any taxes heretofore or hereafter paid upon an assessment in excess of the actual cash value of the property so assessed by reason of a clerical error of the assessor as to the excess in such cases, or any taxes heretofore or hereafter paid upon an erroneous assessment of improvements on real estate not in fact in existence, when said taxes became a lien, may, by order of the board of supervisors, be refunded by the county treasurer. Whenever any payment shall have been made to the state treasurer by the county treasurer as provided by section three thousand eight hundred sixty-five and section three thousand eight hundred sixty-six of this code, and it shall afterward appear to the satisfaction of the board of supervisors that a portion of the money so paid should be refunded as herein provided, said board of supervisors may refund such portion of the said taxes, penalties and costs so paid to the state treasurer, to the person paying the same or to his guardian, or in case of his death, to his executor or administrator, out of the general fund, and upon the rendering of the report required by section three thousand eight hundred sixty-eight of this code the auditor shall certify to the controller, in such form as the controller may prescribe, all amounts so refunded, and in the next settlement of the county treasurer with the state, the controller, if satisfied of the legality of such refunding by the said board, shall give such treasurer credit for the state's portion of the amounts so refunded, as prescribed in section three thousand eight hundred seventy-one of this code. When the taxes, penalties and costs hereinbefore referred to are levied in behalf of any school district or any municipal or other public corporation, and collected by the officers of the county, the same may be refunded upon order of the board of supervisors, and the county treasurer shall pay the amount to be refunded out of any money in his possession belonging to the appropriate fund of such school district or municipal or other public corporation. No order for the refund of taxes, penalties or costs under this section shall be made except upon a verified claim therefor verified by the person who has paid said tax, or by his guardian, or in case of his death, by his executor or administrator, which said claim must be filed within three years after the making of the payment sought to be refunded.

All such payments not refunded under the provisions of this section within the time allowed therefor may be transferred to the general fund of the county upon an order to that effect by the board of supervisors.

In no case shall any judgment be rendered in favor of plaintiff in any action brought for the enforcement or allowance of any rights or claims under this section (except in actions brought by the county treasurer to enforce any credits hereinabove provided for) if the said action be brought by an assignee of the person paying said tax, or by any person other than the person who has paid said tax, or by his guardian, or in case of his death, by his executor or administrator. [Amendment approved May 13, 1919; Stats. 1919, p. 449.]

§ 3804b. Property assessed by two or more counties. Cancellation of double assessment. Where real property shall hereafter be assessed by the assessors of two or more counties for the same year the owner thereof may file an action in the superior court of one of said counties against the co-owning tenants and discharge the obligation by paying the larg-

est amount of taxes assessed and levied on said land by any of said counties into court and compel said counties to interplead and litigate their several claims among themselves in accordance with section three hundred eighty-six of the Code of Civil Procedure. Where real property has heretofore been assessed by the assessors of two or more counties for the same year and the owner thereof has paid all of the taxes on one of such assessments, upon proof of the payment of such taxes on one of such assessments for any year, by the production of a tax receipt or certificate of the auditor of the county in which such payment has been made, the board of supervisors of any other county claiming the right to assess and tax such real property, shall thereupon enter an order upon its minutes directing the auditor to cancel such double assessment of such property by an entry on the margin of the assessment-book, as also upon the delinquent list, should such double assessment be carried therein. If the property assessed under such double assessment has been sold to the state and a certificate of sale or deed therefor has been issued to the state, the order of the board shall further direct the recorder to cancel such erroneous certificate and deed so issued except where the state has disposed of the property thereby conveyed. [New section added April 13, 1917; Stats. 1917, p. 118.]

§ 3817. When former owners may redeem lands sold for delinquent taxes. Penalties payable when state's title ceases. Record of controller's receipt. State lands. In all cases where real estate has been sold, or may hereafter be sold for delinquent taxes to the state, and the state has not disposed of the same, the person whose estate has been, or may hereafter be sold, his heirs, executors, administrators, or other successors in interest, shall, at any time after the same has been sold to the state, and before the state shall have disposed of the same, have the right to redeem such real estate by paying to the county treasurer of the county wherein the real estate may be situated, the amount of taxes, penalties and costs due thereon at the time of said sale, with interest on the aggregate amount of said taxes, at the rate of seven per cent per annum; and also all taxes that were a lien upon said real estate at the time said taxes became delinquent; and also all unpaid taxes of every description assessed against the property for each year since the sale; or, if not so assessed, then upon the value of the property as assessed in the year nearest the time of such redemption, with interest from the first day of July following each of said years, respectively, at the same rate, to the time of redemption; and also all costs and expenses of such redemption, and penalties as follows, to wit: Ten per cent if redeemed within six months from July first following the date of sale; twenty per cent if redeemed within one year therefrom; thirty per cent if redeemed within two years therefrom; forty per cent if redeemed within three years therefrom; forty-five per cent if redeemed within four years therefrom; and fifty per cent, if redeemed within five or any greater number of years therefrom. The penalty shall be computed upon the amount of each year's taxes in like manner, reckoning from July first following the date when the lands would have been sold for the taxes of that year, if there had been no previous sales thereof.

The county auditor shall, on the application of the person desiring to redeem, make an estimate of the amount to be paid, and shall give him triplicate certificates of the amount, specifying the several amounts

...ates shall be delivered to the county treasurer, ... money, and the county treasurer shall give triplicate ... or indorsed upon said certificates, to the redemptioner, ... one of said receipts to the state controller, and one to ... auditor, taking their receipts therefor.

... county treasurer shall settle for the moneys received as for other ... and county moneys. Upon the payment of the money specified in ... certificate, and the giving of the receipts aforesaid by the treasurer, ... controller, and auditor, any deed or certificate of sale that may have ... been made to the state shall become null and void, and all right, title ... and interest acquired by the state, under and by virtue of the tax sale, ... shall cease and determine. Upon consummation of the redemption, the ... auditor shall report the same to the tax collector and recorder; the ... recorder shall, without payment of fee, note on the margin of the certifi- ... cate of sale, or deed, if issued, the fact of such redemption, date thereof, ... and by whom redeemed.

The receipt of the controller may be recorded in the recorder's office ... of the county in which said real estate is situated, in the book of deeds, ... and the record thereof shall have the same effect as that of a deed of ... reconveyance of the interest conveyed by such deed or certificate of ... sale.

This act shall not apply to state lands sold by the state when the full ... amount of the purchase price has not been paid to the state therefor, ... after the deed to the state, provided for in section three thousand seven ... hundred eighty-five has been filed with the surveyor general. [Amend- ... ment approved May 18, 1919; Stats. 1919, p. 727.]

§ 3818. Partial redemption of land sold for delinquent taxes. If land has separate valuation. If no separate valuation. Notice. Hearing of protest. In all cases where a lot, piece, or parcel of land contained in any assessment has been sold or may hereafter be sold for delinquent taxes to the state, and the state has not disposed of the same, a partial redemption may be made, separately from the whole assessment, of any such lot, piece or parcel of land as follows:

If such lot, piece or parcel of land has a separate valuation on the assessment-roll, such partial redemption shall be made in the manner following: In the estimate provided for in the preceding section, the auditor shall estimate the amount of state and county taxes due on such lot, piece or parcel of land, together with a proper proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, lesser or other taxation district; and such redemption shall be made in the manner provided for in the preceding section.

If such lot, piece or parcel of land does not have a separate valuation on the assessment-roll, the auditor shall investigate and ascertain the relative or proportionate value such lot, piece or parcel of real property bears to the whole tract assessed, and the auditor shall estimate the amount of such taxes due on such lot, piece or parcel of land according to such relative or proportionate value and the taxes due on any improvements on the portion sought to be so redeemed, together with a relative proportion of the taxes due on personal property under such assessment, and of the taxes due each school, road, lesser or other taxation district; whereupon such redemption shall be made in the manner provided for in the preceding section; provided, that no lot, piece or

parcel of land owned or claimed under contract by the person so redeeming shall be divided for the purpose of such redemption. A notice by registered mail of the proposed division must be given by the auditor to the person or persons to whom the same was assessed, if known to the auditor, if not so known, by posting a notice of such proposed division for a period of twenty days in three public places in said county, and if no protest against said division be filed with the auditor within twenty days from the date of the posting or mailing of such notice, the auditor shall thereupon issue an estimate as above stated. In cases where written protest is filed within said twenty days to said division, the auditor shall withhold his estimate and refer the matter to the board of supervisors for decision. The board of supervisors shall set a time for hearing said protest, and cause a notice of the date of said hearing to be mailed by its clerk to the person or persons who have filed a written protest with the auditor, as above provided, at the postoffice address named in such protest, at least five days prior to the date of such hearing, and at the termination of said hearing may confirm the act of the auditor or modify or set aside the same and its decision in the premises shall be final. In the event of such reference to the board of supervisors and of their dividing the assessment, the estimate of the auditor shall conform to the action of the board. A partial redemption may be made, in like manner, separately from the whole assessment, of an undivided interest in any real property, if such property has a separate valuation on the assessment-roll; the auditor estimating the amount of taxes due on such undivided interest according to the proportion which such interest in said real property bears to the whole assessment. The recorder shall note, on the margin of the record of the certificate of sale a description of the property or undivided interest redeemed under this section, and shall specifically set forth the several amounts of taxes paid upon such redemption. [Amendment approved June 1, 1917; Stats. 1917, p. 1633.]

§ 3827. Entry of tax collections. The assessor must note in the assessment-book opposite the name of each person from whom taxes have been collected, the amount thereof. [Amendment approved April 30, 1919; Stats. 1919, p. 184.]

§ 3839. Persons liable to poll tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3840. When poll taxes to be collected. [Repealed 1917; Stats. 1917, p. 432.]

§ 3841. Blank poll tax receipts to be printed by county treasurer. [Repealed 1917; Stats. 1917, p. 432.]

§ 3842. Style of poll tax blanks to be changed each year. [Repealed 1917; Stats. 1917, p. 432.]

§ 3843. Duty of treasurer in relation to poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3844. Auditor to sign blank poll tax receipt and make entries. [Repealed 1917; Stats. 1917, p. 432.]

§ 3845. When auditor shall deliver poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3846. Poll tax may be collected by seizure and sale of present property. [Repealed 1917; Stats. 1917, p. 432.]

§ 3847. Mode of conducting seizure and sale of personal property for poll tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3848. Debtors of persons owing poll tax to pay poll tax for such persons. [Repealed 1917; Stats. 1917, p. 432.]

§ 3849. What officers are debtors under preceding section. [Repealed 1917; Stats. 1917, p. 432.]

§ 3850. Debtor may charge his creditor for such poll tax paid. [Repealed 1917; Stats. 1917, p. 432.]

§ 3851. Poll tax receipt, delivery to purchaser or to person paying tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3852. Poll tax receipt only evidence of payment. [Repealed 1917; Stats. 1917, p. 432.]

§ 3853. Monthly settlement of assessor with auditor for poll taxes. [Repealed 1917; Stats. 1917, p. 432.]

§ 3854. Assessor to return unused poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3855. Auditor to return poll tax receipts not used to the treasurer. [Repealed 1917; Stats. 1917, p. 432.]

§ 3856. Treasurer, duty in relation to poll tax receipts. [Repealed 1917; Stats. 1917, p. 432.]

§ 3857. Assessor to keep roll of persons liable to poll tax and of payments and delinquents. [Repealed 1917; Stats. 1917, p. 432.]

§ 3858. Duty of auditor when roll returned to him. [Repealed 1917; Stats. 1917, p. 432.]

§ 3859. Correction of poll tax roll. [Repealed 1917; Stats. 1917, p. 432.]

§ 3860. Unpaid poll tax a lien. [Repealed 1917; Stats. 1917, p. 432.]

§ 3861. Proceeds of poll tax paid to county treasurer for state school fund. [Repealed 1917; Stats. 1917, p. 432.]

§ 3862. Compensation for collecting poll tax. [Repealed 1917; Stats. 1917, p. 432.]

§ 3866. Settlements of county treasurers with state. Deferred settlements. The treasurers of all of the counties and cities and counties of this state must, between the fifteenth and thirtieth days of December and May of each year, settle in full with the controller of state and pay over in cash to the treasurer of state all funds belonging to the state which have come into their hands as county treasurers before the close of business on and including the first Monday of said months, except principal and interest received on account of state school lands which

shall be settled for up to and including the last day of the month prior to the month of settlement. If, in the opinion of the controller of state, it appears from the report of the county auditor that sufficient taxes or other revenues have not been collected to make it for the interest of the state that a settlement should be made, the controller shall defer the settlement until the next regular settlement. No mileage, fees or commissions shall be allowed any officer for any deferred settlement; provided, that in case any settlement is so deferred, the county auditor in his next report to the controller of state, shall include therein all moneys required to be reported since the date of his last report upon which a settlement was made. [Amendment approved May 3, 1919; Stats. 1919, p. 159.]

§ 3876. Expenses of county treasurers in making settlements with state. The county treasurer in the settlement shall receive from the state his actual expenses necessarily incurred in making the trip from the county seat to Sacramento and return to the county seat. The controller is hereby authorized to draw his warrant in favor of the respective county treasurers on consummation of the settlement with the state and the treasurer of state is directed to pay the same. [Amendment approved May 2, 1919; Stats. 1919, p. 186.]

§ 3881. Correction of clerical errors in assessment-book. Defects in description or defects in form or clerical omissions of the assessor, or clerical errors of the assessor, in any assessment-book, when it can be ascertained from the assessment-book, or from the assessor's maps or block-books, or other papers in the assessor's office, what was intended, or what should have been assessed, may, with the written consent of the district attorney, be supplied or corrected by the assessor at any time after the assessment was made, prior to the sale for delinquent taxes; provided, that where said change will decrease the amount of taxes charged against the taxpayer by reason of said assessment, the consent of the board of supervisors shall also be necessary to said change; and provided, further, that where said change will increase the amount of taxes charged against the taxpayer by reason of said assessment, the person so charged shall be given at least five days' notice of the time when the matter will be heard by the board of supervisors, and he may at such time present any objections he may have to such change to the board of supervisors and their decision in the matter shall be conclusive. The date and nature of every such correction shall be entered on the assessment-book opposite said assessment, and the written authority therefor shall be filed by the assessor with the auditor and preserved by the auditor as a public record, and he shall make the proper charges or credits in his account with the tax collector. In the city and county of San Francisco the written consent of the city attorney shall have the same force and effect as the written consent of the district attorney. [Amendment approved May 26, 1917; Stats. 1917, p. 968.]

§ 3888. Taxes payable in legal tender. Taxes must be paid in legal tender or in money which is receivable in payment of taxes by the government of the United States. A tax levied for a special purpose shall be paid in such funds as may be directed. [Amendment approved April 21, 1919; Stats. 1919, p. 130.]

§ 3898. Distribution of moneys received from sale. 1. The moneys received from such sale shall be distributed as follows: The tax collector shall deduct the penalties, costs and other amounts received as expenses of such sale in such cases as the property so sold shall have been sold for a sum not less than the amount of all taxes levied thereon and all interest, costs, penalties and expenses up to the date of such sale, but where the property so sold shall have been sold for a sum less than said amount, the tax collector shall deduct only the amounts received as expenses attending such sale, and the balance shall be distributed between the state and the county, or city and county, in the proportion that the state rate bears to the county, or city and county, rate of taxation; said tax collector shall pay all amounts into the county treasury, and the treasurer shall account to the state for its portion in the settlement required by section three thousand eight hundred sixty-five and section three thousand eight hundred sixty-six.

2. **Deed to purchaser. Form. No charge for deed.** On receiving the amount bid, as prescribed in the preceding section, the tax collector must execute a deed to the purchaser, which deed shall be in substance and may be in form as follows:

"This indenture, made the — day of —, 19—, between —, tax collector of the county of —, state of California, first party, and — of the county of —, state of —, second party, witnesseth:

That whereas the real property hereinafter described was duly sold and conveyed to the state of California for the nonpayment of taxes which had been legally levied and which were a lien upon said property under and in accordance with law; and

Whereas in conformity with law the state of California, acting by and through —, tax collector as aforesaid, did offer said property, hereinafter described, for sale at public auction to the highest bidder, at which sale said second party became the purchaser of the whole thereof for the sum of \$—.

Now, therefore, the said first party in consideration of the premises and in pursuance of the statute in such case made and provided, does hereby grant to the said second party, his heirs and assigns, that certain real property hereinbefore referred to, and situate in the — county of —, state of California, more particularly described as follows, to wit:

In witness whereof, said first party has hereunto set his hand the day and year first above written.

_____,
Tax collector of the county of —."

No other matters need be recited in the said deed than those provided for in the above form. No charge shall be made by the tax collector for the making of any such deed, and the acknowledgment of all such deeds shall be taken by the county clerk free of charge. Said deed shall be prima facie evidence of all the facts recited therein and shall operate to convey all of the interest of the state in and to said property.

3. **Tax collector's report of sales.** Within ten days after each sale as provided in the preceding section the tax collector shall report to the assessor and recorder, giving the name or names of all persons to whom deeds have been issued under the provisions of this section, together with

the dates of such deeds, the amount for which the property was sold, a description of the property conveyed, together with the numbers and dates of the certificates of sale and of the tax deeds by which title to such property so granted was conveyed to the state.

4. Recorder's notations. The recorder shall note on the margin of each certificate of sale and of each tax deed involved in the sale and transfer of such property, the name of the purchaser, the date of the deed to the purchaser and the consideration named therein. The assessor shall use such report in his determination of the ownership of such property for assessment purposes.

5. Refund to purchaser not finally awarded property. (a) Whenever in any action at law, it has been or shall be determined by a court that the sale and conveyance provided for in this and the preceding section or in section three thousand seven hundred seventy-one of this code heretofore or hereafter made are void for any reason, and that the purchaser from the state may not be finally awarded the property so purchased, no decree of the court shall be given declaring a forfeiture of the property until the former owner, or other party in interest, shall have repaid to the purchaser the full amount of taxes, penalties and costs paid out and expended by him, to be determined by the court, in pursuit of the state's title to the property so sold. The said purchaser may within one year after such decree becomes final also present a claim against the county, in the manner provided by law, for a refund of the amount paid into the county treasury as the purchase price of such property in excess of the amount for which he may have been reimbursed for taxes, penalties and costs as herein provided, and such excess shall be refunded in accordance with section three thousand eight hundred four of this code.

(b) **Refund for government land erroneously sold.** Whenever it shall be determined to the satisfaction of the board of supervisors of the county in which the land is situated that any land belonging to the United States government or to this state, a municipality or other political subdivision of this state has been erroneously sold and conveyed under the provisions of this or the preceding section, or section three thousand seven hundred seventy-one of this code, and the said land should not have been so sold, the purchaser at said sale may present a claim against the county in the manner provided by law for a refund of the amount so paid into the county treasury by reason of such sale. [Amendment approved May 18, 1917; Stats. 1917, p. 715.]

§ 3909. Alameda. Beginning at the southwest corner, being the common corner of San Mateo, Santa Clara, and Alameda, as established in section three thousand nine hundred fifty-one; thence easterly along the northerly boundary of Santa Clara county as defined in said section to the corner common to Santa Clara, San Joaquin, Stanislaus and Alameda counties; thence northwesterly and northerly along the boundary line between Alameda and San Joaquin counties, as described in the field-notes of the survey of said line, as adopted by the board of supervisors of Alameda county, California, on February 6, 1869, to the corner common to Alameda, Contra Costa and San Joaquin counties; thence in a general westerly direction along the boundary line between Alameda and Contra Costa counties, as described in field-notes of the survey of

said boundary line, filed November 19, 1877, in the office of the clerk of Alameda county, California, to the most westerly point where said line is coincident with the line dividing the Rancho San Pablo from the Rancho San Antonio; thence westerly along the northerly boundary line of the Rancho San Antonio to the initial point of the description thereof, as recorded in Liber "B" of patents, page 30, records of Alameda county, California; thence southwesterly in a direct line to a point in San Francisco bay, said point being four and one-half statute miles due southeast of the northwest point of Golden rock (also known as Red rock); thence southeasterly in a direct line to a point from which the lighthouse on the most southerly point of Yerba Buena island bears south seventy-two degrees west, four thousand seven hundred feet; thence southeasterly in a direct line to a point on the southerly line of township two south, range four west, Mount Diablo base and meridian, distant thereon two statute miles west of the southeast corner of said township, forming corner common to San Francisco, San Mateo and Alameda; thence southeasterly along the eastern line of San Mateo county to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 860.]

Old section repealed (Stats. 1919, p. 857).

§ 3910. Alpine. Beginning at north corner, at a point where the state line crosses the east summit of the Sierra Nevada mountains, being the most easterly corner of El Dorado; thence southwesterly along said summit to a point two miles west of James Green's house, in Hope valley, called Thompson's peak; thence southwesterly in a direct line to a point on the Amador and Nevada turnpike road in front of Z. Kirkwood's house, being common corner of Amador, Alpine, and El Dorado; thence south across the north fork of the Mokelumne river to the road leading from West Point, in Calaveras, to Big Tree road, near the Big meadows; thence easterly along said West Point road to the Big Tree road; thence easterly in a direct line to where the Sonora trail strikes the middle fork of the Stanislaus river; thence easterly along said trail to the summit of the Sierra Nevada mountains; thence northerly along said summit to the dividing ridge between West Walker and Carson rivers; thence northeasterly along said dividing ridge to the state line, forming easterly corner of Alpine and northerly corner of Mono; thence northwest along said state line to the place of beginning. [New section repealed May 23, 1919; Stats. 1919, p. 860.]

Old section repealed (Stats. 1919, p. 857).

§ 3911. Amador. Beginning at southwest corner, in the Mokelumne river, on the eastern boundary of San Joaquin, as established in section three thousand nine hundred forty-seven; thence up said river to its junction with the north fork of the same; thence up the said north fork to the line of Alpine, being at a point south of common corner of Amador, Alpine, and El Dorado, which is in the center of the Amador and Nevada road, in front of Z. Kirkwood's house, as established in section three thousand nine hundred ten; thence north by the line of Alpine to said common corner; thence westerly along said road to a point east of the source of the south fork of the south fork of the Cosumnes river, thence west to said source; thence down the south fork of the south fork and the south fork and the main Cosumnes river to

the easterly line of Sacramento, as established in section three thousand nine hundred forty-two; thence by eastern lines of Sacramento and San Joaquin to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 861.]

Old section repealed (Stats. 1919, p. 857).

§ 3912. **Butte.** Beginning at the northwest corner of Yuba, in Feather river, at the mouth of Honcut creek; thence northeasterly up the Honcut creek and the north or Natchez branch of the same, to its source, on line established by surveyor-general, on survey of Westcott and Henning, 1859; thence to the summit line of the ridge dividing the waters of the Yuba and Feather rivers; thence northeasterly up said ridge, on line of said survey, to the third station tree westerly from the Woodville house; thence in a right line, fifty chains more or less, to a station tree easterly from said house about twenty-six chains, said right line passing about three chains northerly of said house; thence northeasterly on said ridge and survey, to a point on line of said survey a little westerly from the village of Strawberry Valley, which point is two thousand feet distant westerly, in right line from point of highest altitude on line of said survey east, and within three hundred yards of the village of Strawberry Valley; thence to the common corner of Plumas, Butte and Yuba, located in the northwest quarter of section fifteen, township twenty north, range eight east, Mount Diablo base and meridian, and running thence north one-quarter of a mile; thence west one-half mile; thence north three-quarters of a mile to the quarter-section corner between sections four and nine, said township and range; thence west to the corner common to sections four, five, eight and nine, said township and range; thence north one-half mile to the quarter-section corner between said sections four and five; thence west one mile to the quarter-section corner between sections five and six, said township and range; thence north one-half mile, more or less, to the north corner of sections five and six, said township and range; thence west on township line one and a quarter miles, more or less, to the southwest corner of section thirty-one, township twenty-one north, range eight east, Mount Diablo base and meridian; thence north on township line, two miles to the east corner of sections twenty-four and twenty-five, township twenty-one north, range seven east, Mount Diablo base and meridian; thence west one mile to the corner common to sections twenty-three, twenty-four, twenty-five and twenty-six, said township and range; thence north one-half mile to the quarter-section corner between sections twenty-three and twenty-four, said township and range; thence west one-half mile to the center of said section twenty-three; thence north one-half mile to the quarter-section corner between sections fourteen and twenty-three, said township and range; thence west one-half mile to the corner common to sections fourteen, fifteen, twenty-two and twenty-three, said township and range; thence north one mile to the corner common to sections ten, eleven, fourteen and fifteen, said township and range; thence west one mile; thence north one mile; thence west one mile; thence north two miles; thence west one mile; thence north one mile; thence west one mile, to the east corner of sections twenty-four and twenty-five, township twenty-two north, range six east, Mount Diablo base and meridian; thence north, on township line, one mile to the east corner of sections thirteen and twenty-four, said town-

ship and range; thence west one mile to the corner common to sections thirteen, fourteen, twenty-three and twenty-four, said township and range; thence north one mile to the corner common to sections eleven, twelve, thirteen and fourteen, said township and range; thence west one mile to the corner common to sections ten, eleven, fourteen and fifteen, said township and range; thence north one mile to the corner common to sections two, three, ten and eleven; thence west one-quarter mile; thence north one-quarter mile; thence west one-quarter mile; thence north one-quarter mile to the center of section three, said township and range; thence west three-quarters of a mile; thence north one-half mile to the north boundary of section four, said township and range; thence west on township line one-half mile; thence north one mile; thence west three-quarters of a mile to the quarter-section corner between sections twenty-nine and thirty-two, township twenty-three, north, range five east, Mount Diablo base and meridian; thence north one mile to the quarter-section corner between sections twenty and twenty-nine, said township and range; thence west one mile to the quarter-section corner between sections nineteen and thirty, said township and range; thence north one mile to the quarter-section corner between sections eighteen and nineteen, said township and range; thence west one-half mile to the west corner of said sections eighteen and nineteen; thence north on township line, one mile to the east corner of sections twelve and thirteen, township twenty-three north, range five east; thence west one mile to the corner common to sections eleven, twelve, thirteen and fourteen, said township and range; thence north one-half mile to the quarter-section corner between said sections eleven and twelve; thence west one mile to the quarter-section corner between sections ten and eleven, said township and range; thence north one-half mile to the corner common to sections two, three, ten, and eleven, said township and range; thence west one mile to the corner common to sections three, four, nine, and ten, said township and range; thence north one mile to the north corner of said sections three and four, two miles to the corner common to sections twenty-seven, twenty-eight, thirty-three, and thirty-four, township twenty-four north, range five east, Mount Diablo base and meridian; thence west one mile to the corner common to sections twenty-eight, twenty-nine, thirty-two, and thirty-three, said township and range; thence north one mile to the corner common to sections twenty, twenty-one, twenty-eight, and twenty-nine, said township and range; thence east one mile to the corner common to sections twenty-one, twenty-two, twenty-seven, and twenty-eight, said township and range; thence north one mile to the corner common to sections fifteen, sixteen, twenty-one, and twenty-two, said township and range; thence west one-half mile to the quarter-section corner between said sections sixteen and twenty-one; thence north two miles to the quarter-section corner between sections four and nine, said township and range; thence east one-half mile to the corner common to sections three, four, nine, and ten, said township and range; thence north one mile to the north corner of sections three and four, said township and range, two miles to the corner common to sections twenty-seven, twenty-eight, thirty-three, and thirty-four, township twenty-five north, range five east, Mount Diablo base and meridian; thence west one-half mile to the quarter-section corner between said sections twenty-eight and thirty-three; thence north two miles to the quarter-section corner between

sections sixteen and twenty-one, said township and range; thence east one-half mile to the corner common to sections fifteen, sixteen, twenty-one, and twenty-two, said township and range; thence north one mile to the corner common to sections nine, ten, fifteen, and sixteen, said township and range; thence east one-half mile to the quarter-section corner between said sections ten and fifteen; thence north one and one-half miles to the center of section three, said township and range; thence east one mile to the center of section two, said township and range; thence north one-half mile, more or less, to the quarter-section corner on north boundary of said section two; thence east on township line to the quarter-section corner on south boundary of section thirty-five, township twenty-six north, range five east, Mount Diablo base and meridian; thence north one mile to the quarter-section corner between sections twenty-six and thirty-five, said township and range; thence east one-half mile to the corner common to sections twenty-five, twenty-six, thirty-five, and thirty-six, said township and range; thence north one mile to the corner common to sections twenty-three, twenty-four, twenty-five, and twenty-six, said township and range; thence west one-half mile to the quarter-section corner between said sections twenty-three and twenty-six; thence north one and one-half miles to the center of section fourteen, said township and range; thence west one-half mile to the quarter-section corner between sections fourteen and fifteen, said township and range; thence north one-half mile to the corner common to sections ten, eleven, fourteen, and fifteen, said township and range; thence west one mile to the corner common to sections nine, ten, fifteen, and sixteen, said township and range; thence north two miles to the north corner of sections three and four, said township and range; two and one-half miles to the quarter-section corner between sections thirty-three and thirty-four, township twenty-seven north, range five east, Mount Diablo base and meridian; thence west one and three-quarters miles, more or less, to the Chico and Humboldt road at the corner common to Plumas, Butte, and Tehama counties; thence southwesterly on the southeasterly line of Tehama to the southeast corner of Tehama, at point of intersection of Rock creek and southern line of township twenty-four north, Mount Diablo base; thence west on said township line to the Sacramento river; thence down said river to the southwest corner of the Llano Seco grant; thence northeasterly and southeasterly along the eastern boundary of Glenn county as established in section three thousand nine hundred nineteen to the northeastern corner of Colusa county; thence on Colusa county east line, down Butte creek, to the northwest corner of Sutter county, as established in section three thousand nine hundred fifty-nine; thence east on north line of Sutter county to Feather river; thence down Feather river to place of beginning. [New section added May 23, 1919; Stats. 1919, p. 861.]

Old section repealed (Stats. 1919, p. 857).

§ 3913. **Calaveras.** Beginning at southern corner, at a point in the Stanislaus river where it intersects the eastern line of Stanislaus county, as established in section three thousand nine hundred fifty-eight, being a point one mile north of Knight's ferry, and being the western corner of Tuolumne county; thence up said river and north fork thereof, to the westerly line of Alpine as established in section three thousand nine hundred ten; thence northerly, on the line of Alpine, to the south-

east corner of Amador, as established in section three thousand nine hundred eleven and section three thousand nine hundred ten; thence southwesterly, on the southern line of Amador, down the Mokelumne river, to the southwest corner of Amador, on eastern line of San Joaquin county; thence southerly and southeasterly, on line of San Joaquin and Stanislaus, as established in sections three thousand nine hundred forty-seven and three thousand nine hundred fifty-eight, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 865.]

Old section repealed (Stats. 1919, p. 857).

§ 3914. **Colusa.** Beginning at southeast corner, being northeast corner of Yolo, in Sacramento river, at its intersection with the south line of township thirteen north, Mount Diablo base; thence west, on said township line to the ridge dividing the waters flowing into Bear creek and Stony creek, from those flowing west into the north fork of the Cache creek and Clear lake; thence northerly, along said ridge to the summit line of the Coast range, being the eastern line of Lake, forming southwest corner of Colusa and northwest corner of Yolo; thence northerly on said eastern boundary of Lake, to the southwest corner of Glenn; thence easterly on southern line of Glenn to Butte creek; thence down Butte creek to Butte slough; thence up Butte slough to Sacramento river; thence down Sacramento river to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 865.]

Old section repealed (Stats. 1919, p. 857).

§ 3915. **Contra Costa.** Beginning in bay of San Francisco, at the northwest point of Red Rock, being the common corner of Marin, Contra Costa, and San Francisco as established in section three thousand nine hundred forty-six; thence up the straits and bay of San Pablo, on eastern boundary of Marin, to point of intersection with line bearing south twenty-six and one-half degrees east, and about six and one-quarter miles distant from southwest corner of Napa county, as established in section three thousand nine hundred thirty-six, forming common corner of Marin, Solano, Sonoma, and Contra Costa, as established in section three thousand nine hundred fifty-seven; thence to the straits of Carquinez; thence up said straits and Suisun bay, to the mouth of the San Joaquin river; thence up said river, to the confluence of the west and main channels thereof, as laid down on Gibbe's map; thence up the said west channel, to a point about ten miles below Moore and Rhodes' ranch, at a bend where the said west channel, running downward, takes a general course north, the point being on the westerly line of San Joaquin county, and forming the northeast corner of Alameda and southeast corner of Contra Costa; thence westerly on the northern line of Alameda as established in section three thousand nine hundred nine, to the easterly line of San Francisco city and county, as established in section three thousand nine hundred forty-six; thence due northwest, along said easterly line to San Francisco, four and one-half miles, more or less, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 865.]

Old section repealed (Stats. 1919, p. 857).

§ 3916. **Del Norte.** Situated in the northwest corner of the state of California, beginning at a point in the Pacific Ocean, on the forty-second

parallel of north latitude, three miles from shore, being on the southern line of Oregon; thence running southerly, three miles from ocean shore, to the northern line of Humboldt county; thence easterly, along the northern boundary of Humboldt county to the summit of a spur of the Siskiyou range of mountains; thence northerly, following the summit of said spur of the Siskiyou range of mountains, to the forty-second parallel of north latitude; thence due west to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 866.]

Old section repealed (Stats. 1919, p. 857).

§ 3917. **El Dorado.** Beginning at the junction of the north and south forks of the American river, which is the extreme west corner; thence up the north fork of the American river to the point of confluence of the middle fork of the American river; thence up the middle fork of the American river to the point of confluence of the south fork of middle fork of the American river at Junction bar; thence up said last-named fork, now known as the Rubicon river, to a point where the same is intersected by the section line between sections twenty-nine and thirty-two, township fourteen north, range fourteen east, Mount Diablo base and meridian; thence east on the section line through township fourteen north, ranges fourteen and fifteen east to the northeast corner of section thirty-five, township fourteen north, range fifteen east; thence north on range line to southwest corner of section thirty, township fourteen north, range sixteen east; thence east on section line to the southeast corner of section thirty, township fourteen north, range sixteen east; thence north to the one-quarter section corner between sections twenty-nine and thirty, township fourteen north, range sixteen east; thence through the centers of sections twenty-nine, twenty-eight and twenty-seven, to the one-quarter section corner between sections twenty-six and twenty-seven, township fourteen north, range sixteen east; thence north on section line to the northwest corner of section twenty-six; thence east on section line to the northeast corner of section twenty-six; thence north on section line to the one-quarter section corner between sections twenty-three and twenty-four; thence east through the center of section to the one-quarter corner between sections nineteen and twenty-four, township fourteen north, range sixteen east and township fourteen north, range seventeen east; thence north on the range line to the one-quarter section corner between sections thirteen and eighteen; thence east to the legal center of section eighteen, township fourteen north, range seventeen east; thence north to the one-quarter section corner between sections seven and eighteen, township fourteen north, range seventeen east; thence east on the section line to the western shore line of Lake Bigler, now called Lake Tahoe; thence east in said lake to the state line; thence south and southeasterly on the state line to the northern corner of Alpine county, being a point where the state line crosses the eastern summit line of the Sierra Nevada mountains; thence southwesterly along the west line of Alpine county, as established in section three thousand nine hundred ten, to the common corner of Alpine, Amador, and El Dorado counties, as established by said section; thence westerly on the northern line of Amador county, as established in section three thousand nine hundred eleven, and down the Cosumnes river and south fork thereof, to

the eastern line of Sacramento county, as established in section three thousand nine hundred forty-two; thence northerly by the eastern line of Sacramento county to the south fork of the American river; thence down the latter to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 866.]

Old section repealed (Stats. 1919, p. 857).

§ 3918. **Fresno.** Beginning at the south line of Merced county at a point where said line crosses the San Joaquin river; thence south, forty-five degrees west, and on line of Merced, to the eastern boundary line of San Benito; thence southeasterly along said boundary line to the eastern boundary of Monterey, and continuing along said Monterey boundary in a southeasterly direction, to a point in the same, which point is south forty-five degrees west from the point on Kings river where northern line of township sixteen south crosses the same; said point being the common corner of Fresno, Monterey, and Kings counties; thence northeasterly on the northwestern boundary of Kings and Tulare counties to said point on the Kings river where the northern line of township sixteen south crosses the same; thence east along northern line of township sixteen south and continuing on said line to the northwest corner of township sixteen south, range twenty-five east; thence north to the northwest corner of township fifteen south, range twenty-five east; thence east to the northeast corner of township fifteen south, range twenty-seven east; thence north to the northeast corner of township fourteen south of range twenty-seven east; thence east on the line between townships thirteen and fourteen south to the summit of Sierra Nevada, being the western line of Inyo county; thence northwesterly, on the summit line and lines of Inyo and Mono, to the common corner of Mono, Madera, and Fresno; thence westerly and southwestly on the southern line of Madera to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 867.]

Old section repealed (Stats. 1919, p. 857).

§ 3919. **Glenn.** Beginning at a point on the eastern boundary line of Lake, as established in section three thousand nine hundred twenty-five at the northwest corner of the southwest quarter of section twenty-six, township eighteen north, range eight west, Mount Diablo base and meridian; running thence east along the half section line, and one and one-half miles north of the line dividing townships seventeen and eighteen north, of Mount Diablo base and meridian, to the range line separating townships eighteen north, range two west, from eighteen north, range three west; thence running north two miles to northeast corner of southeast quarter of section thirteen, township eighteen north, range three west; running thence east along the half section line to the center of the Sacramento river; thence down the center of the said Sacramento river, in a southeasterly course, to the point of intersection with the half section line, one and one-half miles north of the line dividing townships seventeen and eighteen north, Mount Diablo base and meridian; thence east on said half section line to its intersection with Butte creek, said point of intersection lying on the western boundary of Butte county and being the southeastern corner of Glenn and the northeastern corner of Colusa; thence northerly along the middle of the channel of said Butte creek to the point of intersec

tion with the line between sections three and four of the Aguas Frias rancho as surveyed by La Croze thence north along the said line between the said sections three and four to its point of intersection with the line between township nineteen north, range one east and township twenty north, range one east; thence west along said line to its intersection with the southern boundary of the Llano Seco grant, on the north line of section two in township nineteen north, range one west; thence southwest along said grant line to the southwest corner of said grant in the center of the Sacramento river; thence northerly, and following the meanderings thereof, along the center of said Sacramento river, to a point where the north line of township twenty-two intersects the center of the Sacramento river, being the initial point of Tehama county, as established by law; thence west along the north line of township twenty-two north, to the southwest corner of Tehama county, as established in section three thousand nine hundred sixty of the Political Code; thence southerly on the established line between Mendocino and Lake counties, to the place of beginning. [New section added, May 23, 1919; Stats. 1919, p. 868.]

Old section repealed (Stats. 1919, p. 857).

§ 3920. Humboldt. Commencing at the point where the north line of township twelve north, range one east, Humboldt meridian, intersects with the Pacific Ocean; thence east on said township line to the northeast corner of township twelve north, range three east, Humboldt meridian; thence south to the southeast corner of said township twelve north, range three east, Humboldt meridian; thence east on the north boundary line of township eleven north, range four east, eleven north, five east, and eleven north, six east, Humboldt meridian, to the Klamath river; thence following said Klamath river in a southerly direction to the mouth of the Salmon river; thence in a southerly direction, following the ridge of the mountain that divides the waters of the Salmon and its tributaries from the waters of Klamath and Trinity rivers, and their tributaries to the northern line of Trinity county; thence southwesterly on the line of mountain, being the northern line of Trinity, to a point in the Trinity river directly east of the mouth of Mad river; thence southeasterly, up Trinity river, to the mouth of its south fork; thence southeasterly, along the eastern side of said south fork, one hundred feet above high-water mark, to the mouth of Grouse creek; thence south, to a point on the fortieth degree of north latitude, being on northern line of Mendocino, and forming southeast corner of Humboldt; thence west on said line, to the Pacific Ocean; thence northerly, along the ocean shore to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 869.]

Old section repealed (Stats. 1919, p. 857).

§ 3921. Imperial. Beginning on the second standard parallel south of San Bernardino base and meridian, at the common corner of township nine south, range nine east and township nine south, range eight east, said corner being the northwest corner of Imperial and the northeast corner of San Diego; thence east on the said second standard parallel to the state line on the Colorado river; thence down said river to its junction with the boundary line between the United States and Mexico; thence westerly, following that boundary to its intersection with the

township line between and dividing township eight and nine east, San Bernardino meridian; thence north along said township line to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 869.]

Old section repealed (Stats. 1919, p. 857).

§ 3922. **Inyo.** Beginning at the southeast corner of Tulare, as established in section three thousand nine hundred sixty-two, being the point of intersection of sixth standard south, Mount Diablo base, with summit line of Sierra Nevada mountains; thence east, by said standard and extension thereof, to the eastern line of the state, forming southeast corner; thence northwesterly, on state line, to the southeast corner of Mono, as established in section three thousand nine hundred thirty-four; thence west on the southern line of Mono to the summit of the Sierra Nevada mountains, being on the eastern line of Fresno, and forming the southwest corner of Mono and northwest corner of Inyo; thence southeasterly on said summit line to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 870.]

Old section repealed (Stats. 1919, p. 857).

§ 3923. **Kern.** Beginning at northwest corner, being common corner of San Luis Obispo, Kings, and Kern, as established in section three thousand nine hundred sixty-two; thence east, on the sixth standard south of Mount Diablo base, to the northwest corner of section one, township twenty-five south, range forty east, Mount Diablo meridian, said point being the northeast corner of Kern county and the northwest corner of San Bernardino county; thence south on the westerly line of San Bernardino as established in section three thousand nine hundred forty-four to the southeast corner of section thirty-two, township nine north, range seven west, San Bernardino base and meridian, forming the southeast corner of Kern county; thence west along the range line between ranges eight and nine north of San Bernardino base to the northeast corner of section five, township eight north, range nineteen west, San Bernardino base and meridian, said point being at the corner common to Ventura, Los Angeles and Kern counties, as established in section three thousand nine hundred sixty-four; thence westerly and northwesterly along the northern boundary of Ventura as defined in said section to the corner common to Santa Barbara, Ventura and Kern; thence along the northern boundary of Santa Barbara to the corner common to San Luis Obispo, Santa Barbara and Kern; thence northerly along the eastern boundary of San Luis Obispo to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 870.]

Old section repealed (Stats. 1919, p. 857).

§ 3924. **Kings.** Beginning at the northeast corner of section one in township seventeen south, range twenty-two east, Mount Diablo base and meridian; thence south six miles; thence east three miles; thence south nine miles to the southeast corner of section sixteen in township nineteen south, range twenty-three east, Mount Diablo base and meridian; thence west three miles to the southeast corner of section thirteen in township nineteen south, range twenty-two east, Mount Diablo base and meridian; thence south nine miles to the southeast corner of township twenty south, range twenty-two east, Mount Diablo base and meridian; thence west to the northeast corner of township twenty-one south, range twenty-two east; thence south twenty-four miles to the north

boundary of Kern county, as now established by law; thence west along said north boundary of Kern county to the corner common to the counties of Monterey, San Luis Obispo, and Kern, as now established by law; thence in a northwesterly direction along the line between the counties of Monterey and Kings, as now established by law, to the corner common to the counties of Kings, Monterey, and Fresno; thence in a northeasterly direction along the boundary line between Fresno and Kings counties, as now established by law, to the corner common to sections thirteen and twenty-four in township twenty south, range eighteen east, Mount Diablo base and meridian, and sections eighteen and nineteen in township twenty south, range nineteen east, Mount Diablo base and meridian, the same being the northwest corner of section nineteen in township twenty south, range nineteen east, Mount Diablo base and meridian; thence north fifteen miles to the southwest corner of section thirty-one in township seventeen south, range nineteen east, Mount Diablo base and meridian; thence east along the township line a distance of eleven and one-half miles, more or less, to the point where said township line intersects the center line of the main channel of Kings river; thence northeasterly and easterly following the meander of the said center line of the main channel of Kings river to the point where said center line intersects the boundary line between the county of Fresno and the county of Kings, as now established by law; thence northeasterly along said boundary line to the corner common to the counties of Tulare, Fresno, and Kings; thence east along the fourth standard parallel line south, Mount Diablo base and meridian, to the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 870.]

Old section repealed (Stats. 1919, p. 857).

§ 3925. **Lake.** Beginning at the monument on top of Mount Hull, established by T. P. Smythe and R. P. Hammond and party on October 20, 1885, and approved by H. J. Willey, surveyor-general of the State of California, on December 23, 1885; thence due north to the half section line running east and west through section two, township nineteen north, range ten west, Mount Diablo base and meridian; thence east along said half section line through sections two and one of said township, range, base and meridian, and then through section five to the southeast corner of the northeast quarter of said section five, township nineteen north, range nine west, Mount Diablo base and meridian; thence north along the line between and dividing sections four and five of said township, range, base and meridian, and continuing north along the line between and dividing sections thirty-two and thirty-three, twenty-eight and twenty-nine, twenty and twenty-one, to the common section corner of section sixteen, seventeen, twenty, and twenty-one, township twenty north, range nine west, said section corner being on the eastern boundary of Mendocino county and being also the common corner of Lake and Glenn counties; thence east between sections sixteen, twenty-one, fifteen, twenty-two, fourteen, twenty-three, thirteen, twenty-four, of township twenty north, range nine west, Mount Diablo meridian, and sections eighteen, nineteen, seventeen, twenty, sixteen, twenty-one, fifteen, twenty-two, township twenty north, range eight west, Mount Diablo meridian, to corner of sections fourteen, fifteen, twenty-two, twenty-three, township twenty north, range eight west, Mount Diablo

meridian; thence south between sections twenty-two, twenty-three, twenty-six, twenty-seven, thirty-four, thirty-five, township twenty north range eight west, Mount Diablo meridian, and sections two, three, ten, eleven, fourteen, fifteen, twenty-two, twenty-three, twenty-six, twenty-seven, thirty-four, thirty-five, township nineteen north, range eight west, Mount Diablo meridian, and sections two, three, ten, eleven, fourteen, fifteen, twenty-two, twenty-three, twenty-six, twenty-seven, to one-quarter section corner on section line dividing sections twenty-six and twenty-seven, township eighteen north, range eight west, Mount Diablo meridian; said point being on boundary line between the county of Glenn and the county of Colusa as established by "An act to change and permanently locate the boundary line between the counties of Glenn and Colusa, approved March 11, 1893"; thence running westerly along the half section line and one and one-half miles north of the line dividing townships seventeen and eighteen of Mount Diablo base and meridian, to the northwest corner of the southwest one-quarter of section thirty, township eighteen north, range eight west, Mount Diablo base and meridian, said corner being also the northwest corner of Colusa county; thence southerly on the western line of Colusa and Yolo counties to the point on said Yolo county line, where said line is intersected by the boundary line between Napa and Lake counties as defined in "An act to define the northern boundary line of Napa county, adjoining Lake and Yolo counties," approved March 8, 1872; thence southwesterly in a straight line to a large pile of rocks on the southeasterly side of the county road, at the lower and most easterly end of Hunting valley; thence down Hunting creek to its junction with Jericho creek in Jericho valley; thence down Jericho creek to its junction with Putah creek; thence southwesterly in a direct line to the Buttes cañon road at a point near the northwest corner of section nineteen, township ten north, range five west, said point being on the line between Lake and Napa counties as established in "An act to define the boundaries and provide for the organization of Lake county," approved May 20, 1861; thence westerly on the line established by said act to the summit of Mount St. Helena; thence northwesterly along the summit of the Mayacmas range, being the dividing ridge between the waters flowing into Russian river and those flowing into Clear Lake, to the southeast corner of Mendocino and the northeast corner of Sonoma counties as established in section three thousand nine hundred thirty-one; thence northerly along the eastern line of Mendocino county as established in said section, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 871.]

Old section repealed (Stats. 1919, p. 857).

§ 3926. Lassen. Beginning at the southwest corner, on the northern line of Sierra, located on the south boundary of township twenty-two north, range sixteen east, Mount Diablo base and meridian, at the corner common to sections thirty-five and thirty-six, and running thence north two miles to the corner common to sections twenty-three, twenty-four, and twenty-six, said township and range; thence east one mile to the east boundary of said township and range at the corner common to sections twenty-four and twenty-five; thence north one mile to the west corner of sections eighteen and nineteen, township twenty-two north, range seventeen east, Mount Diablo base and meridian; thence

east one-half mile to the quarter-section corner between said sections eighteen and nineteen; thence north one mile to the quarter-section corner between sections seven and eighteen, said township and range; thence east one-half mile to the corner common to sections seven, eight, seventeen and eighteen, said township and range; thence north on section lines to the south corner of sections thirty-one and thirty-two, township twenty-three north, range seventeen east, Mount Diablo base and meridian; thence north six miles to the south corner of sections thirty-one and thirty-two, township twenty-four north, range seventeen east, Mount Diablo base and meridian; thence east one-half mile; thence north two miles; thence west one-half mile; thence north two miles; thence west one mile, to the east corner of sections twelve and thirteen, township twenty-four north, range sixteen east, Mount Diablo base and meridian; thence north one-half mile to the quarter-section corner on east side of said section twelve; thence west one-half mile to the center of said section twelve; thence north one-half mile to the quarter-section corner between sections one and twelve, said township and range; thence west one-half mile to the corner common to sections one, two, eleven, and twelve, said township and range; thence north one-half mile to the quarter-section corner between said sections one and two; thence west one-half mile to the center of said section two; thence north one-half mile to the quarter-section corner on north boundary of said section two; thence west on township line one-half mile to the south corner of sections thirty-four and thirty-five, township twenty-five north, range sixteen east, Mount Diablo base and meridian; thence north one mile to the corner common to sections twenty-six, twenty-seven, thirty-four, and thirty-five, said township and range; thence west one-half mile to the quarter-section corner between said sections twenty-seven and thirty-four; thence north one mile to the quarter section corner between sections twenty-two and twenty-seven, said township and range; thence west one-half mile to the corner common to sections twenty-one, twenty-two, twenty-seven, and twenty-eight, said township and range; thence north one mile to the corner common to sections fifteen, sixteen, twenty-one, and twenty-two, said township and range; thence west one mile to the corner common to sections sixteen, seventeen, twenty, and twenty-one, said township and range; thence north two miles to the corner common to sections four, five, eight, and nine, said township and range; thence west one-half mile to the quarter-section corner between said sections five and eight; thence north three miles to the corner common to sections nineteen, twenty, twenty-nine, and thirty, said township and range; thence west two miles to the corner common to sections twenty-three, twenty-four, twenty-five, and twenty-six, township twenty-six north, range fifteen east, Mount Diablo base and meridian; thence north one and one-half miles to the quarter-section corner between sections thirteen and fourteen, said township and range; thence west one mile to the quarter-section corner between sections fourteen and fifteen, said township and range; thence north one-half mile to the corner common to sections ten, eleven, fourteen, and fifteen, said township and range; thence west four miles to the west corner of sections seven and eighteen, said township and range; thence north, on township line, one-half mile to the quarter-section corner, on east boundary of section twelve, township twenty-six north, range fourteen east, Mount Diablo base and meridian; thence west one mile to the quarter-

section corner between sections eleven and twelve, said township and range; thence north one-half mile to the corner common to sections one, two, eleven, and twelve, said township and range; thence west one mile to the corner common to sections two, three, ten and eleven, said township and range; thence north three-quarters of a mile to the southwest corner of lot five in section two and the southeast corner of lot seven in section three, said township and range; thence west one mile to the southwest corner of lot five in section three and the southeast corner of lot seven in section four, said township and range; thence north one-half mile to the north corner of sections three and four, said township and range; thence west on township line one-half mile to the quarter-section corner on south boundary of section thirty-three, township twenty-seven north, range fourteen east, Mount Diablo base and meridian; thence north one mile to the quarter-section corner between sections twenty-eight and thirty-three, said township and range; thence west one-half mile to the corner common to sections twenty-eight, twenty-nine, thirty-two and thirty-three, said township and range; thence north one-half mile to the quarter-section corner between said sections twenty-eight and twenty-nine; thence west one mile to the quarter-section corner between sections twenty-nine and thirty, said township and range; thence north one-half mile to the corner common to sections nineteen, twenty, twenty-nine and thirty, said township and range; thence west one-half mile to the quarter-section corner between said sections nineteen and thirty; thence north one mile to the quarter section corner between sections eighteen and nineteen, said township and range; thence west one-half mile to west corner of said sections eighteen and nineteen; thence north on township line one mile to the east corner of sections twelve and thirteen, township twenty-seven north, range thirteen east, Mount Diablo base and meridian; thence west one and one-half miles to the quarter-section corner between sections eleven and fourteen, said township and range; thence north one mile to the quarter-section corner between sections two and eleven, said township and range; thence west one-half mile to the corner common to sections two, three, ten and eleven, said township and range; thence north one mile to the north corner of said sections two and three; thence west on township line one mile to the south corner of sections twenty-three and thirty-four, township twenty-eight north, range thirteen east, Mount Diablo base and meridian; thence north one mile to the corner common to sections twenty-seven, twenty-eight, thirty-three and thirty-four, said township and range; thence west one mile to the corner common to sections twenty-eight, twenty-nine, thirty-two, and thirty-three, said township and range; thence north one-half mile to the quarter-section corner between said sections twenty-eight and twenty-nine; thence, west one mile to the quarter-section corner between sections twenty-nine and thirty, said township and range; thence north one-half mile; thence west one and one-half miles to the quarter-section corner between sections twenty-four and twenty-five, township twenty-eight north, range twelve east; thence north one and one-half miles to the center of section thirteen, said township and range; thence west two and one-half miles to the quarter-section corner between sections fifteen and sixteen, said township and range; thence north one-half mile to the corner common to sections nine, ten, fifteen, and sixteen, said township and range; thence west one mile to the

corner common to sections eight, nine, sixteen, and seventeen, said township and range; thence north one-half mile to the quarter-section corner between said sections eight and nine; thence west one-half mile to the center of said section eight; thence north one-half mile to the quarter-section corner between sections five and eight, said township and range; thence west four miles to the quarter-section corner between sections three and ten, township twenty-eight north, range eleven east, Mount Diablo base and meridian; thence north one-half mile to the center of said section three; thence west two miles to the center of section five, said township and range; thence south one-half mile to the quarter-section corner between sections five and eight, said township and range; thence west one-half mile to the corner common to sections five, six, seven, and eight, said township and range; thence south one-half mile to the quarter-section corner between said sections seven and eight; thence west one mile, more or less, to the quarter-section corner on the west boundary of said section seven; thence south on township line to the east corner of sections thirteen and twenty-four, township twenty-eight north, range ten east, Mount Diablo base and meridian; thence west one mile to the corner common to sections thirteen, fourteen, twenty-three, and twenty-four, said township and range; thence south one-half mile to the quarter-section corner between said sections twenty-three and twenty-four; thence west one mile to the quarter-section corner between sections twenty-two and twenty-three, said township and range; thence south one mile to the quarter-section corner between sections twenty-six and twenty-seven, said township and range; thence west one-half mile to the center of said section twenty-seven; thence south one-half mile to the quarter-section corner between sections twenty-seven and thirty-four, said township and range; thence west one-half mile to the corner common to sections twenty-seven, twenty-eight, thirty-three and thirty-four, said township and range; thence south one-half mile to the quarter-section corner between said sections thirty-three and thirty-four; thence west one mile to the quarter-section corner between sections thirty-two and thirty-three, said township and range; thence south three miles to the quarter-section corner between sections sixteen and seventeen, township twenty-seven north, range ten east, Mount Diablo base and meridian; thence west one mile to the quarter section corner between sections seventeen and eighteen, said township and range; thence south one-half mile to the corner common to sections seventeen, eighteen, nineteen and twenty, said township and range; thence west two miles to the corner common to sections thirteen, fourteen, twenty-three and twenty-four, township twenty-seven north, range nine east, Mount Diablo base and meridian; thence north one mile to the corner common to sections eleven, twelve, thirteen and fourteen, said township and range; thence west one mile to the corner common to sections ten, eleven, fourteen and fifteen, said township and range; thence north one mile to the corner common to sections two, three, ten and eleven, said township and range; thence west three miles to the corner common to sections five, six, seven and eight, said township and range; thence north one mile to the section corner common to sections thirty-one and thirty-two, township twenty-eight north, range nine east; thence west on township line two miles to the south corner of sections thirty-five and thirty-six, township twenty-eight north, range eight east, Mount Diablo base and meridian; thence north one and one-half

section corner between sections eleven and twelve, said township and range; thence north one-half mile to the corner common to sections one, two, eleven, and twelve, said township and range; thence west one mile to the corner common to sections two, three, ten and eleven, said township and range; thence north three-quarters of a mile to the southwest corner of lot five in section two and the southeast corner of lot seven in section three, said township and range; thence west one mile to the southwest corner of lot five in section three and the southeast corner of lot seven in section four, said township and range; thence north one-half mile to the north corner of sections three and four, said township and range; thence west on township line one-half mile to the quarter-section corner on south boundary of section thirty-three, township twenty-seven north, range fourteen east, Mount Diablo base and meridian; thence north one mile to the quarter-section corner between sections twenty-eight and thirty-three, said township and range; thence west one-half mile to the corner common to sections twenty-eight, twenty-nine, thirty-two and thirty-three, said township and range; thence north one-half mile to the quarter-section corner between said sections twenty-eight and twenty-nine; thence west one mile to the quarter-section corner between sections twenty-nine and thirty, said township and range; thence north one-half mile to the corner common to sections nineteen, twenty, twenty-nine and thirty, said township and range; thence west one-half mile to the quarter-section corner between said sections nineteen and thirty; thence north one mile to the quarter section corner between sections eighteen and nineteen, said township and range; thence west one-half mile to west corner of said sections eighteen and nineteen; thence north on township line one mile to the east corner of sections twelve and thirteen, township twenty-seven north, range thirteen east, Mount Diablo base and meridian; thence west one and one-half miles to the quarter-section corner between sections eleven and fourteen, said township and range; thence north one mile to the quarter-section corner between sections two and eleven, said township and range; thence west one-half mile to the corner common to sections two, three, ten and eleven, said township and range; thence north one mile to the north corner of said sections two and three; thence west on township line one mile to the south corner of sections twenty-three and thirty-four, township twenty-eight north, range thirteen east, Mount Diablo base and meridian; thence north one mile to the corner common to sections twenty-seven, twenty-eight, thirty-three and thirty-four, said township and range; thence west one mile to the corner common to sections twenty-eight, twenty-nine, thirty-two, and thirty-three, said township and range; thence north one-half mile to the quarter-section corner between said sections twenty-eight and twenty-nine; thence, west one mile to the quarter-section corner between sections twenty-nine and thirty, said township and range; thence north one-half mile; thence west one and one-half miles to the quarter-section corner between sections twenty-four and twenty-five, township twenty-eight north, range twelve east; thence north one and one-half miles to the center of section thirteen, said township and range; thence west two and one-half miles to the quarter-section corner between sections fifteen and sixteen, said township and range; thence north one-half mile to the corner common to sections nine, ten, fifteen and sixteen, said township and range; thence west one mile to the

corner common to sections eight, nine, sixteen, and seventeen, said township and range; thence north one-half mile to the quarter-section corner between said sections eight and nine; thence west one-half mile to the center of said section eight; thence north one-half mile to the quarter-section corner between sections five and eight, said township and range; thence west four miles to the quarter-section corner between sections three and ten, township twenty-eight north, range eleven east, Mount Diablo base and meridian; thence north one-half mile to the center of said section three; thence west two miles to the center of section five, said township and range; thence south one-half mile to the quarter-section corner between sections five and eight, said township and range; thence west one-half mile to the corner common to sections five, six, seven, and eight, said township and range; thence south one-half mile to the quarter-section corner between said sections seven and eight; thence west one mile, more or less, to the quarter-section corner on the west boundary of said section seven; thence south on township line to the east corner of sections thirteen and twenty-four, township twenty-eight north, range ten east, Mount Diablo base and meridian; thence west one mile to the corner common to sections thirteen, fourteen, twenty-three, and twenty-four, said township and range; thence south one-half mile to the quarter-section corner between said sections twenty-three and twenty-four; thence west one mile to the quarter-section corner between sections twenty-two and twenty-three, said township and range; thence south one mile to the quarter-section corner between sections twenty-six and twenty-seven, said township and range; thence west one-half mile to the center of said section twenty-seven; thence south one-half mile to the quarter-section corner between sections twenty-seven and thirty-four, said township and range; thence west one-half mile to the corner common to sections twenty-seven, twenty-eight, thirty-three and thirty-four, said township and range; thence south one-half mile to the quarter-section corner between said sections thirty-three and thirty-four; thence west one mile to the quarter-section corner between sections thirty-two and thirty-three, said township and range; thence south three miles to the quarter-section corner between sections sixteen and seventeen, township twenty-seven north, range ten east, Mount Diablo base and meridian; thence west one mile to the quarter section corner between sections seventeen and eighteen, said township and range; thence south one-half mile to the corner common to sections seventeen, eighteen, nineteen and twenty, said township and range; thence west two miles to the corner common to sections thirteen, fourteen, twenty-three and twenty-four, township twenty-seven north, range nine east, Mount Diablo base and meridian; thence north one mile to the corner common to sections eleven, twelve, thirteen and fourteen, said township and range; thence west one mile to the corner common to sections ten, eleven, fourteen and fifteen, said township and range; thence north one mile to the corner common to sections two, three, ten and eleven, said township and range; thence west three miles to the corner common to sections five, six, seven and eight, said township and range; thence north one mile to the section corner common to sections thirty-one and thirty-two, township twenty-eight north, range nine east; thence west on township line two miles to the south corner of sections thirty-five and thirty-six, township twenty-eight north, range eight east, Mount Diablo base and meridian; thence north one and one-half

miles to the quarter-section corner between sections twenty-five and twenty-six, said township and range; thence west one mile to the quarter-section corner between sections twenty-six and twenty-seven, said township and range; thence north thirteen miles, more or less, to the quarter-section corner between sections twenty-two and twenty-three, township thirty north, range eight east, Mount Diablo base and meridian; thence west fourteen miles, more or less, to the corner common to Shasta, Lassen and Plumas, said corner being the southeast corner of Shasta county and situated in the west half of section twenty-one, township thirty-one north, range six east, Mount Diablo base and meridian; thence north on the eastern line of Shasta to the southern line of Modoc marked by a rock mound, being northwest corner of Lassen and northeast corner of Shasta; thence east, along said line, to the eastern boundary of the state; thence south, along said state line, to the northeast corner of Sierra, as established in section three thousand nine hundred fifty-four; thence west, along the line of Sierra, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 873.]

Old section repealed (Stats. 1919, p. 857).

§ 3927. **Los Angeles.** Beginning at the intersection of the southwesterly boundary line of the State of California with a line drawn normal to the shore of the Pacific Ocean from the southwesterly corner of fractional section twenty-seven, township one south, range twenty west, San Bernardino base and meridian; thence northerly in a straight line three miles to the southwesterly corner of said fractional section twenty-seven; thence north along the west lines of fractional section twenty-seven and sections twenty-two, fifteen, ten and three, township one south, range twenty west, San Bernardino base and meridian, to line number three of the boundary of the Rancho El Conejo; thence northeasterly, southeasterly, northeasterly and northerly along lines numbers three, four, five, six and seven of the boundary of the Rancho El Conejo to a point in said line number seven, being corner number seven of the boundary of the Rancho Simi; thence easterly along line number seven, northerly along line number eight, easterly along line number nine and northerly along line number ten of the boundary of the Rancho Simi to corner number eleven of the Rancho Simi, being in the southerly boundary line of the Rancho San Francisco; thence westerly along the southerly boundary line of the Rancho San Francisco to a point in said line due south of the southwest corner of fractional section twenty, township four north, range seventeen west, San Bernardino base and meridian; thence due north to the southwest corner of said fractional section twenty, said last mentioned corner being in the northerly boundary line of the Rancho San Francisco; thence westerly along the northerly line of the Rancho San Francisco to the range line between ranges seventeen and eighteen west, San Bernardino base and meridian; thence north along said range line to the northeast corner of township five north, range eighteen west, San Bernardino base and meridian; thence west along the township line between townships five and six north to the southwest corner of township six north, range eighteen west, San Bernardino base and meridian; thence north along the range line between ranges eighteen and nineteen west, San Bernardino base and meridian, to the corner common to townships seven and eight north,

ranges eighteen and nineteen west, San Bernardino base and meridian; thence west along the south line of township eight north, range nineteen west, to the southwest corner of section thirty-three, township eight north, range nineteen west, San Bernardino base and meridian; thence north along the west lines of sections thirty-three, twenty-eight, twenty-one, sixteen, nine and four, township eight north, range nineteen west, San Bernardino base and meridian, to the northwest corner of said section four, said corner being a point common to the boundaries of the counties of Kern, Ventura and Los Angeles; thence east along the north line of township eight north, San Bernardino base and meridian, to the northeast corner of township eight north, range eight west, San Bernardino base and meridian, said corner being a point common to the boundaries of the counties of San Bernardino, Kern and Los Angeles; thence south along the range line between ranges seven and eight west, to the southeast corner of township six north, range eight west, San Bernardino base and meridian; thence east along the township line between townships five and six north to the northeast corner of township five north, range eight west, San Bernardino base and meridian; thence south along the range line between ranges seven and eight west, to the southeast corner of township five north, range eight west, San Bernardino base and meridian; thence east along township line between townships four and five north, range seven west, to the northeast corner of section six, township four north, range seven west, San Bernardino base and meridian; thence south along the east line of sections six, seven, eighteen, nineteen, thirty and thirty-one, township four north, range seven west, and south along the east line of sections six, seven, eighteen, nineteen, thirty and thirty-one, township three north, range seven west, to the north line of township two north, range seven west, San Bernardino base and meridian; thence west along the north line of township two north, range seven west, to the northwest corner of township two north, range seven west, San Bernardino base and meridian; thence south along the range line between ranges seven and eight west, to the southeast corner of township two north, range eight west, San Bernardino base and meridian; thence southwesterly in a straight line to the northwest corner of the Rancho Cucamonga; thence southwesterly along the northwesterly boundary line of the Rancho Cucamonga to the most westerly corner of the Rancho Cucamonga, being in section twenty-six, township one north, range eight west, San Bernardino base and meridian; thence southwesterly in a straight line to the northeast corner of the Rancho San Jose; thence southwesterly and westerly along the easterly and southerly boundary lines of the Rancho San Jose to the range line between ranges eight and nine west, in township two south, San Bernardino base and meridian; thence south along the range line between ranges eight and nine west, to the southeast corner of section twelve, township two south, range nine west, San Bernardino base and meridian, said corner being an angle point in the boundary line of the Rancho Santa Ana del Chino; thence westerly, southwesterly, southerly, easterly and southerly along the boundary line of the Rancho Santa Ana del Chino to the southwest corner of the Rancho Santa Ana del Chino, said corner being in the center of section thirty-five, township two south, range nine west, San Bernardino base and meridian; thence southeasterly in a straight line to a point in the south line of section thirty-six, township two

south, range nine west, San Bernardino base and meridian, distant fifty-two and eighty-four hundredths feet easterly thereon from the southwest corner of said section thirty-six, said point being common to the boundaries of the counties of San Bernardino, Orange and Los Angeles; thence westerly along the northern line of Orange county as defined in section three thousand nine hundred thirty-eight to the southwesterly boundary line of the State of California; thence northwesterly along the southwesterly boundary line of the State of California to the point of beginning; also including the islands of Santa Catalina and San Clemente with the adjacent waters three miles from shore. [New section added May 23, 1919; Stats. 1919, p. 877.]

Old section repealed (Stats. 1919, p. 857).

§ 3928. **Madera.** Beginning at a point where the third standard line south of Mount Diablo base line crosses the San Joaquin river; thence up the middle of said river, following the meanderings thereof southeasterly and northeasterly, to the point where said river crosses the south boundary line of township six south, of range twenty-four east, Mount Diablo base and meridian; thence running northeast to the boundary line of Mono county; thence following the western line of Mono county and southern line of Tuolumne to the corner common to the counties of Tuolumne, Mariposa, and Madera; thence following the southern line of Mariposa, to the southeast corner of Merced; thence westerly, following the southern line of Merced to a point where said line is intersected by the San Joaquin river; thence following up the middle of said river to the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 879.]

Old section repealed (Stats. 1919, p. 857).

§ 3929. **Marin.** Beginning in the Pacific Ocean at southwestern corner of Sonoma; thence southeasterly along southern line of Sonoma, as established in section three thousand nine hundred fifty-seven, to the mouth of Petaluma creek; thence to common corner of Marin, Sonoma, Contra Costa, and Solano, in San Pablo bay, as established in section three thousand nine hundred fifty-seven; thence southerly along the western boundary of Contra Costa, in the bay of San Pablo, to the middle of the straits of San Pablo; thence southerly, in a direct line, to invisible rock, in the bay of San Francisco, near the entrance of the straits of San Pablo; thence, in a direct line, to northwestern point of Red Rock; thence southerly to the extreme southerly point of Angel island; thence southwesterly to the extreme end of Point Cavallo at low-water mark; thence on the line of low-water mark along the northern shore of the bay to Point Bonita, and three miles into the Pacific Ocean, to the northwestern corner of San Francisco, as established in section three thousand nine hundred forty-six; thence northwesterly by ocean shore to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 880.]

Old section repealed (Stats. 1919, p. 857).

§ 3930. **Mariposa.** Beginning on the boundary line of Madera county, where the Stockton road to Millerton crosses the Chowchilla creek, known as Newton's crossing; thence north, forty-six degrees east, to the southwest corner of section eleven, and the northwest corner of section fourteen, in township six south, range twenty east, of Mount

Diablo meridian; thence east to the northwest corner of section fourteen, in township six south, range twenty-one east; thence north to the northwest corner of section thirty-five, township five south, range twenty-one east; thence east to the southwest corner of section thirty, in township five south, range twenty-two east; thence north to the southwest corner of the Mariposa Big Tree Grant; thence east, along the line of said grant to the southeast corner of said grant; thence north, along line of said grant to the northeast corner of the same; thence north to the original boundary line between the counties of Mariposa and Fresno; thence northeasterly along said line to the boundary line of Tuolumne county; thence westerly, by the southerly boundary of Tuolumne, to the southwest corner thereof, being common corner of Stanislaus, Merced, Tuolumne, and Mariposa; thence southeasterly, on the eastern line of Merced, as established in section three thousand nine hundred thirty-two, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 880.]

Old section repealed (Stats. 1919, p. 857).

§ 3931. **Mendocino.** Beginning at the southwest corner of Humboldt, as established in section three thousand nine hundred twenty; thence east on the southern line of Humboldt to the west boundary of Trinity county as established in section three thousand nine hundred sixty-one; thence southerly along said west boundary of Trinity county two miles more or less to the southwest corner of said county as described in said section three thousand nine hundred sixty-one; thence east along the southern boundary of Trinity county to the summit of the Coast Range mountains, forming the southeast corner of Trinity and the northeast corner of Mendocino county and being the western boundary of Tehama county as established in section three thousand nine hundred sixty; thence southerly along the said western boundary of Tehama county to the southwest corner of the said county which is also the northwest corner of Glenn county; thence south along the half section line running south through sections two, eleven, fourteen, and twenty-three to the middle of said section twenty-three in township twenty-two north, range ten west, Mount Diablo base and meridian; thence east along the half section line through sections twenty-three and twenty-four to the southeast corner of the northeast quarter of section twenty-four; thence south on the range line between ranges nine and ten west, to the southwest corner of section thirty-two in township twenty-two north, range nine west; thence east along the line between and dividing sections five and thirty-two to the southeast corner of said section thirty-two; thence south on the line between and dividing sections four and five, eight and nine, sixteen and seventeen, twenty and twenty-one, twenty-eight and twenty-nine, thirty-two and thirty-three, all in township twenty-one north, range nine west, Mount Diablo base and meridian to the southeast corner of section thirty-two; thence east on the line dividing townships twenty and twenty-one north, range nine west, the same being the fourth standard parallel line north, seven hundred seventy-five feet, more or less, to the northeast corner of section five in township twenty north, range nine west; thence south along the line between and dividing sections four and five, eight and nine, sixteen and seventeen, twenty and twenty-one, twenty-eight and twenty-nine, thirty-two and thirty-three, all of township twenty north, range

nine west; thence continuing south along the line between and dividing sections four and five of township nineteen north, range nine west to the southeast corner of the northeast quarter of said section five, township nineteen north, range nine west; thence west along the said half section line through section five and then through sections one and two in township nineteen north, range ten west, Mount Diablo base and meridian, to a point on said line due north from the monument on top of Mount Hull, established by T. P. Smythe and R. P. Hammond and party on October 20, 1885, and approved by H. J. Willey, surveyor-general of the state of California, on December 23, 1885; thence due south to said monument; thence due south to the half section line running east and west through section eleven, township nineteen north, range ten west, Mount Diablo base and meridian; thence west along said half section line through sections eleven, ten, nine, eight, and seven of said township, range, base and meridian; and thence through section twelve, township nineteen north, range eleven west, Mount Diablo base and meridian; to the center of said section twelve; thence south one-half mile to the quarter-section corner on the south boundary of said section twelve; thence west one mile to the quarter-section corner between sections eleven and fourteen, said last mentioned township and range; thence south one-half mile to the center of said section fourteen; thence west one mile to the center of section fifteen, said township and range; thence south along the half section line running through sections fifteen, twenty-two, twenty-seven, and thirty-four, to the quarter section corner on the south line of section thirty-four, said township nineteen north, range eleven west, Mount Diablo base and meridian; thence west along the township line between townships eighteen and nineteen north, range eleven west, Mount Diablo base and meridian, to the northwest corner of lot three, section three, township eighteen north, range eleven west, Mount Diablo base and meridian; thence south along the line dividing the east half of the west half from the west half of the west half of said section three, a distance of one mile to the south boundary line of said section three; thence west along the south boundary of said section three to the corner common to sections three, four, nine, and ten, said township and range; thence south along the section line between sections nine and ten and fifteen and sixteen, a distance of two miles to the corner of sections fifteen, sixteen, twenty-one and twenty-two, said last mentioned township and range; thence east along the line between sections fifteen and twenty-two to the corner of sections fourteen, fifteen, twenty-two and twenty-three, said township nineteen north, range eleven west; thence south along the section line between sections twenty-two and twenty-three, and twenty-six and twenty-seven, a distance of two miles to the corner of sections twenty-six, twenty-seven, thirty-four, and thirty-five, said township and range; thence east along the section line between sections twenty-six and thirty-five, a distance of one-half mile to the quarter section corner between last mentioned sections; thence south along the half section line one mile to the quarter-section corner on the south boundary of section thirty-five, township eighteen north, range eleven west, Mount Diablo base and meridian; thence east along the township line on the north boundary of township seventeen north, range eleven west, Mount Diablo base and meridian, to the northeast corner of section two, said township and range; thence south along

the section line between sections one and two, and eleven and twelve, a distance of two miles to the corner of sections eleven, twelve, thirteen, and fourteen; thence east along the section line between sections twelve and thirteen, a distance of one-half mile to the quarter-section corner between said sections; thence south along the half section line a distance of one mile to the quarter-section corner between sections thirteen and twenty-four; thence east along the section line between said sections thirteen and twenty-four, a distance of one-half mile to the line between townships seventeen north, ranges ten and eleven west, Mount Diablo base and meridian; thence south along said line a distance of three miles to the corner of townships sixteen and seventeen north, ranges ten and eleven west, Mount Diablo base and meridian; thence east along the north line of township sixteen north, range ten west, Mount Diablo base and meridian, to the northeast corner of section six, said township and range; thence south along the section line between sections five and six and seven and eight, a distance of one and one-half miles to the quarter-section corner between sections seven and eight; thence east along the half section line a distance of one-half mile to the center of said section eight; thence south along the half-section line a distance of one and one-half miles to the quarter-section corner between sections seventeen and twenty, said township and range; thence west along the section line a distance of one mile to the quarter-section corner between sections eighteen and nineteen; thence south along the half-section line a distance of one mile to the quarter-section corner between sections nineteen and thirty; thence west one-half mile more or less, to the corner of sections nineteen, twenty-four, twenty-five, and thirty, township sixteen north, ranges ten and eleven west, Mount Diablo base and meridian; thence south along the range line between said ranges ten and eleven, a distance of one-half mile to the quarter-section corner on the east boundary of section twenty-five, township sixteen north, range eleven west; thence west along the north line of lot three, section twenty-five, said township and range, a distance of one-quarter mile, more or less, to the northwest corner of said lot three; thence south along the west line of lots three and four, said section twenty-five, a distance of one-half mile to the south boundary of said section twenty-five; thence west along the south line of said section twenty-five to the quarter-section corner between sections twenty-five and thirty-six, said township and range; thence south along the half-section line, a distance of one-half mile to the center of said section thirty-six; thence west along the half-section line a distance of one-fourth mile to the northwest corner of the northeast quarter of the southwest quarter of said section thirty-six; thence south along the west line of the northeast quarter of the southwest quarter and the west line of lot six of said section thirty-six, to the north boundary of township fifteen north, range eleven west, Mount Diablo base and meridian; thence west along said township line to the quarter-section corner on the north boundary of section two, township fifteen north, range eleven west, Mount Diablo base and meridian; thence south along the half-section line to the quarter-section corner between sections two and eleven, said township and range; thence west along the section line between sections two and eleven one-quarter mile to the northwest corner of the east half of the northwest quarter of said section eleven; thence south along the west line of the said east

half of the northwest quarter of section eleven, a distance of one-half mile to the half-section line running east and west through said section eleven; thence west along said half-section line one and three-quarters miles to the center of section nine, said township and range; thence south along the half-section line a distance of two and one-half miles to the quarter-section corner between sections twenty-one and twenty-eight; thence west along the section line a distance one-half mile to the corner of sections twenty, twenty-one, twenty-eight, and twenty-nine; thence south along the section line a distance of two miles to the line on the north boundary of townships fourteen north, range eleven west, Mount Diablo base and meridian; thence east along said township line a distance of three and sixty-five hundredths chains to the northwest corner of section four, township fourteen north, range eleven west, Mount Diablo base and meridian; thence south along the section line a distance of one mile to the corner of sections four, five, eight, and nine, said township and range; thence west along the section line a distance of one-half mile to the quarter-section corner between sections five and eight; thence south along the half-section line to the quarter-section corner on the south boundary of section eight; thence east along the section line between sections eight and seventeen, a distance of five and ninety-hundredths chains more or less, to the quarter-section corner on the north boundary of section seventeen; thence south along the half-section line a distance of one-half mile to the center of said section seventeen; thence east along the half-section line a distance of one-half mile to the quarter-section corner between sections sixteen and seventeen; thence south along the section line a distance of one-half mile to the corner of sections sixteen, seventeen, twenty, and twenty-one; thence east along the section line a distance of one mile to the corner of sections fifteen, sixteen, twenty-one, and twenty-two; thence south along the section line a distance of one mile to the corner of sections twenty-one, twenty-two, twenty-seven, and twenty-eight; thence east along the section line a distance of one-half mile to the quarter-section corner between sections twenty-two and twenty-seven; thence south along the half-section line two miles to the north boundary of township thirteen north, range eleven west, Mount Diablo base and meridian; thence east along the township line one-half mile to the northwest corner of section two, said township and range; thence south along the section line a distance of one-half mile to the quarter-section corner between sections two and three; thence east along the half-section line a distance of one-half mile to the center of said section two; thence south along the half-section line a distance of one-half mile to the quarter-section corner between sections two and eleven; thence east along the section line a distance of one-half mile to the corner of sections one, two, eleven, and twelve; thence south along the section line a distance of one-half mile to the quarter-section corner between sections eleven and twelve; thence east along the half-section line a distance of one-half mile to the center of said section twelve; thence south along the half-section line a distance of one-quarter mile to the corner of lots two, three, six, and seven, said section twelve; thence east along the south line of lots one and two of said section twelve, a distance of one-half mile to the line between townships thirteen north, ranges eleven and twelve west, Mount Diablo base and meridian; thence north along said range line a distance of nine and twenty-five hundredths chains to the

southwest corner of section five, township thirteen north, range ten west, Mount Diablo base and meridian; thence east along the section line a distance of eighty-nine chains to the corner of sections four, five, eight, and nine; thence south along the section line a distance of one mile to the corner of sections eight, nine, sixteen, and seventeen; thence east along the section line a distance of one-half mile to the quarter-section corner between sections nine and sixteen; thence south along the half-section line a distance of two and one-half miles to the center of section twenty-eight; thence east along the half-section line a distance of one-half mile to the quarter-section corner between sections twenty-seven and twenty-eight; thence south along the section line a distance of one mile to the quarter-section corner between sections thirty-three and thirty-four; thence east along the half-section line, a distance of one-half mile to the center of section thirty-four; thence south along the half-section line a distance of one-half mile to the north boundary of township twelve north, range ten west, Mount Diablo base and meridian; thence east along said township line a distance of fifty-five chains to the northeast corner of section three, township twelve north, range ten west; thence south along the section line a distance of one and one-half miles to the quarter-section corner between sections ten and eleven; thence east along the half-section line a distance of two miles to the line between townships twelve north, ranges nine and ten west, Mount Diablo base and meridian; thence south along the line between said ranges nine and ten a distance of one-half mile to the corner of sections seven, twelve, thirteen, and eighteen, said townships and ranges; thence east along the section line a distance of one mile to the corner of sections seven, eight, seventeen, and eighteen, township twelve north, range nine west, Mount Diablo base and meridian; thence south along the section line a distance of one mile to the corner of sections seventeen, eighteen, nineteen, and twenty; thence east along the section line a distance of one mile to the corner of sections sixteen, seventeen, twenty, and twenty-one; thence south along the section line a distance of one-half mile to the quarter-section corner between sections twenty and twenty-one; thence east along the half-section line a distance of one mile to the quarter-section corner between sections twenty-one and twenty-two; thence south along the section line a distance of one-half mile to the corner of sections twenty-one, twenty-two, twenty-seven, and twenty-eight; thence east along the section line a distance of one mile to the corner of sections twenty-two, twenty-three, twenty-six, and twenty-seven; thence south along the section line a distance of one-half mile to the quarter-section corner between sections twenty-six and twenty-seven; thence east along the half-section line a distance of one mile to the quarter-section corner between sections twenty-five and twenty-six; and thence south along the section line a distance of one-half mile to the corner of sections twenty-five, twenty-six, thirty-five, and thirty-six, township twelve north, range nine west, Mount Diablo base and meridian, said point being the southeast corner of Mendocino and the northeast corner of Sonoma county; thence westerly on the northern line of Sonoma to the Pacific Ocean; thence northerly along the ocean shore to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 881.]

Old section repealed (Stats. 1919, p. 857).

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§ 3932. **Merced.** Beginning at northwest corner, being southwest corner of Stanislaus as shown on survey and map of A. J. Stakes, 1868; thence northeasterly, on southern line of Stanislaus, as described in section three thousand nine hundred fifty-eight, to common corner of Tuolumne, Mariposa, Merced, and Stanislaus, as established in said section; thence southeasterly, by direct line, being western line of Mariposa, to Phillips' ferry, on Merced river; thence southeasterly, on line of Mariposa, being line shown on "map of Mariposa county," to Newton's crossing on Chowchilla creek, forming southeast corner; thence down the northern side and on high-water mark, being on line of Madera to the lower clump of cottonwood timber at the sink of said creek; thence south, forty-five degrees west, to the eastern line of San Benito, forming southwest corner; thence northwesterly, by said line of San Benito and Santa Clara, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 886.]

Old section repealed (Stats. 1919, p. 857).

§ 3933. **Modoc.** Commencing at the northeast corner of the State of California; thence west, along the northern boundary line of said state, to the range line between ranges numbers four and five east, of Mount Diablo base and meridian; thence due south, on said range line, to the southern boundary line of Siskiyou county; thence east along an extension of said southern boundary line, to the state line; and thence north to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 886.]

Old section repealed (Stats. 1919, p. 857).

§ 3934. **Mono.** Beginning at north corner on state line, being east corner of Alpine, as established in section three thousand nine hundred ten; thence southwesterly, on the easterly line of Alpine, as established in section three thousand nine hundred ten, to the main summit of the Sierra Nevada mountains; thence southerly, along said summit, on easterly line of Alpine, Tuolumne, Madera, and Fresno, to a point where the northern line of township six south, Mount Diablo base, intersects said summit line, forming southwest corner; thence east, on said township line, being the northern line of Inyo, to the eastern line of the state, forming southeast corner; thence northwest, on the state line, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 887.]

Old section repealed (Stats. 1919, p. 857).

§ 3935. **Monterey.** Beginning in Pacific Ocean, at southwest corner of Santa Cruz, as established in section three thousand nine hundred fifty-two; thence east to the mouth of Pajaro river, on the bay of Monterey; thence up said stream to a point in its center, said point being the northwest corner of the Rancho las Arroyitas y Agua Caliente, and being also the northwest corner of San Benito county, and running thence in a southerly direction along the southwest boundary of said rancho to the southwest corner thereof; thence southerly in a direct line to the northwest corner of the Rancho las Vergelos; thence southerly in a direct line to the summit of the Gavilan range of mountains; and thence southeasterly along the summit of said Gavilan mountains to the Chalone peak; thence southeasterly in a direct line to the divi-

ation line of the parts of the San Lorenzo Sobrantes owned respectively by Breen and Dunn; thence along said dividing line of said rancho to the southern boundary thereof; thence due south to the San Lorenzo creek; thence southeasterly up said San Lorenzo or Lewis creek, and up the north fork thereof, to the summit of the divide between the waters of said Lewis creek and San Benito creek; thence, following said divide southerly, to the summit of the Coast range of mountains, this being the common corner of Monterey, San Benito and Fresno counties; thence southeasterly along the summit of the Coast range to the sixth standard south, Mount Diablo base, being the common corner of San Luis Obispo, Kern, Tulare, and Monterey; thence following the northern boundary of San Luis Obispo county, on said standard line and extension thereof, to the Pacific Ocean; thence along the shore northerly to the place of beginning. [New section added May 23 1919; Stats. 1919, p. 887.]
beginning. [New section added May 23, 1919; Stats. 1919, p. 887.]

§ 3936. Napa. Beginning at southwestern corner, at a point in Huichica creek where the said creek empties into San Pablo bay; thence east to the mountains dividing Napa valley from Suisun valley, forming southeastern corner; thence northerly along the summit line of said mountains to its intersection with the first standard north, Mount Diablo base, marked by a rock monument erected by Ralph Norris; thence east along said standard line seven and three-fourth miles to Vaca mountains, which divide the Vaca and Suisun valleys; thence northerly along the main ridge of said Vaca mountains to Putah creek, at a point called the Devil's Gate; thence northerly across said creek to and along the mountains dividing Berryessa valley from Sacramento valley to the southeast corner of Lake county on the western line of Yolo; thence southwesterly along the southern line of Lake, as established in section three thousand nine hundred twenty-five, to its intersection with the eastern line of Sonoma; thence southeasterly on said line of Sonoma to the western branch of the headwaters of Huichica creek; thence westerly to the main ridge that divides the Huichica valley from the Sonoma valley; thence southerly along the said dividing ridge to the tule bordering on San Pablo bay; thence southerly to the center of the Huichica creek; thence down said creek to its mouth, the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 887.]

Old section repealed (Stats. 1919, p. 857).

§ 3937. Nevada. Beginning at the northwest corner, at a point in the main Yuba river, at the mouth of Deer creek; thence up the main Yuba to the mouth of the middle Yuba; thence up the latter to the mouth of the south fork of the same; thence up the south fork to the Bent monument situated at the falls of said south fork, in the northwest quarter of section ten, township eighteen north, range thirteen east, Mount Diablo meridian, and being one thousand feet, or thereabouts, southwest from the quarter-section corner between sections three and ten, township and range aforesaid; thence to the eastern line of the state, all on the southeastern and southern lines of Yuba and Sierra; then south, along the state line to the northeast corner of Placer, as established in section three thousand nine hundred thirty-nine; thence westerly, on the northern line of Placer, as established in said section, to the source of Bear river; thence down Bear river, to a point south of

the junction of Deer creek and the main Yuba, forming southwest corner; thence north, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 888.]

Old section repealed (Stats. 1919, p. 857).

§ 3938. Orange. Beginning at the northwest corner of San Diego county at a point in the Pacific Ocean opposite San Mateo point; thence northerly along the northwestern boundary of San Diego county, as defined in section three thousand nine hundred forty-five, to the southwest corner of Riverside county; thence northerly along the western boundary of said county, as defined in section three thousand nine hundred forty-one, to the corner common to Riverside, San Bernardino and Orange counties; thence northwesterly along the southwest boundary of San Bernardino county to the point of intersection of said boundary with the southerly line of township two south, range nine west; thence westerly along the township line between townships two and three south, San Bernardino base and meridian, to the corner common to townships two and three south, ranges ten and eleven west, San Bernardino base and meridian; thence southerly along the range line between ranges ten and eleven west, San Bernardino base and meridian, to the southeast corner of section thirteen, township three south, range eleven west, in the Rancho Los Coyotes; thence in a general southwesterly direction along section lines, quarter-section lines and quarter quarter-section lines in the Rancho Los Coyotes, as follows: westerly along section line to the quarter corner on the south line of said section thirteen; thence southerly along quarter-section line to the center of section twenty-four, township three south, range eleven west; thence westerly along quarter-section line to the quarter corner on the west line of said section twenty-four; thence southerly along section line to the southwest corner of said section twenty-four; thence westerly along section line to the quarter corner on the north line of section twenty-six, township three south, range eleven west; thence southerly along quarter-section line to the center of said section twenty-six; thence westerly along quarter-section line to the quarter corner on the west line of said section twenty-six; thence southerly along section line to the southwest corner of said section twenty-six; thence westerly along section line to the northeast corner of section thirty-three, township three south, range eleven west; thence southerly along section line to the quarter corner on the east line of said section thirty-three; thence westerly along quarter-section line to the center of said section thirty-three; thence southerly along quarter-section line to the northeast corner of the southeast one-quarter of the southwest one-quarter of said section thirty-three; thence westerly along quarter quarter-section line to the center of the southwest one-quarter of said section thirty-three; thence southerly along quarter quarter-section line to the south line of said section thirty-three; thence westerly along the township line between townships three and four south, to the northeast corner of section five, township four south, range eleven west; thence southerly along section line to the northeast corner of the southeast one-quarter of said section five; thence westerly along quarter-section line to the northwest corner of the northeast one-quarter of the southeast one-quarter of said section five; thence southerly along quarter quarter-section line to the center of the southeast one-quarter of said section five; thence westerly along quarter

quarter-section line to the westerly line of the southeast one-quarter of said section five; thence southerly along quarter-section line to the quarter corner on the south line of said section five; thence westerly along section line to the northeast corner of the northwest one-quarter of the northwest one-quarter of section eight, township four south, range eleven west; thence southerly along quarter quarter-section lines to the northeast corner of the southwest one-quarter of the southwest one-quarter of said section eight; thence southwesterly in a straight line to the northeast corner of section eighteen, township four south, range eleven west; thence south zero degrees, eleven minutes, fifty seconds east, along section line to the boundary line between Rancho Los Coyotes and Rancho Los Alamitos; thence south fifty-nine degrees, seven minutes, forty seconds west, a distance of three thousand three hundred ninety-one and forty-eight hundredths feet; thence south thirty-nine degrees, forty-eight minutes, twenty seconds west, a distance of five thousand six hundred fifty and ninety-seven hundredths feet; thence south eleven degrees, thirty-six minutes, fifty-five seconds west, a distance of two thousand two hundred forty-one and forty-one hundredths feet; thence south twenty-seven degrees, fifty-five minutes, fifty-five seconds west, a distance of eight thousand three hundred seventy-five and forty hundredths feet; thence south thirty-one degrees, twenty-two minutes, fifty seconds east, a distance of one thousand two hundred ninety-six and twenty-one hundredths feet; thence south twenty-seven degrees, twelve minutes, zero seconds east, a distance of two thousand one hundred six and ten hundredths feet; thence south sixteen degrees, forty-six minutes, forty-five seconds east, a distance of one thousand four hundred forty-four and eighty-two hundredths feet; thence south two degrees, forty-eight minutes, thirty-five seconds east, a distance of two thousand two hundred seven and ninety-four hundredths feet; thence south fifty-seven degrees, ten minutes, forty seconds west, a distance of eight thousand two hundred thirty-eight and seventy-eight hundredths feet; thence south thirty-three degrees, zero minutes, zero seconds west, a distance of six hundred twenty-two and forty-three hundredths feet to a point on the northeasterly line of block fifty-nine, Alamitos bay tract, as shown on map recorded in map book 5, page 137, on file in the office of the recorder of the county of Los Angeles, distant thereon south fifty-seven degrees, fifty minutes, forty-five seconds east, a distance of four hundred twenty-eight and ninety-one hundredths feet from the most northerly corner of said block fifty-nine; thence continuing south thirty-three degrees, zero minutes, zero seconds west, a distance of three miles, more or less to the southwesterly boundary line of the state of California (the boundary line between Los Angeles and Orange counties hereinabove described and hereby established being shown on county surveyor's map No. 8175 on file in the office of the surveyor of the county of Los Angeles; and likewise on map No. 300 on file in the office of the surveyor of Orange county); thence southeasterly by state line to point of beginning. [New section added May 23, 1919; Stats. 1919, p. 888.]

Old section repealed (Stats. 1919, p. 857).

§ 3939. Placer. Beginning at a point where the west line of township ten north, range five east, Mount Diablo meridian, intersects the northern line of Sacramento county, as established in section three thou-

sand nine hundred forty-two; thence north on range line to the north west corner of section six, in township ten north, range five east; thence east on township line to the southwest corner of section thirty-one, township eleven north, range five east; thence north on range line to the northwest corner of township twelve north, range five east; thence east to the southwest corner of section thirty-four, township thirteen north, range five east; thence north to Bear river; thence on the southern line of Yuba and Nevada counties, up said river to its source; thence east in a direct line to the eastern line of the state of California, forming the northeast corner; thence southerly along said line to the northeast corner of El Dorado county, as established in section three thousand sand nine hundred seventeen; thence westerly, on the northern lines of El Dorado and Sacramento counties, as established in section three thousand nine hundred seventeen, and section three thousand nine hundred forty-two, to the place of beginning. [New section added May 2, 1919; Stats. 1919, p. 891.]

Old section repealed (Stats. 1919, p. 857).

§ 3940. **Plumas.** Beginning at the corner common to Plumas, Butte and Yuba counties, situated in the northwest quarter of section fifteen, township twenty north, range eight east, Mount Diablo base and meridian and indicated by a large spruce tree standing in front of the Buckeye House marked "Corner of Plumas, Butte and Yuba" and running thence northeasterly by direct line to the corner common to Plumas, Sierra and Yuba counties in Slate creek situated in the northeast quarter of section thirty-one, township twenty-one north, range nine east, Mount Diablo base and meridian at a point where the third course terminating north and south line of survey of Keddie and Church, made June 19, 1866, crosses said creek; thence northeasterly up said creek to its intersection with the first north and south line of said survey in the northeast quarter of section eleven, township twenty-one north, range nine east, Mount Diablo base and meridian; thence north along said line to the initial point thereof, being the summit line of the ridge dividing the waters of the Feather river from the waters of the Yuba river, situated in the southeast quarter of section twenty-six, township twenty-two north, range nine east, Mount Diablo base and meridian; thence easterly, on said summit line, and east to "The Falls" about one mile below the outlet of Gold lake; thence east to the range line between townships twenty-one north, range thirteen east, and township twenty-one north, range fourteen east, Mount Diablo meridian; thence north on said range line, to the northwest corner of township twenty-one north, fourteen east, Mount Diablo base and meridian; thence east on the line between townships twenty-one and twenty-two north, Mount Diablo base, to the corner common to Plumas, Lassen and Sierra counties, said corner being the southeast corner of Plumas county and the southwest corner of Lassen county, said point also being the corner common to sections one and two, township twenty-one north, range sixteen east, Mount Diablo base and meridian, and sections thirty-five and thirty-six, township twenty-two north, range sixteen east, Mount Diablo base and meridian; thence northwesterly, on the southwestern irregular line of Lassen, as established in section three thousand nine hundred twenty-six, to the corner common to Shasta, Lassen and Plumas, as established in said section; thence west nine miles more or less on the southern line of Shasta

to the northeast corner of Tehama, as established in section three thousand nine hundred sixty; thence southerly, on the ridge, being eastern line of Tehama, to the common corner of Tehama, Butte and Plumas counties, as established in section three thousand nine hundred twelve; thence southerly along the eastern boundary of Butte county, as established in said section, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 891.]

Old section repealed (Stats. 1919, p. 857).

§ 3941. **Riverside.** Beginning at the corner common to Orange, San Bernardino and Riverside counties, being located at the point of intersection of the easterly boundary of the El Cañon de Santa Ana rancho with course number seven of the boundary line, established by joint survey in December, 1876, and January, 1877, as the line between Los Angeles and San Bernardino counties; thence southeasterly along said line of survey to the point of beginning of said joint survey, it being upon the northern boundary of San Diego county, as it was then established; thence southwesterly to a point on the eastern line of Rancho Mission Viejo or La Paz two miles north of the south boundary of township seven south, San Bernardino base and meridian; thence south along said boundary to the point of intersection of said line with the township line between township seven south and township eight south, San Bernardino base and meridian; thence easterly along said township line to its intersection with western boundary of Santa Rosa rancho; thence southerly along the boundary of said rancho to where said boundary of said rancho intersects the range line between the townships eight south, three west, and eight south, four west; thence south on said range line to the point of intersection of the said line with the second standard parallel south; thence east along said parallel to the eastern boundary of the state of California; thence northerly along the said eastern boundary of the State of California to its point of intersection with the east and west center line of township one south, range twenty-four east, San Bernardino base and meridian, or the prolongation thereof; thence westerly along section lines to the southeast corner of section seventeen, township one south, range sixteen east, San Bernardino base and meridian; thence south to the southeast corner of section thirty-two, same township and range, said point being on the township line between townships one and two south, San Bernardino base and meridian; thence west on said township line to the northeast corner of township two south, range one west, San Bernardino base and meridian; thence south to the southeast corner of section twelve, township two south, range one west, San Bernardino base and meridian; thence west to the southwest corner of section eight, township two south, range three west, San Bernardino base and meridian; thence north to the northwest corner of said section eight; thence west to the quarter corner of the south line of section two, township two south, range five west, San Bernardino base and meridian; thence north to the quarter corner on the north line of said section two; thence west to the southwest corner of section thirty-one, township one south, range six west; thence south along section lines to the northern boundary of the Jurupa rancho; thence southwesterly along said north boundary to the northwest corner of said rancho; thence south along the west boundary of said Jurupa rancho to the quarter corner on the east line of section nine, township three south, range seven

west; thence west in a direct line to center of section seven, same township and range; thence south in a direct line, to the quarter corner of the south line of section nineteen, township three south, range seven west, thence west to the east boundary of the El Cañon de Santa Ana rancho; thence southerly along the easterly boundary of said rancho to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 892.]

Old section repealed (Stats. 1919, p. 857).

§ 3942. Sacramento. Beginning on the northern line of the county, at a point ten miles north of a point which was, on the thirtieth of March, 1857, the mouth of the American river; thence easterly to the junction of the north and south forks of said river; thence up the principal channel of the south fork to a point one mile above Mormon island, so as to include said island in Sacramento county, forming the northeast corner; thence southerly to a point on the Cosumnes river eight miles above the house of William Daylor; thence south to Dry creek, forming southeast corner; thence down said Dry creek to its entrance into Mokelumne river; thence down the Mokelumne river to a point where said river divides into east and west branches; thence down the west branch to its junction with the east branch; thence down said river to its junction with the San Joaquin river; thence down the San Joaquin river to the mouth of the Sacramento river, at the head of Suisun bay, forming southwest corner; thence up the Sacramento river to the mouth of Steamboat slough, formerly called Merritt slough; thence up said slough to the mouth of Sutter slough; thence up said Sutter slough to the Sacramento river; thence up the Sacramento river to a point west of the place of beginning, forming the northeast corner of Sacramento county; thence east to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 893.]

Old section repealed (Stats. 1919, p. 857).

§ 3943. San Benito. Commencing at a point in the center of the Pajaro river, said point being the northwest corner of the Rancho de Arromitas y Agua Caliente, and being on the northern boundary line of Monterey county, and running thence in a southerly direction along the southwest boundary of said rancho to the southwest corner thereof; thence southerly in a direct line to the summit of the Gabilan range of mountains, and thence southeasterly along the summit of said Gabilan mountains to the Chalone peak; thence southeasterly in a direct line to the division line of the parts of the San Lorenzo Sobrante rancho owned respectively by Breen and Dunn; thence along said dividing line of said rancho to the southern boundary thereof; thence due south to the San Lorenzo creek; thence southeasterly up the center of said San Lorenzo or Lewis creek, and up the north fork thereof, to the summit of the divide between the waters of said Lewis creek and San Benito creek; thence following said divide southerly to the easterly boundary of Monterey county and the summit of the Coast Range mountains; thence northerly, following the summit of said mountains where the range line between townships eighteen south, of ranges twelve and thirteen east, Mount Diablo meridian, crosses the same; thence northerly along said range line to the northeast corner of township eighteen south, range twelve east; thence northerly along said township

line to the south line of township sixteen south, range thirteen east, Mount Diablo base and meridian; thence west to the southeast corner of township sixteen south, range twelve east, Mount Diablo base and meridian; thence northwest in a straight line to the northeast corner of township fourteen south, range nine east; thence in a straight line northwesterly, running toward the northeast corner of township thirteen south, range seven east, to a point where said line intersects the present boundary line between the counties of San Benito and Merced; thence along the present boundary line between the counties of San Benito and Merced to the northeast corner of San Benito county and southeast corner of Santa Clara county; thence following the present county line between the counties of Santa Clara and San Benito, and Santa Cruz and San Benito, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 894.]

Old section repealed (Stats. 1919, p. 857).

§ 3944. **San Bernardino.** Beginning at the northwest corner of section one, township twenty-five south, range forty east, Mount Diablo base and meridian; thence east along the township line between townships twenty-four and twenty-five south of the Mount Diablo base line, to the San Bernardino meridian line; thence along said San Bernardino meridian line to the quarter-section corner on the west line of section thirty, township twenty north, range one east, San Bernardino base and meridian; thence east following the one-half section line to the eastern boundary of the state of California; thence southeasterly and southerly along said state line to its intersection with the east and west center line of township one south, range twenty-four east, San Bernardino base and meridian, or the prolongation thereof; thence westerly along the northern boundary of Riverside county as defined in section three thousand nine hundred forty-one to the corner common to Orange, Riverside and San Bernardino counties; thence northwesterly along the boundary line established by joint survey in December, 1876, and January, 1877, as the line between Los Angeles and San Bernardino counties to the corner common to San Bernardino, Los Angeles and Orange counties as defined in section three thousand nine hundred twenty-seven; thence northerly along the eastern boundary of Los Angeles county as defined in said section to the corner common to Los Angeles, Kern and San Bernardino counties, situated at the northeast corner of township eight north, range eight west, San Bernardino base and meridian; thence east on township line between townships eight and nine north of San Bernardino base line to the section line between sections thirty-two and thirty-three, township nine north, range seven west, San Bernardino base and meridian; thence north following section lines to the eighth standard parallel south of Mount Diablo base line; thence east along said eighth standard parallel to the southwest corner of township thirty-two south, range forty-one east, Mount Diablo base and meridian; thence north along township line to the seventh standard parallel south of Mount Diablo base line; thence along said standard parallel to the southwest corner of section thirty-six, township twenty-eight south, range forty east, Mount Diablo base and meridian; thence north along section lines to the northwest corner of section one, township twenty-five south, range forty east,

Mount Diablo base and meridian, said point being the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 895.]

Old section repealed (Stats. 1919, p. 857).

§ 3945. **San Diego.** Beginning at the southwest corner of the state of California as described in article twenty-one of the constitution of the state of California; thence easterly along the international boundary line between the United States and Mexico to its intersection with the range line between ranges eight east and nine east of San Bernardino meridian; thence northerly along the range lines between said ranges eight east and nine east, which is also the westerly boundary of Imperial county, as established by section three thousand nine hundred twenty-one, to the northeast corner of township nine south, range eight east, which point is also on the southerly boundary line of Riverside county, as established by section three thousand nine hundred forty-one; thence west along the second standard parallel south, San Bernardino base, which is also the south boundary line of Riverside county, to the range line between township eight south, range three west and township eight south, range four west; thence north along said range line to the southerly boundary of the Rancho Santa Rosa; thence northwesterly and northerly along the boundary line of said Rancho Santa Rosa to the township line between township seven south and township eight south, San Bernardino base and meridian; thence west along said township line to the easterly line of the Rancho Mission Viejo or La Paz, which is also the southeasterly boundary line of Orange county, as established by section three thousand nine hundred thirty-eight; thence following said southeasterly boundary of Orange county southerly and westerly along the easterly and southerly line of said Rancho Mission Viejo or La Paz to the most westerly line of the Rancho Santa Margarita y Las Flores; thence southerly along said westerly line of said Rancho Santa Margarita y Las Flores to the shore line of the Pacific Ocean, and continuing in the same direction to a point three English miles in said Pacific Ocean, which point is on the westerly boundary line of the said state of California; thence southerly along said westerly boundary line of the state of California to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 895.]

Old section repealed (Stats. 1919, p. 857).

§ 3946. **San Francisco.** Beginning at the southwest corner, being northwest corner of San Mateo, in Pacific Ocean, on the extension of northern line of township three south, of Mount Diablo base; thence northerly along the Pacific coast, to its point of intersection with westerly extension of low-water line on northern side of the entrance to San Francisco bay, being southwest corner of Marin and northwest corner of San Francisco; thence easterly, through Point Bonita and Point Cavallo, to the most southeastern point of Angel island, all on the line of Marin, as established in section three thousand nine hundred twenty-nine; thence northerly, along the easterly line of Marin, to the northwest point of Golden rock (also known as Red rock), being a common corner of Marin, Contra Costa, and San Francisco; thence due southeast four and one-half statute miles to a point hereby established as the corner common to Contra Costa, Alameda, and San Francisco; thence southeasterly, on the western line of Alameda county to a point on the

north line of township three south, range four west, Mount Diablo base and meridian; thence westerly on township lines and an extension thereof to the place of beginning. The islands known as the Farrallones (Farrallons) shall be attached to and be a part of said city and county. [New section added May 23, 1919; Stats. 1919, p. 896.]

Old section repealed (Stats. 1919, p. 857).

§ 3947. **San Joaquin.** Beginning at the junction of the San Joaquin and Mokelumne rivers, on the line of Sacramento county; thence up the latter to the mouth of Dry creek; thence up Dry creek to the southeast corner of Sacramento, as established in section three thousand nine hundred forty-two; thence southeasterly, to a point on Mokelumne river, being the point of beginning of survey of Boucher and Wallace of line between San Joaquin and Calaveras counties, May, 1864; thence southeasterly, on the line of said survey, to the extreme northern corner of Stanislaus county, on north side of and near to Calaveras river, at a point on western line of range ten east, Mount Diablo meridian, as established by survey of George E. Drew, approved May, 1860, shown on map of said survey; thence south, on said range line, to Stanislaus river; thence down said river to its confluence with the San Joaquin; thence southwest, to the summit of the Coast Range, as shown on survey and map of Wallace and Stakes, May, 1868, and forming the common corner of San Joaquin, Stanislaus, Santa Clara, and Alameda, as shown also on map of Boardman and Stakes, July, 1868; thence northwesterly and northerly along the eastern boundary of Alameda county as established in section three thousand nine hundred nine to the corner common to Alameda, Contra Costa and San Joaquin; thence due east to the center of the west channel of the San Joaquin river; thence down the said west channel to its confluence with the main river; thence down said river to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 897.]

Old section repealed (Stats. 1919, p. 857).

§ 3948. **San Luis Obispo.** Beginning in Pacific Ocean, at northwestern corner of Santa Barbara, as established in section three thousand nine hundred fifty; thence easterly, on the northern line of Santa Barbara, up the Santa Maria river, to intersection of southern line of township ten north, San Bernardino base; thence east on said line to the southeast corner of Section thirty-one, in township ten north, of range twenty-four west, of San Bernardino base and meridian; thence north, on dividing section lines between thirty-one and thirty-two, thirty and twenty-nine, nineteen and twenty, eighteen and seventeen, seven and eight, six and five, to the northeast corner of section six, in the said township ten north, range twenty-four west of San Bernardino base and meridian; thence continuing north through township eleven north, range twenty-four west of San Bernardino base and meridian, on section lines between sections thirty-one and thirty-two, thirty and twenty-nine, nineteen and twenty, eighteen and seventeen, seven and eight, six and five, to the northeast corner of section six in said township eleven north, of range twenty-four west, of San Bernardino base and meridian; thence west on township line between townships eleven and twelve north, range twenty-four west, of San Bernardino base and meridian, and along the north boundary of section six to the northwest corner of

said nine hundred forty-two; thence north on range line to the north west corner of section six, in township ten north, range five east; thence east on township line to the southwest corner of section thirty-one, township eleven north, range five east; thence north on range line to the northwest corner of township twelve north, range five east; thence east to the southwest corner of section thirty-four, township thirteen north, range five east; thence north to Bear river; thence on the southern line of Yuba and Nevada counties, up said river to its source; thence east in a direct line to the eastern line of the state of California, forming the northeast corner; thence southerly along said line to the northeast corner of El Dorado county, as established in section three thousand nine hundred seventeen; thence westerly, on the northern line of El Dorado and Sacramento counties, as established in section three thousand nine hundred seventeen, and section three thousand nine hundred forty-two, to the place of beginning. [New section added May 2, 1919; Stats. 1919, p. 891.]

Old section repealed (Stats. 1919, p. 857).

§ 3940. **Plumas.** Beginning at the corner common to Plumas, Butte and Yuba counties, situated in the northwest quarter of section fifteen, township twenty north, range eight east, Mount Diablo base and meridian and indicated by a large spruce tree standing in front of the Buckeye House marked "Corner of Plumas, Butte and Yuba" and running thence northeasterly by direct line to the corner common to Plumas, Sierra and Yuba counties in Slate creek situated in the northeast quarter of section thirty-one, township twenty-one north, range nine east, Mount Diablo base and meridian at a point where the third course terminating north and south line of survey of Keddie and Church, made June 19, 1866, crosses said creek; thence northeasterly up said creek to its intersection with the first north and south line of said survey in the northeast quarter of section eleven, township twenty-one north, range nine east, Mount Diablo base and meridian; thence north along said line to the initial point thereof, being the summit line of the ridge dividing the waters of the Feather river from the waters of the Yuba river, situated in the southeast quarter of section twenty-six, township twenty-two north, range nine east, Mount Diablo base and meridian; thence easterly, on said summit line, and east to "The Falls" about one mile below the outlet of Gold lake; thence east to the range line between townships twenty-one north, range thirteen east, and township twenty-one north, range fourteen east, Mount Diablo meridian; thence north on said range line, to the northwest corner of township twenty-one north, range thirteen east, Mount Diablo base and meridian; thence east on the line between townships twenty-one and twenty-two north, Mount Diablo base, to the corner common to Plumas, Lassen and Sierra counties, said corner being the southeast corner of Plumas county and the southwest corner of Lassen county, said point also being the corner common to sections one and two, township twenty-one north, range sixteen east, Mount Diablo base and meridian, and sections thirty-five and thirty-six, township twenty-two north, range sixteen east, Mount Diablo base and meridian; thence northwesterly, on the southwestern irregular line of Lassen, as established in section three thousand nine hundred twenty-six, to the corner common to Shasta, Lassen and Plumas, as established in said section; thence west nine miles more or less on the southern line of Shasta

to the northeast corner of Tehama, as established in section three thousand nine hundred sixty; thence southerly, on the ridge, being eastern line of Tehama, to the common corner of Tehama, Butte and Plumas counties, as established in section three thousand nine hundred twelve; thence southerly along the eastern boundary of Butte county, as established in said section, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 891.]

Old section repealed (Stats. 1919, p. 857).

§ 3941. **Riverside.** Beginning at the corner common to Orange, San Bernardino and Riverside counties, being located at the point of intersection of the easterly boundary of the El Cañon de Santa Ana rancho with course number seven of the boundary line, established by joint survey in December, 1876, and January, 1877, as the line between Los Angeles and San Bernardino counties; thence southeasterly along said line of survey to the point of beginning of said joint survey, it being upon the northern boundary of San Diego county, as it was then established; thence southwesterly to a point on the eastern line of Rancho Mission Viejo or La Paz two miles north of the south boundary of township seven south, San Bernardino base and meridian; thence south along said boundary to the point of intersection of said line with the township line between township seven south and township eight south, San Bernardino base and meridian; thence easterly along said township line to its intersection with western boundary of Santa Rosa rancho; thence southerly along the boundary of said rancho to where said boundary of said rancho intersects the range line between the townships eight south, three west, and eight south, four west; thence south on said range line to the point of intersection of the said line with the second standard parallel south; thence east along said parallel to the eastern boundary of the state of California; thence northerly along the said eastern boundary of the State of California to its point of intersection with the east and west center line of township one south, range twenty-four east, San Bernardino base and meridian, or the prolongation thereof; thence westerly along section lines to the southeast corner of section seventeen, township one south, range sixteen east, San Bernardino base and meridian; thence south to the southeast corner of section thirty-two, same township and range, said point being on the township line between townships one and two south, San Bernardino base and meridian; thence west on said township line to the northeast corner of township two south, range one west, San Bernardino base and meridian; thence south to the southeast corner of section twelve, township two south, range one west, San Bernardino base and meridian; thence west to the southwest corner of section eight, township two south, range three west, San Bernardino base and meridian; thence north to the northwest corner of said section eight; thence west to the quarter corner of the south line of section two, township two south, range five west, San Bernardino base and meridian; thence north to the quarter corner on the north line of said section two; thence west to the southwest corner of section thirty-one, township one south, range six west; thence south along section lines to the northern boundary of the Jurupa rancho; thence southwesterly along said north boundary to the northwest corner of said rancho; thence south along the west boundary of said Jurupa rancho to the quarter corner on the east line of section nine, township three south, range seven

Ventura counties; thence west on said township line, to the Santa Maria river; thence down said river to a point in the Pacific Ocean opposite the mouth of said river, forming northwest corner; thence southeasterly by the ocean shore, to the place of beginning; including the islands of Santa Barbara, San Miguel, Santa Rosa, and Santa Cruz. [New section added May 23, 1919; Stats. 1919, p. 900.]

Old section repealed (Stats. 1919, p. 857).

§ 3951. Santa Clara. Beginning at a point distant north thirty degrees west, one thousand two hundred fifty-four feet from the southwest corner of section twenty-two, township five south, range two west, Mount Diablo base and meridian; said point being hereby established as the corner common to San Mateo, Santa Clara and Alameda counties; thence southeasterly in a direct line to the southwest corner of section twenty-six, township five south, range two west, Mount Diablo base and meridian; thence easterly in a direct line to the point where the center of the Coyote river is intersected by the west line of township five south, range one west, Mount Diablo base and meridian; thence easterly along the center of the Coyote river to a point from which a sandstone monument set on the southwesterly side of the county road leading from San Jose to Oakland, or state highway, as described in the field-notes of the survey of the boundary line between the counties of Alameda and Santa Clara, filed June 2, 1873, in the office of the clerk of Santa Clara county, California, bears north fifty-seven degrees, thirty-five minutes east, four thousand three hundred forty feet distant, more or less; thence north fifty-seven degrees, thirty-five minutes east, four thousand three hundred forty feet, more or less, to said sandstone monument; thence northeasterly and easterly along the boundary line between Alameda and Santa Clara counties, as described in the field-note of said survey, to the corner common to Alameda, San Joaquin, Stanislaus and Santa Clara counties; thence southeasterly following the summit of the Coast Range to the corner common to San Benito, Merced and Santa Clara counties, situated in section twenty-one, township eleven south, range seven east, Mount Diablo base and meridian, as established by Charles T. Healy, deputy surveyor-general of California in September, 1858; thence westerly on the present surveyed line between Santa Clara and San Benito counties to a point on the San Felipe creek, near San Felipe lake; thence around the eastern and northern side of said lake to the Pajaro river; thence down said river to the southwest corner of Santa Clara county and the southeast corner of Santa Cruz county, as established in section three thousand nine hundred fifty-two; thence northwesterly, following the summit of the Santa Cruz mountains, being northeasterly boundary of Santa Cruz county, to the head of the south fork of the San Francisquito creek; thence down said creek to its mouth; thence in a direct line to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 900.]

Old section repealed (Stats. 1919, p. 857).

§ 3952. Santa Cruz. Beginning at the south corner of San Mateo county, at a point in the Pacific Ocean south forty-five degrees west three nautical miles from the intersection of the east line of Rancho Punta del Año Nuevo with said ocean, forming western corner; thence

north, forty-five degrees east, to said point of intersection; thence northerly, following the eastern line of said rancho, to its intersection with the south line of township eight south, range four west, Mount Diablo base and meridian; thence east to the southeast corner of said township; thence north to the northeast corner of section twenty-five of said township; thence east to the northeast corner of section twenty-six, township eight south, range three west; thence north to the summit of Santa Cruz mountains, being western line of Santa Clara county; thence southeasterly along the summit of said mountains, on the western line of Santa Clara, to the Pajaro river, forming southeast corner, on northern line of San Benito; thence westerly along said river, on northern line of San Benito and Monterey, to the bay of Monterey, and three miles westerly into the ocean, forming southwest corner; thence northwesterly along a course three nautical miles distant from the shore to the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 901.]

Old section repealed (Stats. 1919, p. 857).

§ 3953. **Shasta.** Beginning at the northern line of Tehama, at the head of Bloody island, in Sacramento river; thence to and down the eastern channel to the mouth of Battle creek; thence easterly, up Battle creek, by the main channel, to the mouth of the middle fork, known as Digger creek; thence up Digger creek to its head; thence east to a point south of Black Butte mountain, forming southeast corner; thence north, on western line of Lassen, to a rock mound forming northeast corner, on southern line of Siskiyou; thence west, on said southern line, to Castle rock, forming northwest corner; thence southerly along Trinity mountain to the head of Bee Gum creek, forming southwest corner; thence easterly down Bee Gum, Middle Fork, and Cottonwood creeks to the western channel of Sacramento river; thence, by direct line, to the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 902.]

Old section repealed (Stats. 1919, p. 857).

§ 3954. **Sierra.** Beginning at the south corner of Plumas, in the center of Slate creek, as established in section three thousand nine hundred forty; thence easterly on southern line of Plumas, as established in said section, to the range line between township twenty-one north, range thirteen east, and township twenty-one north, range fourteen east, Mount Diablo meridian; thence north on said range line, to the northwest corner of township twenty-one north, fourteen east, Mount Diablo base and meridian; thence east on the line between townships twenty-one and twenty-two north, Mount Diablo base, to the state line forming the northeast corner; thence south on said state line to the northeast corner of Nevada county, a point east of the Bent monument, situated as described in section three thousand nine hundred thirty-seven; thence west to the said Bent monument; thence down the south fork of the middle Yuba river and down the middle Yuba river to a point ten miles above the mouth of the latter; thence in a straight line northerly to a point on the north fork of the Yuba river known as Cuteye Foster's bar; down said river to the mouth of Big Cañon creek, and then up said creek four miles; thence in a straight line to

the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 902.]

Old section repealed (Stats. 1919, p. 857).

§ 3955. Siskiyou. Commencing on the northern line of the state of California at the northeast corner of Del Norte, as described in section three thousand nine hundred sixteen, being on the summit of a spur of the Siskiyou range of mountains; thence southerly along the eastern line of Del Norte county to the northern line of Humboldt county, as defined in section three thousand nine hundred twenty; thence easterly and southerly along the northern and eastern line of Humboldt county to the northwest corner of Trinity county; thence along the northern boundary of Trinity county, as defined in section three thousand nine hundred sixty-one, to the northwest corner of Shasta county at Castle Rock, as defined in section three thousand nine hundred fifty-three; thence due east to the range line between ranges four and five east of Mount Diablo base and meridian; thence north along said range line to the northern boundary of the state of California; thence due west along said state boundary line to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 902.]

Old section repealed (Stats. 1919, p. 857).

§ 3956. Solano. Beginning at southwest corner, in San Pablo bay, at common corner of Contra Costa, Sonoma, Marin, and Solano, as established in section three thousand nine hundred fifteen; thence north, twenty-six and one-half degrees west, about six and one-quarter miles on the western line of Sonoma, as established in section three thousand nine hundred fifty-seven, to the southwest corner of Napa at the mouth of the Huichica creek; thence east, on southern line of Napa, to the southeast corner thereof, as established in section three thousand nine hundred thirty-six; thence north, on line of Napa, as established in said section, to the first standard north; thence east along said standard, on said Napa line, to the summit of Vaca mountains; thence northerly, on said summit and Napa line, to Devil's Gate, on Putah creek, which point forms the northwest corner of Solano and southwest corner of Yolo; thence easterly, on line of Yolo, down said creek and old bed thereof, to its intersection with western line of range three east, Mount Diablo meridian, forming the northeast corner of Solano, with exterior angle in Yolo; thence south, along line of Yolo, on said range line, two and seven-tenths miles, to the north line of township seven north, Mount Diablo base; thence east, nine and seventy-two one-hundredths chains, to northeast corner of said township; thence south, to the first standard north, Mount Diablo base; thence east, on said standard line, to the center of Sutter slough; thence down said slough to Steamboat slough, formerly called Merritt slough, down said slough to the Sacramento river, down the Sacramento river about thirteen miles to Suisun bay; thence down the bay, along the center of the main ship-channel, in a westerly course about eighteen miles, to the straits of Carquinez; thence down the middle of said straits, and down San Pablo bay, to the place of beginning; all these courses and lines being as shown by map and notes of William Wayne Fitch and E. H. Marshall, surveyor and deputy

surveyor of Solano county. [New section added May 23, 1919; Stats. 1919, p. 903.]

Old section repealed (Stats. 1919, p. 857).

§ 3957. **Sonoma.** Commencing at a point in the Pacific Ocean, three miles due west of a point in the center of the channel at the mouth of the Gualala river, thence due east three miles to said point in the center of the channel at the mouth of said Gualala river; thence up the center of the channel of said Gualala river to a point where the center of said channel intersects the section line running east and west between sections twenty-three and twenty-six, township eleven north, range fifteen west, Mount Diablo meridian; thence east on said section line and its continuation between sections twenty-four and twenty-five, said township and range, to the range line between ranges fourteen and fifteen west, Mount Diablo meridian; thence continuing east on the section line between sections nineteen and thirty, twenty and twenty-nine, twenty-one and twenty-eight, twenty-two and twenty-seven, twenty-three and twenty-six, and twenty-four and twenty-five, township eleven north, range fourteen west, Mount Diablo meridian, to the range line between ranges thirteen and fourteen west, Mount Diablo meridian; thence north on said range line between said ranges thirteen and fourteen two miles more or less, to the section corner common to sections twelve and thirteen, township eleven north, range fourteen west, Mount Diablo meridian, and sections seven and eighteen, township eleven north, range thirteen west, Mount Diablo meridian; thence east on the section line between sections seven and eighteen, eight and seventeen, nine and sixteen, ten and fifteen, eleven and fourteen, and twelve and thirteen, township eleven north, range thirteen west, Mount Diablo meridian, to the intersection of said section line with the range line between ranges twelve and thirteen west, Mount Diablo meridian; thence continuing east on the section line between sections seven and eighteen, eight and seventeen, nine and sixteen, ten and fifteen, eleven and fourteen, and twelve and thirteen, township eleven north, range twelve west, Mount Diablo meridian, to the intersection of said section line with the range line between ranges eleven and twelve west, Mount Diablo meridian; thence north on said range line between ranges eleven and twelve, two miles, more or less, to the southwest corner of township twelve north, range eleven west, Mount Diablo meridian; thence east on the south boundary line of said township twelve north, range eleven west, three miles, more or less, to the southeast corner of section thirty-three, township twelve north, range eleven west; thence north on the section line between sections thirty-three and thirty-four, one mile, more or less, to the northwest corner of said last-named section thirty-four; and thence east on the section line between sections twenty-seven and thirty-four, twenty-six and thirty-five, and twenty-five and thirty-six, township twelve north, range eleven west, Mount Diablo meridian, and continuing east on the section line between sections thirty and thirty-one, twenty-nine and thirty-two, twenty-eight and thirty-three, twenty-seven and thirty-four, twenty-six and thirty-five, and twenty-five and thirty-six; township twelve north, range ten west, Mount Diablo meridian, and continuing east on the section line between sections thirty and thirty-one, twenty-nine and thirty-two, twenty-eight

and thirty-three, twenty-seven and thirty-four, and twenty-six and thirty-five to the corner common to sections twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, and thirty-six; township twelve north, range nine west, Mount Diablo meridian, said point lying upon the summit of the Mayacamas ridge and constituting the common corner of Mendocino, Lake and Sonoma counties; thence southerly along the Mayacamas mountains, and on the western lines of Lake and Napa counties, to the westerly branch of headwaters of Huichica creek; thence westerly on the line of Napa county to the top of the main ridge that divides the Huichica valley from the Sonoma valley; thence southerly along the said dividing ridge to the tule bordering on San Pablo bay; thence southerly to the center of Huichica creek; thence down said creek to its mouth, which is the southwest corner of Napa; thence on the line of Solano south, twenty-six and one-half degrees east, about six and one-quarter miles distant from the mouth of Huichica creek, to the point of intersection with the westerly line of Contra Costa county forming common corner of Marin, Solano, Contra Costa, and Sonoma counties as described in section three thousand nine hundred fifteen; thence following the northern boundary of Marin westerly to the mouth of Petaluma creek; thence up said creek to the mouth of San Antonio creek; thence up said San Antonio creek to its head; thence in a direct line to the head of the Estero Americano, on the line surveyed and established by William Mock, under the direction of the surveyor-general in the year 1856; thence down said Estero Americano to its mouth; thence due west three miles to a point in the Pacific Ocean; thence northwesterly by ocean shore to the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 904.]

Old section repealed (Stats. 1919, p. 857).

§ 3958. Stanislaus. Beginning at common corner of Stanislaus, Santa Clara, Alameda, and San Joaquin, on the summit of Mount Boardman of the Mount Diablo range, as shown on survey and map of Wallace and Stakes, May, 1868; thence southeasterly, on the summit line of said range, being eastern line of Santa Clara, to the northwest corner of Merced, forming the southwest corner of Stanislaus, as established by survey and map of A. J. Stakes, July, 1868; thence northeasterly, on line as established by said last-named survey, to the junction of the Merced and San Joaquin rivers; thence down the San Joaquin seven miles; thence in a direct line a little north of east to a monument established by survey of A. J. Stakes, being on the summit of the ridge between Merced and Stanislaus, and marking common corner of Tuolumne, Merced, Mariposa, and Stanislaus; thence northwesterly, in direct line, and crossing the Stanislaus river, to monument established by survey and map of George E. Drew, May, 1860, on the north bank of said last-named river; thence northwesterly, on line of said survey, to its intersection with western line of range ten east, Mount Diablo meridian, which point is marked by a monument establishing the northwest corner of Stanislaus county; then south, on said range line, to Stanislaus river; thence down the latter to its mouth in San Joaquin river; thence southwesterly on line as surveyed and mapped by Wallace and Stakes, May, 1868, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 905.]

Old section repealed (Stats. 1919, p. 857).

§ 3959. Sutter. Beginning at the northwest corner of Sacramento county, as established in section three thousand nine hundred forty-two; thence up the Sacramento river to the mouth of Butte slough; thence down said slough to the dividing line between sections thirty-five and thirty-six, township sixteen north, range one west, Mount Diablo base and meridian; thence north, on the line between sections thirty-five and thirty-six, and sections twenty-five and twenty-six in said township and range to Butte creek; thence following said Butte creek to its intersection with the south line of section nineteen, township seventeen north, range one east, Mount Diablo base and meridian; thence east on section lines to Feather river; thence down Feather river to mouth of Bear river; thence up the original or old channel of Bear river as the same was established by official government meander line surveys made by E. Dyer and others prior to 1870, of record in the office of the United States surveyor-general for the State of California, to the northwest corner of Placer county as established in section three thousand nine hundred thirty-nine; thence along the western boundary of Placer county to the southwest corner thereof; thence westerly along the northern boundary of Sacramento county to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 906.]

Old section repealed (Stats. 1919, p. 857).

§ 3960. Tehama. Beginning at the point of intersection of Sacramento river with south line of township twenty-three north, Mount Diablo base; thence west, on said line, being northern line of Glenn to the summit of the Coast range, being southwest corner; thence northerly, on said summit line, to the southwest corner of Shasta, as established in section three thousand nine hundred fifty-three; thence easterly, on the southern line of Shasta, as established in said section, to the northwest corner of Plumas, being the point of intersection of southern line of Shasta with the summit line of the dividing ridge between the waters of Mill and Deer creeks, tributaries of the Sacramento river, and Rice's and Warner's creeks, tributaries of the north fork of Feather river, forming northeast corner of Tehama; thence southerly, along said summit line, to the north point of Butte county, it being the point where the northern road from Big Meadows to Butte Meadows, by Dye's house, crosses the said summit line; thence southwesterly, in a direct line, to the head of Rock creek; thence southwesterly, down Rock creek, to the south line of township twenty-four north, Mount Diablo base; thence west, on said line, to the Sacramento river; thence along said river to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 906.]

Old section repealed (Stats. 1919, p. 857).

§ 3961. Trinity. Beginning at the northeast corner of Mendocino county and southeast corner of Trinity county as established and marked by Wm. H. Fauntleroy in 1872, on the summit of the Coast range at or near the quarter-section corner on east line of section thirty-four in township twenty-five north, range ten west, Mount Diablo meridian; thence northerly along the summit of said range and the line of Tehama county to the northwest corner of Tehama county; thence northeasterly and northerly along the summit of the mountain dividing the waters flowing into Sacramento river and the waters flowing into Trinity river

on the west line of Shasta and Siskiyou counties to a point in the southern line of Siskiyou county located in section twenty-six, township forty-one north, range six west, Mount Diablo meridian; thence southwesterly and westerly along the summit of the mountain dividing the waters flowing into Trinity river from the waters flowing into Scott and Salmon rivers to intersection of east line of Humboldt on what is known as Salmon summit, being northwest corner of Trinity near the corner to sections four, five, eight and nine, township nine north, range seven east, Humboldt meridian; thence southwesterly and southerly by the eastern line of Humboldt to the southwest corner of Trinity county as surveyed and marked by Wm. H. Fauntleroy in August, 1872, the same being the southeast quarter of section thirty-one, township five south, range six east, Humboldt meridian; thence east along the line between Trinity and Mendocino as surveyed and marked by Wm. H. Fauntleroy in 1872 to the point of beginning. [New section added May 23, 1919; Stats. 1919, p. 907.]

Old section repealed (Stats. 1919, p. 857).

§ 3962. Tulare. Beginning at the southwest corner, being the common corner of Kings, Kern and Tulare, and being located on the sixteenth standard south at the southwest corner of township twenty-four south, range twenty-three east, Mount Diablo base and meridian; thence east on said standard, to the point of intersection with summit line of the Sierra Nevada mountains, forming the southeast corner of Tulare and southwest corner of Inyo; thence northwesterly, on said summit, being on the western line of Inyo, to the east corner of Fresno, as established in section three thousand nine hundred eighteen; thence on the southern line of Fresno to the eastern line of Kings; thence southerly, on the line of Kings, as established in section three thousand nine hundred twenty-four, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 907.]

Old section repealed (Stats. 1919, p. 857).

§ 3963. Tuolumne. Beginning at the most western corner, being the southern corner of Calaveras, as established in section three thousand nine hundred thirteen, in Stanislaus river; thence southeasterly to common corner of Merced, Mariposa, Stanislaus, and Tuolumne, as established in section three thousand nine hundred fifty-eight; thence easterly on the northern line of Mariposa and Madera, following summit line of the dividing ridge between Tuolumne and Merced rivers, to Mount Lyell, as marked on Warren Holt's map, 1869, and the summit of the Sierra Nevada mountains, being on the western line of Mono and common corner of Tuolumne, Madera and Mono; thence northerly by the line of Mono, being the summit line of the Sierra Nevada mountains, to the southern corner of Alpine, as established in section three thousand nine hundred ten; thence northwesterly by the line of Alpine to the southeastern corner of Calaveras; thence westerly on the line of Calaveras and down the Stanislaus river to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 908.]

Old section repealed (Stats. 1919, p. 857).

§ 3964. Ventura. Commencing on the coast of the Pacific Ocean, at the mouth of the Rincon creek; thence following up the center of said

creek to its source; thence due north to the corner common to Kern, Santa Barbara and Ventura located on the township line between townships nine and ten north, range twenty-four west, San Bernardino base and meridian, and running thence east with said line between townships nine and ten north, to the northeast corner of township nine north, range twenty-four west, San Bernardino meridian; thence south with the range line to the quarter-section corner in the west line of section seven, township nine north, range twenty-three west, San Bernardino meridian; thence east with the center line of sections seven, eight, nine, ten, eleven and twelve of said township nine, range twenty-three west, to the line between ranges twenty-two and twenty-three west, of said township; thence south with range line to the southwest corner of section eighteen, township nine, range twenty-two west; thence east to the corner of sections sixteen, seventeen, twenty and twenty-one of same township; thence south to the southwest corner of section thirty-three, of same township; thence east on line between townships eight and nine north, to the southeast corner of section thirty-six, township nine north, range twenty west, in the west line of range nineteen west; thence north to the northwest corner of section six, of township eight north, range nineteen west; thence east along the north line of said section six and section five of said township to the northeast corner of said section five of said township eight north, range nineteen west, San Bernardino meridian, forming the corner common to Los Angeles, Kern and Ventura; thence southerly along the western line of Los Angeles county to the Pacific Ocean and three miles therein; thence in a northwesterly direction to a point due south of and three miles distant from the center of the mouth of Rincon creek; thence north to the point of beginning, and including the islands of Anacapa and San Nicholas. [New section added May 23, 1919; Stats. 1919, p. 908.]

Old section repealed (Stats. 1919, p. 857).

§ 3965. **Yolo.** Beginning on southeast corner, at the most easterly northeast corner of Solano, in Sutter slough, at its intersection with the first standard north; thence west on said standard line to west line of range three east, Mount Diablo meridian; thence north on said range line to the northeast corner of township seven north, two east; thence west nine and seventy-two one-hundredths chains to southeast corner of township eight, two east; thence north on easterly line of said township to the old bed of Putah creek; thence westerly up the old bed and main Putah creek to a point on eastern line of Napa, in the cañon, called Devil's Gate, where the highest ridge of mountains divides the waters of the Sacramento from Berryessa valley, forming the most westerly of the southwest corners of Yolo and northwest corner of Solano; thence northerly along the highest ridge of said mountains to Cache creek; thence east to the summit of the spur of the Coast Range which divides the waters flowing east into Bear creek and Stony creek, and those flowing west into the north fork of Cache creek; thence along the dividing ridge, to the southwest corner of Colusa, as established in section three thousand nine hundred fourteen; thence easterly on southern line of Colusa, as established in said section, to Sacramento river, forming the northeast corner at the point of intersection of the southern line of township thirteen north, Mount Diablo base; thence down said river to

Sutter slough; thence down said slough to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 909.]

Old section repealed (Stats. 1919, p. 857).

§ 3966. Yuba. Beginning at southwest corner, at junction of Feather and Bear rivers; thence up Bear river, on the line of Sutter and Placer to the southwest corner of Nevada, as established in section three thousand nine hundred thirty-seven; thence north, on Nevada line, to the junction of Deer creek and main Yuba; thence up the main to the middle Yuba and up the middle Yuba ten miles, to the southwest corner of Sierra, as established in section three thousand nine hundred fifty-four; thence in direct line northerly, and on line of Sierra, to Cuteye Foster bar, on north Yuba river; thence down the river to the mouth of Big Cañon creek; thence up said creek four miles; thence in direct line to south corner of Plumas and northwest corner of Sierra, in Slate creek as established in sections three thousand nine hundred forty and three thousand nine hundred fifty-four; thence northwesterly in a direct line to common corner of Plumas, Butte, and Yuba, in front of Buckley house, as established in section three thousand nine hundred forty; thence on southwestern line of Butte, as established in Westcott and Henning's survey and map, down the Honcut creek, to its junction with Feather river; thence down Feather river, to the place of beginning. [New section added May 23, 1919; Stats. 1919, p. 909.]

Old section repealed (Stats. 1919, p. 857).

§ 4014. Township officers. The officers of a township are, two justices of the peace, two constables, and such subordinate officers as are provided by law. In townships containing cities, or parts of cities, of the second, third, fourth, or fifth class, in which city justices or recorders are elected or appointed, there shall be but one justice of the peace, and in townships having a population of less than seven thousand seven hundred fifty, there shall be but one justice of the peace and one constable; provided, however, that in townships containing cities of the first and one-half class there shall be six justices of the peace and one constable. For the purpose of this section, the population of township in the state of California is hereby determined to be the population of such townships as shown by the federal census taken in the year A. D. 1910, or by a subsequent census taken as in section four thousand fifty-five of this code provided; provided, however, that appointments to fill any additional offices created by this section shall not be made by the board of supervisors except upon the presentation of a petition therefor to said board, signed by not less than forty per cent of the qualified electors residents of such townships, whose names appear upon the general register of the county at the last general election. [Amendment approved May 3, 1919; Stats. 1919, p. 163.]

§ 4022. Official bonds of county officers. The board of supervisors of each county shall, on or before the first Monday in September, preceding the election of the following officers, prescribe the amount in which said officers must execute official bonds: Treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, surveyor, superintendent of schools, public administrator, coroner, justice of the peace, and constable. The judge or judges of the superior court shall

on or before the said first Monday of September prescribe the amount in which each member of the board of supervisors must execute an official bond before entering upon the discharge of the duties of his office. The bonds and sureties of such officers must, before the bonds can be recorded and filed, be approved by the judge or majority of judges, if there be more than one, of the superior court; provided, however, that in counties having five or more judges, the approval of three judges will be sufficient. All persons offered as sureties on official bonds may be examined on oath touching their qualifications, and no person can be admitted as surety on any such bond unless he is a resident and freeholder or householder within the state, and is worth in real or personal property, or both, situate in this state, the amount of his undertaking, over and above all sums for which he is already liable, exclusive of property exempt from execution and forced sale. All official bonds shall be recorded in the office of the county recorder and then filed and kept in the office of the county clerk. The official bond of the county clerk shall, after being recorded, be filed and kept in the office of the county treasurer. The tax collector shall also before qualifying give a bond as license collector in such sum as may be fixed by the board of supervisors, to be approved as provided in this section. [Amendment approved May 10, 1919; Stats. 1919, p. 523.]

§ 4041. Powers of supervisors. The boards of supervisors, in their respective counties shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

1. **Supervise work of county officers.** To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county and particularly those charged with the assessing, collecting, safekeeping, management, or disbursement of the public revenues; to see that they faithfully perform their duties, direct prosecutions for delinquencies, and, when necessary, require them to renew their official bonds, make reports and present their books and accounts for inspection.

2. **Divide counties into districts.** To divide the counties into townships, election, school, road, supervisor, sanitary, and other districts required by law, change the same, and create others, as convenience requires.

3. **Establish election precincts.** To establish, abolish, and change election precincts, and to appoint inspectors, clerks and judges of election, canvass all election returns, declare the result, and order the county clerks to issue certificates thereof; provided, that no election precinct shall be established or abolished or the boundaries of any election precinct changed within ninety days prior to any election.

4. **Build roads.** To acquire and take by purchase, condemnation or otherwise land for the uses and purposes of public roads, highways, boulevards, turnpikes, and other public ways, and to lay out, maintain, control, construct, repair, and manage public roads, boulevards, highways, turnpikes and other public ways, and to incur a bonded indebtedness for any such purposes; provided, that no such indebtedness shall be incurred for any of such purposes until after the question of the issue of bonds therefor shall have been submitted to the qualified electors of the county, at a special election called for that purpose, and two-thirds of the electors of the county voting at such election shall have voted in

favor of issuing such bonds; said election to be called and held and said bonds, if authorized, to be issued, sold and made payable in the manner and form prescribed by section four thousand eighty-eight of this code. Said boards shall also have power to make and enforce rules and regulations for the protection, management, control and use of such public boulevards, roads, highways, turnpikes and other public ways.

4a. **Maintain summer bridges.** To construct, operate, manage or maintain summer bridges or ferries under such rules and regulations and at such times and places as they may deem necessary; such bridges or ferries to be paid for out of the county general fund.

5. **Maintain ferries.** To lay out, maintain, control, construct, repair and manage public ferries, wharves, chutes and other shipping facilities and bridges within the county, unless otherwise provided by law, and grant franchises and licenses to collect tolls thereon.

6. **Acquire land for courthouse, etc.** To purchase, receive by donation, lease or otherwise acquire water rights or real or personal property necessary for the use of the county, for a courthouse, jail, hospital, historical museum, art gallery, art institute, stadium and almshouse, public pleasure ground, public parks, and other public purposes, and also property upon which to sink wells to obtain water for sprinkling roads and other county purposes, and to improve, preserve, take care of, manage and control the same; provided, that no purchase of real property shall be made unless a notice of the intention of the board of supervisors to make such purchase, describing the property to be purchased, the price to be paid therefor, from whom it is proposed to be purchased, and fixing the time when the board will meet to consummate such purchase, has been published for at least three weeks in some newspaper of general circulation published in the county; or if none be published in the county, then that has been posted at least three weeks prior to the time when the board meets to consummate such purchase, in at least three public places in each supervisorial district.

7. **Build hospitals, etc.** Work costing over five hundred dollars done by contract. **Awarding contract and doing work.** In counties having a purchasing agent. To construct or lease, build or rebuild, furnish or repair hospitals and almshouses, courthouse, jail, historical museum, county free library building, branch library building, art gallery, art institute, stadium and such other public buildings as may be necessary to carry out the work of the county government, and to provide all necessary officers, employees, attendants, and supplies for the proper maintenance of the same; provided, that a suitable graduate in medicine shall be appointed to attend to the indigent sick or dependent poor, or to the patients in such hospitals and almshouses provided with respect to county free libraries that are now or may hereafter be maintained either under the provisions of this section or under the provisions of an act of the legislature of the state of California entitled "An act to provide for the establishment and the maintenance of county free libraries," approved February 16, 1911, the provisions of said act shall control except as to section twelve thereof and said libraries shall be maintained under either the provisions of this section or said section twelve at the option of the board of supervisors; provided further, that the board shall not let the care, maintenance, or atten-

ance of such indigent sick or dependent poor by contract to any person. Whenever the cost of construction of any bridge, wharf, chute, or other shipping facilities, or of any hospital, almshouse, courthouse, jail, historical museum, county free library building, branch library building, art gallery, art institute, stadium or other public buildings, or the cost of any repairs thereto, or furnishing thereof shall exceed the sum of five hundred dollars, such work shall be done by contract, and any contract therefor shall be void unless the same shall be let as hereinafter provided. The board of supervisors shall adopt plans and specifications, strain-sheets and working details therefor, and must advertise for bids for the performance of the said work in a newspaper of general circulation published in the county for at least twenty days. In case there is no newspaper published in said county, then such notice shall be given by posting in three public places for at least twenty days. All bidders shall be afforded opportunity to examine such plans and specifications, strain-sheets and working details, and said board shall award the contract to the lowest responsible bidder, and the person, firm or corporation to whom the contract shall be awarded must perform the work in accordance with the said plans and specifications, strain-sheets and working details, unless the same be modified by a unanimous vote of the members of the board of supervisors; and in every such case if the cost of the work be reduced by reason of the modification, compensation must be made to the county therefor, and the person, firm, or corporation, to whom the contract shall be awarded must execute a bond to be approved by the said board for the faithful performance of such contract; provided, that for the construction of any bridge, wharf, chute, or other shipping facilities, or any repairs thereto if the board of supervisors shall be advised by the county surveyor that the work can be done for a sum less than the lowest responsible bid, it shall then be their privilege to reject all bids and to order the work done or structure built by day's work, under the supervision and direction of the said surveyor; provided, that the road commissioners or road overseers in their respective districts shall employ all labor required, and direct the conduct of work of any kind upon any and all public roads; provided, further, that in cases of great emergency, caused by flood, fire, earthquake, or act of God, by the unanimous consent of the whole board, they may proceed at once to replace or repair any and all bridges and structures without adopting the plans and specifications, strain-sheets, or working details, or giving notice for bids to let contract; the work to be done by day labor under the direction of the board or by contract, or by a combination of the two; if wholly or in part by contract, the contractor to be paid the actual cost of material and labor expended by him in doing the work, plus fifteen per cent to cover all profits, supervision, use of machinery, and tools, and other expenses; provided, that no more than the lowest current market prices shall be paid for material; provided, however, that in counties employing a purchasing agent that furnishings, materials and supplies used in the work mentioned in this subdivision costing not more than one thousand dollars, may be purchased by said purchasing agent in accordance with the provisions of subdivision twenty-one of this section without the formality of obtaining bids, letting contracts, preparing specifications, and doing the other things required by this section for purchases costing more than five hundred dollars.

8. **Provide poor farm.** To provide a farm in connection with the county hospital or almshouse and make regulations for working the same.

9. **Maintain necessary machinery.** To purchase, acquire, construct, equip and maintain all necessary tanks, reservoirs, pumps, apparatus, motor vehicles and other machinery necessary or proper to facilitate the performance of the work in the county.

9a. **Acquire cement plants.** To purchase, lease, construct or otherwise acquire, own, operate, manage and control, in any county in the state, cement manufacturing plant; and to sell the products of the same in such manner and upon such terms and conditions as to them shall be deemed proper; provided, that the state of California and municipalities or public corporations of the state shall have a preferred right at the same price as the products are offered to private persons to purchase the same; and to purchase, lease, or otherwise acquire real or personal property to be used in connection with such plant; provided, however, that no such plant shall be purchased, leased, or otherwise acquired, neither shall said works be constructed on real or personal property purchased or acquired until notice of the intention to make such purchase or construct such works shall have been given for a period of thirty days by publication in a newspaper of general circulation published within the county, or, if there be none, then by posting a notice for said period in a conspicuous place in three public places in the county; such notice shall contain a description of the property to be purchased or works to be constructed, a statement of the amount of money to be invested, the terms upon which it is to be invested and the time when the proposition will come before the board of supervisors to be acted upon.

10. **Sell county property no longer needed.** To sell at public auction at the courthouse door or at such other place within the county as the board may, by four-fifths vote, order, after five days' notice, given either by publication in a newspaper published in the county or by posting in three public places in the county, and convey to the highest bidder, cash any property belonging to the county not required for public use, paying the proceeds into the county treasury for the use of the county; provided, if in the unanimous judgment of the board, the property does not exceed in value the sum of seventy-five dollars, or if it be the product of the county farm, the same may be sold at private sale, without advertising, by any member of the board empowered for that purpose by majority vote of the board, such sale to be reported to and confirmed by such board of supervisors.

11. **Audit accounts.** To examine and audit, at least every twelve months the accounts of all officers having the care, management, collection, or disbursement of moneys belonging to the county or moneys received or disbursed by them under authority of law.

12. **Allow charges against county.** To examine, settle, and allow accounts legally chargeable against the county, except salaries of officers and such demands as are authorized by law to be allowed by some other person or tribunal, and order warrants to be drawn on the county treasurer therefor.

13. **Levy taxes.** To levy taxes upon the taxable property of the respective counties for all county purposes, and also upon the taxable

property of any district, for the construction and repair of roads and highways and other district purposes; provided, that no tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of such district and received a majority of all the legal votes cast upon such proposition.

14. Maintain public pounds. To maintain, regulate and govern public pounds, fix the limits within which animals shall not run at large, and appoint pound keepers, who shall be paid out of the fines imposed and collected from the owners of impounded animals, and from no other source.

15. Equalize assessments. To equalize assessments.

16. Direct county suits. To direct and control the prosecution and defense of all suits to which the county is a party and by a two-thirds vote of all the members, may employ counsel to assist the district attorney in conducting the same.

17. Insure buildings. To insure the county buildings and other property in the name and for the benefit of the county.

18. Establish salary fund. To establish a salary fund, and such other county funds as they may deem necessary for the proper transaction of the business of the county, and to transfer moneys from one fund to another, as the public interest may require.

19. Fill vacancies. To fill, by appointment, all vacancies that may occur in any office filled by the appointment of the board of supervisors and elective county or township officers, except in those of judge of the superior court and supervisor, the appointee to hold office for the unexpired term or until the next general election.

20. Reproduce county records. To employ the copyists necessary to reproduce any of the county records and indices thereto that may have been lost or destroyed by conflagration, public calamity or otherwise, or that may be in danger of destruction by age, obliteration, or constant use in any of the county offices.

21. Employ purchasing agent. To employ a purchasing agent, whose duties shall be to purchase for the county and the officers thereof all stationery, clothing, bedding, groceries, provisions, drugs, medicines, furnish machinery, implements, and all other personal property, material or supplies, the same to be purchased only upon a proper requisition therefor; also employ for said purchasing agent such assistants as may be necessary for him to properly fulfill his duty; provided, that the purchasing agent may engage independent contractors to perform sundry services for the county with or without furnishing material where the aggregate cost does not exceed fifty dollars, such services to be ordered upon proper requisition as herein provided.

22. Advertising for bids. Whenever a board of supervisors shall employ a purchasing agent as herein provided for it shall not be necessary for them to advertise for bids for furnishing county supplies as provided in section four thousand forty-eight of the Political Code, with the exception of advertising.

23. Make own regulations. To make and enforce such rules and regulations for the government of their body, the preservation of order,

and the transaction of business, as may be necessary and the supervisors may attend annual state meetings of the state supervisors association and shall be allowed their actual expenses, in going to, attendance upon and returning from any such state association meetings and their actual and necessary traveling expenses when traveling outside their counties on official business.

24. Adopt a seal. To adopt a seal for the board, a description and impression of which must be filed in the office of the county clerk and of the secretary of state.

25. License business. Soldiers licensed without fee. To license, the exercise of their police powers, and for the purpose of regulation as herein provided, and not otherwise, all and every kind of business not prohibited by law, and transacted and carried on within the limits of their respective jurisdictions, and all shows, exhibitions, and lawful games carried on therein, to fix the rates of license tax upon the same and to provide for the collection of the same by suit or otherwise; provided, that every honorably discharged soldier, sailor or marine of the United States who is unable to obtain a livelihood by manual labor shall have the right to hawk, peddle and vend any goods, wares or merchandise, except spirituous, malt, vinous or other intoxicating liquors without payment of any license, tax or fee whatsoever, whether municipal, county or state, and the board of supervisors or legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor; provided, however, no license can be collected, or any penalty for the nonpayment thereof enforced against any commercial traveler whose business is limited to the goods, wares and merchandise sold or dealt in this state at wholesale.

26. Destroy pests. To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life.

27. Protect sheep. To provide for the prevention of injuries to sheep by dogs, and to tax dogs and direct the application of the tax.

28. Protect fish and game. To provide, by ordinances, not in conflict with the general laws of the state, for the protection of fish and game, and may shorten the season for taking or killing of fish and game within the dates fixed by the general state laws, but shall not lengthen the same.

29. Work prisoners. To provide for the working of prisoners, confined in the county jail, under judgment of conviction of misdemeanor under the direction of some responsible person, to be appointed by the sheriff whose compensation shall not exceed one hundred dollars per month, upon the public grounds, roads, streets, alleys, highways, public buildings, or in such other places as may be deemed advisable for the benefit of the county.

29a. Care for poor. To provide for the care and maintenance of the indigent sick or dependent poor of the county, and for such purpose levy the necessary property or poll taxes, or both.

30. Bury indigent dead. To provide for the burying of the indigent dead.

31. **Make local police regulations.** To make and enforce, within the limits of their county, all such local police, sanitary and other regulations as are not in conflict with general laws.

32. **Make rules for storing gunpowder.** To adopt such rules and regulations, within their respective counties, with regard to keeping and storing of every description of gunpowder, Hercules powder, giant powder or other explosives or combustible material, as the safety and protection of the lives and property of individuals may require.

33. **Levy tax for advertising.** To levy a special tax not to exceed two cents on the one hundred dollars of the assessed valuation of all property within the county to be used for advertising, exploiting and making known the resources of the county for the purpose of inducing immigration to, and increasing the trade and commerce of, said county, or for the purpose of exhibiting or advertising the agricultural, mineral, manufacturing or other resources of the county; provided, however, that if said rate of two cents will not raise five thousand dollars in any one year the boards of supervisors may appropriate from the general fund of the county an amount sufficient to make up the deficiency existing between the amount raised as the result of the two cent levy and five thousand dollars; and provided, further, that such tax shall be in addition to any tax which may now or hereafter be authorized to be levied for the purpose of creating a fund to be used for collecting, preparing and maintaining an exhibition in any domestic or foreign exposition.

33a. **Levy tax for public comfort stations.** To levy a special tax not to exceed five cents on the one hundred dollars of the assessed valuation of all property within the county, to be used for the erection of public comfort stations.

34. **Regulate width of wagon tires.** To enforce, by ordinance, within the limits of their counties all such regulations concerning the size of wagons and vehicles of all kinds to be used on the roads or highways, and the width of tires on the same, as are not in conflict with general laws.

35. **License toll roads, etc.** To grant licenses and franchises for the construction, keeping and taking tolls on roads, bridges, ferries, wharves, chutes, booms and piers, and to grant franchises along and over the public roads and highways for all lawful purposes, upon such terms and conditions and restrictions as in their judgment may be necessary and proper, and in such manner as to prevent the least possible obstruction and inconvenience to the traveling public.

36. **Take tolls on public roads.** To grant, on such terms, conditions and restrictions as in their judgment may be necessary and proper, licenses and franchises for taking tolls on public roads or highways, whenever in their judgment the expense necessary to operate or maintain such public roads or highways as free public highways is too great to justify the county in so operating or maintaining them. It shall always be a condition attached to the granting of such licenses and franchises, that such roads or highways shall be kept in reasonable repair by the person or persons to whom such licenses or franchises may be granted; provided, that the provision of any general law ap-

plicable to the granting of franchises by municipal corporations and counties throughout the state shall be complied with in the granting of any franchise by the board of supervisors.

37. Repair roads. To enact ordinances and regulations for the construction, alteration, repair and control of all public roads and highways in the county, unless otherwise provided by law.

38. Levy road fund tax. Levy sanitary tax. To levy a special road fund tax, not to exceed two (2) mills on the one dollar of assessed valuation, on all the property in such counties, outside of any incorporated city or town. Such tax shall be in addition to all taxes otherwise provided for, and the fund so created shall be expended for the construction and maintenance of the main public roads or county highways in the several road districts, in proportion to the amount collected from such districts; provided, that in addition to the tax mentioned in this subdivision the board of supervisors shall have the power and it shall be their duty, upon the petition of a majority of the property owners of any road district, to levy a special road fund tax not to exceed two mills on the one dollar of assessed valuation on all the property in such road district, to be expended in the maintenance of the public roads of such district. To levy a special sanitary tax, not to exceed one-half ($\frac{1}{2}$) mill on the one dollar of assessed valuation on all the property of such counties, outside of any incorporated city or town. Such tax shall be in addition to all taxes otherwise provided for, and the fund so created shall be used to prevent the introduction of dangerous infectious or communicable diseases and to eradicate them if introduced, and for the purpose of general sanitation.

39. Encourage tree planting. To encourage, under such regulations as they may adopt, the planting and preservation of shade and ornamental trees on the public roads and highways, and on and about the public grounds and buildings of the county, and pay to persons planting and cultivating the same, for every living tree thus planted, at the age of four years, a sum not exceeding one dollar.

39a. Assume municipal functions. To assume and discharge such municipal functions of the cities and towns within the county as may be authorized by any county charter framed under the provisions of section seven and one-half of article eleven of the constitution of the state of California.

40. Protect river banks. Protect against fire. To provide by ordinance for the organization and government of districts, to protect and preserve the banks of rivers and streams and lands lying contiguous thereto from injury by overflow or the washing thereof, and to provide for the improvement of said rivers and streams, and prevent obstruction thereof, and to provide for the assessment, levy and collection within such districts of a tax therefor. To appropriate a sum not exceeding two cents per one hundred dollars of the assessed valuation of their county in any one year, in addition to any sum which may be chargeable to the county for the repayment of money expended by the state for protection against fire in such county, for the purpose of protecting forest, brush and grass lands therein, against fire or other injury, and of aiding the state and federal authorities in forestry work.

40a. Sell maps. To provide for the sale, at not less than cost, of copies of such maps as may be prepared by the surveyor for the use of the assessor under the provisions of section four thousand two hundred eighteen of the Political Code of California, as may be deemed desirable by the board of supervisors.

41. Do other acts required. To do and perform all other acts and things required by law not in this title enumerated, or which may be necessary to the full discharge of the duties of the legislative authority of the county government. [Amendment approved May 20, 1919; Stats. 1919, p. 796.]

§4041b. Advisory board to county assessor. Whenever, in the judgment of the board of supervisors of any county, it is deemed to be for the best interest of the county, on account of changes in land values, that there be appointed an advisory board to co-operate with the county assessor in making the annual appraisalment of real property therein for taxation purposes, the board of supervisors, by a four-fifths vote, may appoint such advisory board, which shall consist of three members. Before any person thus appointed shall enter upon the duties of his office, he shall take the oath of office and shall execute such bond as the supervisors may prescribe. The members of the advisory board shall be allowed their necessary expenses and each member shall receive a compensation of not to exceed ten dollars per day while actually engaged in the duties of his office. Competent persons may be employed to compile records necessary for determining the true value of land. All claims for compensation and expenses hereunder shall be paid out of the general fund of the county after approval by the board of supervisors. [Amendment approved May 27, 1919; Stats. 1919, p. 1336.]

§4052c. Erection of historic monuments. The boards of supervisors in the several counties shall have, and they are hereby given, the power to appropriate money from the general fund of the county to erect monuments or to place tablets to commemorate historic spots or places within the limits of the county. [New section added May 31, 1917; Stats. 1917, p. 1366.]

§4054a. Transfer of money from general fund to interest and sinking fund. Whenever the principal on any bonds which have been legally issued by any of the several counties, or by any district within a county organized under the laws of the state of California which is not a separate corporate entity, or any interest on said bonds, shall become due and there shall not be sufficient money in the fund established for the payment of said principal or interest to pay the same, the board of supervisors of the county, pending the collection of taxes levied therefor, or pending the collection of any ad valorem assessment therefor which the law provides shall be levied and collected in the same manner as taxes, may order the amount of money necessary to pay the principal or interest, or both, so falling due to be transferred from the general fund of the county to the interest and sinking fund provided for the payment of said principal and interest. The amount of money so transferred shall be deemed a loan to such interest and sinking fund and the county auditor shall retransfer the same to the general fund from the very first money coming into such interest and sinking fund

thereafter; provided, that in no instance may the board of supervisors advance to any interest and sinking fund an amount greater than the amount of uncollected taxes or ad valorem assessment which have been levied for the payment of the principal and interest on said bonds. [New section approved May 10, 1919; Stats. 1919, p. 405.]

§ 4087a. Premiums and accrued interest deposited in interest and sinking fund. Exception. Whenever any bonds issued by any county or by any district, school, drainage, or any other kind, in any county whose accounts are required by law to be kept by the county auditor and treasurer are sold at a premium or with accrued interest, or at a premium and accrued interest, the amounts received for such premium and accrued interest shall be deposited in the interest and sinking fund of such county or district unless it is subsequently expressly provided by law that they shall be deposited in some other fund. This section does not apply to the sale of bonds by counties which have been purchased as investments. [New section added May 10, 1919; Stats. 1919, p. 406.]

§ 4095. Warrants to be numbered. All warrants issued by the auditor during each fiscal year, commencing with the first of each fiscal year, must be numbered consecutively and the number, date, amount of each warrant, and the name of the person to whom payable and the purpose for which drawn, must be stated thereon, and they must, at the time they are issued, be registered by him, and after such warrants have remained uncalled for for two years, they shall be canceled. Separate series of numbers may be used for the different kinds of warrants, such as poll warrants and general warrants drawn for miscellaneous supplies and expenses, and special warrants drawn on court orders, etc. [Amendment approved May 6, 1919; Stats. 1919, p. 309.]

§ 4097. Monthly count of money in county treasury. The chairman of the board of supervisors, district attorney and auditor must, at least once in each month, count the money in the county treasury, and must and verify, in duplicate, statements showing:

1. The amount of money and the amount of receipts for bank deposits that ought to be in the treasury as shown by the books of the auditor and treasurer.
2. The amount and kind of money and the amount of bank receipts for deposits which are actually in the treasury. [Amendment approved May 13, 1919; Stats. 1919, p. 402.]

§ 4101. Duties of county treasurer. The treasurer must:

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, safely keep the same, and apportion and pay them out, rendering the account thereof as required by law.
2. File and keep the certificates of the auditor delivered to him when moneys are paid into the treasury.
3. Keep an account of the receipt and expenditure of all such moneys in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him; the warrant number, the amount, time when, and on what account all disbursements were made by him.

4. So keep his books that the amount received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.

5. Enter no moneys received for the current year on his account with the county for the past fiscal year, until after his annual settlement for the past year has been made with the county auditor.

6. Disburse the county moneys and all other money placed in his custody by official authority only on county warrants issued by the county auditor, except on settlement with the state.

7. Disburse the moneys in the treasury on such warrants only when they are based on orders of the board of supervisors, or upon order of the superior court, or as otherwise provided by law. [Amendment approved May 7, 1919; Stats. 1919, p. 339.]

§ 4112. County treasurer's report. Each county treasurer must make a detailed report at the first regular meeting held in any month by the board of supervisors of his county, of all money received by him, and the disbursement thereof, so that the receipts into the treasury and the amounts of disbursements may distinctly appear. [Amendment approved May 3, 1919; Stats. 1919, p. 161.]

§ 4115. Money found on dead body. The treasurer upon receiving from the coroner or justice of the peace acting as coroner money found on a dead body must place it to the credit of the county. All said moneys must be kept in a separate fund. [Amendment approved May 5, 1917; Stats. 1917, p. 259.]

§ 4123. Refund of fees erroneously paid to county. The treasurer shall return to the party paying the same, or to his assigns, all fees or other moneys, erroneously paid into the county treasury, the provisions of section three thousand eight hundred four of this code, so far as they apply to the method by which a return of money shall be made, are hereby made applicable to this section. [New section approved May 3, 1919; Stats. 1919, p. 185.]

§ 4131. What to be recorded. He must, upon the payment of his fees for the same, record, separately, in a fair hand, or typewriting, in large well-bound separate books, either sewed books or an insertable leaf, which when placed in the book cannot be removed:

(a) Deeds, grants, transfers and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved.

(b) Mortgages of personal property.

(c) Certificates of marriage and marriage contracts.

(d) Wills admitted to probate.

(e) Official bonds.

(f) Notices of mechanic's liens.

(g) Transcripts of judgments, which by law are made liens upon real estate in this state.

(h) Notices of attachments upon real estate.

(i) Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.

(j) Instruments describing or relating to the separate property married women.

(k) Notices of pre-emption claims.

(l) Births and deaths.

(m) Certified copies of decrees and judgments of courts of record and

(n) Such other writings as are required or permitted by law to be recorded.

In lieu of any or all of the separate books above provided for, the recorder may, in his discretion, record any or all of the above instruments in one general series of books to be called "official records" which books shall be numbered consecutively beginning with number one. The recording of instruments in such "official records" will impart notice in like manner and effect as if such instruments were recorded in any of the separate books hereinbefore provided for. [Amendment approved May 3, 1919; Stats. 1919, p. 236.]

§ 4146. Duties of coroner as to property of deceased persons. The coroner must within thirty days after an inquest upon a dead body deliver to the legal representatives of the deceased any money or other property found upon the body. If within the said thirty days no such legal representative makes a demand upon the coroner for the said money or property found upon the body of the decedent, then, upon the expiration of the said thirty days, the coroner must deliver to the treasurer a money found upon the body of the deceased, together with the proceeds of the sale of the property found upon the body of the decedent, which sale shall be held in accordance with the provisions of section four thousand and one hundred forty-six of this code, and at the same time an affidavit with the treasurer showing:

1. The amount of money belonging to the estate of the deceased person which has come into his possession since his last statement.

2. The disposition made of such property.

If the coroner or any justice of the peace acting as coroner fails to deliver to the treasurer within forty days after any inquest upon a dead body all money, or proceeds from the sale of property found upon such body, unless claimed in the meantime by the public administrator or other legal representative of the decedent as required by this section, the district attorney must proceed against the coroner or justice of the peace acting as coroner to recover the same by civil action in the name of the county. [Amendment approved May 5, 1917; Stats. 1917, p. 258.]

§ 4146a. Sale of property at public auction. If within thirty days after an inquest upon a dead body no legal representative of such decedent shall have demanded from the coroner or any justice of the peace acting as coroner the property found upon the person of the decedent, the coroner or justice of the peace acting as coroner shall sell such property at public auction upon reasonable public notice, and must immediately thereafter deliver the proceeds of such sale to the treasurer, who shall place the same to the credit of the county, in the same manner as prescribed in section four thousand one hundred fifteen of this code. [New section added May 5, 1917; Stats. 1917, p. 259.]

§ 4147a. Powers of deputy coroners. If the coroner is absent or unable to attend, the duties of his office may be discharged by any of his

deputies with like authority, and subject to the same obligations and penalties as the coroner. [New section added May 5, 1917; Stats. 1917, p. 248.]

§4149b. Appointment of county fish and game wardens. Deputy fish and game wardens. The board of supervisors of each county may, in the discretion of the board, at the first meeting thereof held in January, 1909, and in January every two years thereafter, appoint a suitable person to serve for the period of two years from the date of his appointment as fish and game warden of the county. Such fish and game warden may be removed by the board of supervisors for intemperance, neglect of duty, or other good and sufficient reason. Said fish and game warden shall, before entering upon the discharge of his duties, execute a bond with sureties in such sum as may be required by the board of supervisors, for the faithful and proper discharge of his duties as such fish and game warden; and provided, further, that in counties of the third class the board of supervisors in their discretion may appoint a deputy fish and game warden. Deputy fish and game wardens shall have the same duties and powers as their principals. The salary of the deputy fish and game warden in counties of the third class shall be seventy-five dollars a month and shall be paid in the same manner and out of the same fund that the salary of the fish and game warden is paid, and the bond of the fish and game warden shall also be conditioned for the faithful discharge of the duties of his deputy, as well as of himself. [Amendment approved April 5, 1917; Stats. 1917, p. 41.]

§4153. Duties of district attorney. The district attorney is the public prosecutor, and must:

1. Attend the courts, and conduct, on behalf of the people, all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the superior court, or in civil cases on behalf of the people, must attend upon the magistrates in cases of arrest, when required by them, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought in his county against the state or his county wherever brought, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer.

5. On the first Monday of each month file with the auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month, and at the same time pay them over to the county treasurer.

6. Give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices.

7. When requested by the auditor or treasurer so to do, defend or prosecute, except as hereinafter provided, any action brought by or against the auditor or treasurer for the purpose of testing the validity or constitutionality of any act of the legislature providing for the payment of county funds or funds held in trust by the county in the cases only where the interest of the county is not adverse; provided that in counties having a freeholders' charter creating the office of county counsel, it shall be the duty of the county counsel to defend or prosecute any such action and any and all other civil actions or proceedings in which the county or any other officer thereof is concerned or is a party. [Amendment approved May 21, 1919; Stats. 1919, p. 79.]

§ 4225a. Contract for county health officer to exercise functions in city. Contract for city health officer to exercise functions in county. The board of supervisors of any county wherein a county health officer has been appointed under the provisions of section four thousand two hundred twenty-five of the Political Code shall have power to contract with any incorporated city or town or chartered city within such county and such incorporated city, town or chartered city therein, through its board of trustees, council or other legislative body, shall have power to contract with such county for the performance by health officers and other employees of health departments of any or all functions relating to public health. Whenever such contract has been duly entered into, the county health officer and his deputies shall thereupon exercise the same powers and duties within such city or town or chartered city as are conferred upon health officers thereof by state law and local ordinance within such city or county. In any such contract the city, town or chartered city shall have power and authority to provide for the payment by such incorporated city or town or chartered city to the county of such consideration as may be agreed upon, the same to be paid to the county treasurer of the county.

The board of supervisors of any county may contract with any incorporated city or town or chartered city within such county, through its board of trustees, council or other legislative body, to secure the performance by the health officer or other health department employees of such city, town or chartered city, or in any unincorporated territory adjacent thereto, of any or all functions relating to public health. Payment for said services in such unincorporated territory shall be made by the county to the city treasurer of such city or town or chartered city.

Said contracts may further provide for the care and support, including medical attendance, of indigent sick, and for compensation therefor. [New section added May 3, 1919; Stats. 1919, p. 152.]

Another section 4225a was adopted at the same session of the legislature. See next section.

§ 4225a. Appointment of public health nurses in counties. The board of supervisors in each county may employ one or more public health nurses, each of whom shall be a registered nurse possessing such qualifications as may at the date of her employment be prescribed by the state board of health. The public health nurse shall attend to such matters pertaining to the health and sanitary conditions of the county as the board of supervisors may, from time to time, assign to her and

shall receive such compensation as may be determined by said board. [New section added April 30, 1919; Stats. 1919, p. 180.]

Another section 4225a was adopted at the same session of the legislature. See prior section.

§ 4232. Counties of third class, salaries of officers. Alameda. In counties of the third class the county and township officers shall receive as full compensation for the services required of them by law or by virtue of their office, the following salaries:

1. **County clerk.** The county clerk, five thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one chief deputy whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one deputy to act as judgment clerk, whose salary is hereby fixed at the sum of two thousand dollars per annum; one deputy to act as assistant judgment clerk whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; one deputy to act as assistant clerk of the board of supervisors, whose salary is hereby fixed at the sum of two thousand dollars per annum; one deputy to act as chief registration clerk, whose salary is hereby fixed at two thousand dollars per annum; one deputy to act as assistant registration clerk whose salary is hereby fixed at one thousand eight hundred dollars per annum; twenty-two deputies, whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; two deputies whose salaries are hereby fixed at the sum of one thousand three hundred twenty dollars per annum each. All the foregoing deputies herein provided for, shall be appointed by the county clerk of said county, and their salaries shall be paid by the county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the county clerk; provided, further, that in such years as the compilation of a great register of voters is required by law to be made the county clerk in counties of this class shall be and he is hereby allowed such additional deputies as he may appoint and whose compensation shall not in the aggregate exceed the sum of twelve thousand dollars for such year; provided, further, that in such years as compilation of the great register of voters is required by law to be made the county clerk in counties of this class may appoint one additional deputy in each voting precinct in the county, who shall be a qualified elector of such precinct, for the purpose of registering electors; such additional deputies shall be paid five cents per name for each elector legally registered by them in the same manner as other county claims are paid; provided, further, that in the event of a special election being held throughout the county the county clerk shall be allowed fifteen additional deputies for a period of one month preceding the day of such election, at a compensation of one hundred dollars per month each; such clerks shall be appointed by the county clerk of such county, and during their respective periods of employment their salaries shall be paid by such county in equal monthly installments, at the same time and in the same manner and out of the same fund as is the salary of the county clerk of such county.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff, one under-sheriff, whose salary is hereby fixed at the sum

of two thousand four hundred dollars per annum; two deputies whose salaries are hereby fixed at the sum of two thousand dollars per annum each; one chief jailer whose salary is hereby fixed at the sum of two thousand dollars per annum; two deputies who shall act as detectives at the sum of one thousand eight hundred dollars per annum each; twenty-three deputies whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; two engineers for the jail whose salaries are hereby fixed at sum of one thousand eight hundred dollars per annum each; one matron for the jail, whose salary is hereby fixed at one thousand twenty dollars per annum; one assistant matron for a period not to exceed two weeks in any one year and to serve only during the vacation of the matron, at a salary of forty-two and one-half dollars for such two weeks; provided, further, that the under-sheriff, all deputies, chief jailer, matron, assistant matron and engineers herein provided for shall be appointed by the sheriff and their salaries shall be paid by the said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the sheriff; the sheriff shall also receive the amount of money necessarily expended by him in serving all process and notices and all expenses necessarily incurred by him in the prosecution of criminals and the same shall be a charge against the county and allowed as such by the board of supervisors and paid as other county charges are paid.

3. **Recorder.** The recorder, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the recorder the following deputies and copyists who shall be appointed by the recorder of such county and shall be paid the salaries and compensations as follows: One chief deputy whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; thirteen deputies whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; provided further, that the salary of the chief deputy and the salaries of the deputies herein provided for shall be paid by the said county in equal monthly installments, at the same time and in the same manner as out of the same fund as the salary of the recorder; provided, further, that in counties of this class, the recorder shall be entitled to the actual cost incurred by him for the recording of all papers, documents and records in his office not to exceed six and three-fourths cents per folio for longhand recording and not to exceed five and one-half cents per folio for typewritten recording for each paper or document so recorded; and provided, further, that said recorder shall file monthly with the county auditor a sworn statement showing in detail the persons, and the amount paid to each for such recording.

4. **Auditor.** The auditor, four thousand dollars per annum; provided that in counties of this class there shall be and there hereby is allowed to the auditor, one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one accountant whose salary is hereby fixed at the sum of two thousand dollars per annum; one redemption clerk whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; one warrant clerk whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; three deputies whose salaries are hereby fixed at the

sum of one thousand six hundred twenty dollars per annum each; one stenographer whose salary is hereby fixed at the sum of one thousand two hundred dollars per annum; and such additional assistants during the period in each year from July first to December thirty-first as the auditor may appoint and whose compensation shall not in the aggregate exceed the sum of two thousand dollars per annum; and provided, that the auditor shall file with the county clerk, a sworn statement showing in detail the amounts paid and the persons to whom said compensation is paid for such extra assistants as aforesaid; provided, further, that the chief deputy, accountant, redemption clerk, warrant clerk and deputies shall be appointed by the auditor of said county and their salaries shall be paid by the said county in equal monthly installments, at the same time and in the same manner and out of the same fund as is the salary of the auditor.

5. **Treasurer.** The treasurer, six thousand dollars per annum; after January 1, 1921, five thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the treasurer, one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one deputy whose salary is hereby fixed at the sum of two thousand one hundred dollars per annum; two deputies whose salaries are hereby fixed at the sum of one thousand eight hundred dollars per annum each, which sums shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the treasurer; provided, that the chief deputy and the three deputies herein provided for shall be appointed by the treasurer of said county; and provided, further, that all commissions and fees required or permitted by any law of this state or of the United States, to be collected by the treasurer either as an officer or ex-officio officer, his deputies or assistants, for the performance of any official duty, shall be collected for the benefit of the county and shall be paid into the salary fund of the county monthly.

6. **Tax collector.** The tax collector, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector, one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; two deputies whose salaries are hereby fixed at the sum of two thousand dollars per annum each; twelve deputies whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; provided, further, that there shall be and there hereby is allowed to the tax collector three extra deputies for a period not to exceed eight months in any one year at a salary of one hundred dollars per month each; six extra deputies for a period not to exceed five months in any one year at a salary of one hundred dollars per month each; six extra deputies for a period not to exceed four months in any one year at a salary of one hundred dollars per month each; provided, further, that in counties of this class the tax collector shall appoint six persons to be known as indexers, and whose duties it shall be under the supervision and direction of the tax collector to compile, make out and complete an index of the assessment-rolls of the county, and of the sanitary assessment-rolls for each sanitary district in counties of this class yearly, as soon as the said rolls are completed by the assessor of

the county and each assessor of said sanitary districts and for one year thereafter. The said indexes to be a public record for use of the tax collector and the general public and to be kept in the office of the tax collector during the collection of taxes and to be turned over to the auditor at the same time as the assessment-rolls are turned over in the final settlement of the tax collector with the county auditor. Such indexers shall be paid a salary of one hundred dollars per month each, payable at the same time and in the same manner as other county officers are paid, but such indexers shall not be employed to exceed five months in any one year; provided, further, that the chief deputy and all other deputies herein provided for shall be appointed by the tax collector of said county, and the salaries of said chief deputy and other deputies herein provided for shall be paid by said county during the time which they shall hold office as herein provided at the same time and in the same manner and out of the same fund as the salary of the tax collector.

7. **License collector.** The license collector shall receive fifteen per cent of all licenses collected by him.

8. **Assessor.** The assessor, seven thousand dollars per annum and necessary traveling expenses in the performance of the duties of his office; provided, that in counties of this class there shall be, and there hereby is allowed to the assessor, the following assistants and deputies who shall be appointed by the assessor and shall be paid salaries as follows: One assistant assessor, whose salary is hereby fixed at the sum of three thousand dollars per annum; one chief deputy, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one chief clerk, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; eight deputies whose salaries are hereby fixed at the sum of one thousand eight hundred dollars per annum each; four deputies, whose salaries are hereby fixed at the sum of one thousand six hundred eighty dollars per annum each; fifteen deputies whose salaries are hereby fixed at the sum of one thousand six hundred twenty dollars per annum each; two deputies for a period not to exceed six months in any one year whose salaries are hereby fixed at the sum of one hundred fifty dollars per month each; ten deputies for a period not to exceed five months in any one year whose salaries are hereby fixed at the sum of one hundred twenty dollars per month each; and such additional deputies as the assessor may appoint and whose compensation shall not in the aggregate exceed the sum of three thousand dollars per annum; provided, that the assessor shall file with the county auditor a verified statement showing in detail the amount paid and the persons to whom such compensation is paid for such extra assistants as aforesaid; provided, further, that the number of deputies not to exceed four which are assigned by the assessor to do field work outside of incorporated cities or towns within counties of this class shall be allowed their actual and necessary traveling expenses while engaged in assessing personal property in the said unincorporated territory.

The salaries herein provided for shall be paid by the said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid; provided, however, that should the assessor be directed by any law or by

order of the board of supervisors or by any municipality within said counties of the third class to prepare maps, plats or block-books for the use of the county or assessment-rolls for the use of any municipality, then said assessor shall make such maps, plats, or block-books or assessment-rolls for the use of any municipality but shall only receive the actual cost by him incurred in making or preparing said maps, plats block-books or assessment-rolls; and provided, further, that he shall file with the county auditor a sworn statement showing the persons to whom and the amounts paid to each for such maps, block-books or assessment-rolls, and shall account forthwith and pay over to the county any difference between such costs and the amount allowed him for such work; and provided, further, that the salaries herein named shall be in full compensation for all services of every kind and description rendered by the assessor, his deputies and assistants; and it is further provided, that in counties of this class the assessor shall receive no commission for his collection of taxes on personal property nor shall the said assessor receive any compensation for making out the military roll of persons returned by him as subject to military duty as provided by section one thousand nine hundred one of the Political Code.

9. District attorney. The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney the following assistants, deputies and employees, who shall be appointed by the district attorney of said county who shall be paid salaries as follows: One assistant district attorney whose salary is hereby fixed at the sum of three thousand three hundred dollars per annum; one chief deputy district attorney whose salary is hereby fixed at the sum of three thousand dollars per annum; two deputies district attorney whose salaries are hereby fixed at the sum of two thousand seven hundred dollars per annum each; two deputies district attorney whose salaries are hereby fixed at the sum of two thousand four hundred dollars per annum each; two deputies district attorney whose salaries are hereby fixed at the sum of two thousand one hundred dollars per annum each; one deputy district attorney whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; two deputies district attorney whose salaries are hereby fixed at the sum of two thousand four hundred dollars per annum each, whose duty it shall be in addition to performing services as deputies district attorney to attend the sessions of the police courts in cities of the second class, and conduct on behalf of the people, all prosecutions for public offenses of which said police courts shall have jurisdiction; one clerk whose salary is hereby fixed at the sum of one thousand six hundred twenty dollars per annum; one clerk and private exchange operator at a salary of nine hundred sixty dollars per annum; one process server whose salary is hereby fixed at the sum of one thousand five hundred dollars per annum; three stenographers whose salaries are hereby fixed at the sum of one thousand two hundred dollars per annum each; one detective who shall assist the district attorney in the detection of crime and prosecution of criminal cases whose salary is hereby fixed at the sum of two thousand one hundred dollars per annum; and provided, further, that nothing herein contained shall be construed to prevent the boards of supervisors of counties of this class from employing special counsel in civil cases when in the judgment of said boards the interests of said counties require it.

The salaries of said assistants, deputies, clerks, detective, process server, private exchange operator, stenographers, and special counsel in this subdivision provided for shall be payable by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

10. **Coroner.** The coroner, four thousand dollars per annum, and necessary traveling expenses as follows: Ten cents per mile for distance actually traveled outside the cities of Oakland, Berkeley, Alameda, Piedmont, Emeryville and San Leandro; said traveling expenses not to exceed twenty dollars in any one calendar month; provided, further, that in counties of this class, there shall be, and there hereby is allowed to the coroner, one autopsy physician and surgeon, whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum, who shall perform all autopsies and inspections in all cases required by the coroner except that where the distance from the county seat exceeds twenty miles the coroner may subpoena a physician or surgeon to perform such autopsy or to inspect the body; one deputy, whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum, and one stenographer, whose salary is hereby fixed at the sum of one thousand four hundred dollars per annum, and who shall be paid, in addition thereto, for transcribing all the testimony and proceedings taken by him at any inquest, the sum of ten cents per one hundred words for one copy, and five cents per one hundred words for two copies made at one time and in every case where the death of any person shall have been caused by the criminal act of another, such stenographer shall make a copy of the transcript of the testimony and proceedings taken at said inquest for the use of the district attorney of such county; and all inquests so reported the fees for transcribing as provided herein shall be paid out of the county treasury upon the order of the coroner.

When such testimony is taken down by such stenographer as hereby is set forth his transcription thereof duly certified to by him, shall constitute the deposition of the witnesses testifying at such inquest so reported by such stenographer. The autopsy physician and surgeon, deputy, and stenographer herein provided for shall be appointed by the coroner, and their salaries shall be paid by said county in equal monthly installments at the same time, and in the same manner and out of the same fund, as is the salary of the county officers in counties of this class. The coroner must hold inquests as prescribed by chapter two, title twelve, part two of the Penal Code, and he, or any other officer holding the inquest upon the body of the deceased person may subpoena a chemist to make an analysis of the contents of the stomach or of the tissues of the body.

11. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

12. **Superintendent of schools.** The superintendent of schools, four thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the superintendent of schools, one assistant superintendent of schools; one chief deputy superintendent of schools and one deputy superintendent of schools, all of whom shall be appointed by the superintendent of schools of said county, and whose salaries shall be as follows: The salary of the assistant superintendent of schools shall be two thousand four hundred dollars per annum; the salary of the chief deputy superintendent of schools shall be two thousand

said dollars per annum; and that of the deputy superintendent of schools shall be one thousand six hundred twenty dollars per annum. The salaries shall be paid out of the same fund and in the same manner as the salary of the superintendent of schools is paid.

13. **Surveyor.** The surveyor shall receive a salary of four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the surveyor, one deputy, whose salary is hereby fixed at the sum of two thousand seven hundred dollars per annum; one stenographer whose salary is hereby fixed at the sum of one thousand five hundred dollars per annum. The salary of such surveyor shall be paid by such county in equal monthly installments at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid. All work which the surveyor is directed or charged to perform by law, or by order of the board of supervisors of such county shall be performed by the said surveyor at actual cost; provided, however, that on all such work other than block-book work hereinafter provided for, transit men and office men when actually engaged on such county work shall receive a per diem of not to exceed eight dollars and chainmen when actually engaged on such county work shall receive a per diem of not to exceed five dollars; and provided, further, that for the making, platting, tracing or otherwise preparing maps, plats or block-books for the use of the county or any municipality within such county there shall be and there hereby is allowed to the surveyor the following draftsmen who shall be paid salaries as follows: Two draftsmen whose salaries are hereby fixed at the sum of two thousand one hundred dollars per annum each; two assistant draftsmen whose salaries are hereby fixed at the sum of one hundred forty dollars per month each; and provided, further, that the surveyor shall be allowed all necessary expenses for work performed for the county by virtue of his office and all necessary expenses and transportation for work performed in the field. The said surveyor shall render to the auditor of said county a monthly sworn statement showing therein the kind or nature of work performed, the dates, amount paid to assistants and paid for expenses. The salary herein fixed for said surveyor shall be in lieu of all other fees, commissions or compensations of whatsoever kind or nature for services performed by said surveyor for said county. The deputy, draftsmen and stenographer and assistant draftsmen herein provided for shall be appointed by the surveyor and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as is the salary of county officers in counties of this class.

14. **Justices of peace.** Justices of the peace shall receive the following monthly salaries to be paid each month and in the manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them as justices of the peace: In townships having a population of more than seventy-five thousand, four thousand dollars per annum; in townships having a population of forty-five thousand and less than seventy-five thousand, two thousand four hundred dollars per annum; in townships having a population of twenty thousand and less than forty-five thousand, two thousand four hundred dollars per annum; in townships having a population of less than twenty thousand, one thousand three hundred eighty dollars per annum; and

provided, further, that each justice of the peace must keep a book, open for the inspection of the public during office hours, in which must be entered at once and in detail the amount of all fees and fines collected by him as such justice of the peace and on the first Monday of each month he must pay such fees and fines so collected into the county treasury or city treasury as provided by law; and provided, further, that the board of supervisors of counties of the third class shall furnish each justice of the peace with a suitable office in which to hold court and shall also furnish the necessary furniture, books, blanks and supplies for said court; and provided, further, that in townships having a population of more than seventy-five thousand there shall be one justice's clerk, and one deputy justice's clerk, who shall be appointed by the justice of the peace of said township, or justices, if more than one, and who shall perform such duties as are required of them by law of the justice or justices of said township. The salary of said clerk is hereby fixed at the sum of one thousand eight hundred dollars per annum and that of the deputy clerk at one thousand two hundred dollars per annum, payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justice of the peace is paid. For the purpose of this section the population of townships in counties of this class is hereby determined to be the population of such townships as shown by the federal census taken in the year A. D. 1910.

15. Constables. Constables shall receive the following monthly salaries to be paid each month and in the same manner and out of the same fund as other county officers are paid which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than seventy-five thousand, one hundred fifty dollars; in townships having a population of twenty thousand and less than seventy-five thousand, one hundred twenty-five dollars; in townships having a population of less than twenty thousand, one hundred fifteen dollars. In addition to the compensation received in criminal cases each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil cases; provided, that in counties of this class constables shall be allowed and they are hereby allowed such expenses as are actually and necessarily incurred by them in conveying prisoners to and from the county jail, such expenses to be itemized and presented as a claim against the county and to be audited and allowed by the board of supervisors and paid out of the county treasury in the same manner as are other claims. For the purpose of this section the population of townships in counties of this class is hereby determined to be the population of such townships as shown by the federal census taken in the year A. D. 1910; and provided, further, that in townships having a population of more than seventy-five thousand, the board of supervisors of counties of the third class shall furnish each constable with a suitable office and supplies for said office.

16. Supervisor. Each supervisor two thousand seven hundred dollars per annum; provided, that in counties of this class supervisors charged as road commissioners with the inspection of five hundred or more miles of roads within their respective districts, shall be and they are hereby allowed their actual traveling expenses not to exceed the sum of seven

five dollars in any one calendar month; and provided, further, that, in counties of this class supervisors charged as road commissioners with the inspection of two hundred fifty and not exceeding five hundred miles of roads within their respective districts shall be, and they are hereby allowed their actual traveling expenses not to exceed fifty dollars in any one calendar month; and provided, further, that in lieu of the above-mentioned amounts for traveling expenses, said supervisors charged as road commissioners may be furnished with automobiles by counties of the third class; provided, further, that nothing herein contained shall be construed to prevent the use of county automobiles while engaged in the performance of their official duties, by supervisors of counties of this class not so charged as road commissioners. [Amendment approved May 27, 1919; Stats. 1919, p. 1140.]

This section was also amended in 1917. See Stats. 1917, p. 1227.

§ 4233. Counties of fourth class, salaries of officers. Santa Clara.

In counties of the fourth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one deputy county clerk who shall act as clerk of the probate department, who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy county clerk to act as clerk to the board of supervisors, who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy county clerk who shall be the registrar of voters and who shall receive a salary of one thousand seven hundred forty dollars per annum; also one deputy county clerk who shall serve as general office clerk who shall receive a salary of one thousand eight hundred dollars per annum; also three deputy county clerks who shall serve as clerks of the several departments of the superior court who shall receive a salary of one thousand six hundred twenty dollars per annum each; also one deputy county clerk who shall serve as desk clerk, who shall receive a salary of one thousand five hundred dollars per annum; provided, however, that the county clerk shall not be allowed the additional deputy provided by section four thousand two hundred ninety of the Political Code of the state of California; also one deputy county clerk who shall serve as assistant to the clerk of the probate department and who shall receive a salary of one thousand two hundred dollars per annum; also one deputy county clerk who shall be "copyist in the probate department," who shall receive a salary of one thousand two hundred dollars per annum; the deputies herein provided for shall be appointed by the clerk of said county and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerks; provided, further, that in such years as the compilation of a great register of voters is required by law to be made the said clerk may appoint two deputies who shall serve for a term of twelve months, who shall each receive a salary of one hundred dollars per month, to be paid as are other deputies herein provided for; two deputies who shall serve for a term of eight months who shall each receive a salary of one hundred dollars per month, to be paid as are other deputies herein provided for;

and two deputies who shall serve for a term of six months who shall each receive a salary of one hundred dollars per month, to be paid as are other deputies herein provided for; also one additional deputy for each voting precinct in the county, outside of the corporate limits of municipalities containing twenty-five thousand or more inhabitants, the purpose of registering electors in such precincts, who shall be ten cents per name for each elector legally registered by them; provided, that said county clerk may be allowed the actual and necessary expenses incurred by him in the performance of his official duties, shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided that there shall be and there hereby is allowed to the sheriff one undersheriff whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; also nine deputies who shall each receive a salary of one thousand five hundred dollars per annum, one of whom shall speak the Italian language and shall be competent to act as Italian interpreter; also one deputy who shall act as matron of the county jail who shall receive a salary of one thousand twenty dollars per annum. Also two deputies for a period of five months each year during the season of fruit harvesting who shall be competent to act as motor patrolmen, and who shall each receive a salary of one hundred twenty-five dollars per month. The under-sheriff and deputies herein provided for shall be appointed by the sheriff and paid at the same time and in the same manner and out of the same funds as is the salary of the sheriff; provided, that said sheriff shall be allowed the actual and necessary expenses incurred in the performance of his official duties. He shall pay into the county treasury all fees and mileage collected by him for the service of papers or process issued by any court of the state.

3. **Recorder.** The county recorder, three thousand six hundred dollars per annum, and said recorder may appoint one deputy recorder who shall receive a salary of one thousand eight hundred dollars per annum; also three deputy recorders who shall each receive a salary of one thousand two hundred dollars per annum; also six deputies who shall each receive one thousand twenty dollars per annum. The deputies herein provided for shall be paid at the same time and in the same manner and out of the same funds as the county recorder; provided, that said recorder may be allowed the actual and necessary expenses incurred by him in the performance of his official duties and shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

4. **Auditor.** The county auditor, three thousand six hundred dollars per annum, and said auditor may appoint one deputy auditor who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy auditor who shall receive a salary of one thousand five hundred dollars per annum; also two seasonal deputies for a period of six months in each year who shall each receive a salary of one hundred dollars per month; provided, that the purpose of performing the work imposed upon him in connection with the annual assessment and collection of property taxes, the au-

may be allowed six additional deputies for a period of one month who shall each receive a salary of one hundred dollars per month and five additional deputies for a period of two months who shall each receive a salary of one hundred dollars per month. The deputies herein provided for shall be paid at the same time and in the same manner as is the county auditor; provided, that such auditor shall pay into the county treasury all fees received by him in his official capacity.

5. **Treasurer.** The county treasurer, three thousand six hundred dollars per annum, and said treasurer may appoint one deputy treasurer, who shall receive a salary of one thousand eight hundred dollars per annum. The premium on the bond of said deputy treasurer shall be paid by the county. All fees and commissions collected by said treasurer in his official capacity shall be paid into the county treasury; provided, that the county treasurer shall be entitled to retain for his own use the fees which are now or which may hereafter be allowed by the state law for the collection and payment to the state treasurer of inheritance taxes. Whenever the fees received on account of any one estate paying inheritance taxes shall exceed the sum of two hundred dollars such excess shall be by the county treasurer paid into the county treasury as in the case of fees received by him from other sources. The deputy herein provided for shall be paid at the same time and in the same manner and out of the same funds as is the county treasurer.

6. **Tax collector.** The tax collector, three thousand six hundred dollars per annum, and said tax collector may appoint one deputy tax collector who shall receive a salary of one thousand eight hundred dollars per annum; three additional deputy tax collectors who shall receive a salary of one thousand five hundred dollars per annum; also twelve additional deputy tax collectors to serve as such only for a period of two and one-half months in each year, and who shall receive a salary of one hundred dollars each per month; also three additional deputy tax collectors who shall serve as such only during two months of each year and who shall receive a salary of one hundred dollars each per month; also eleven copyists who shall serve only during one and one-half months of each year, and shall each receive a salary of one hundred dollars per month. The deputies and copyists herein provided for shall be paid at the same time and in the same manner and out of the same funds as is the salary of the tax collector; provided, that said tax collector shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties, including the making and compiling of the necessary indices to the assessment-roll, and shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

7. **License collector.** The license collector, fifteen per cent of the whole amount of license collected by him; provided, that the entire compensation of said license collector shall not exceed the sum of one thousand five hundred dollars per annum.

8. **Assessor.** The county assessor, three thousand six hundred dollars per annum, and said assessor may appoint one chief deputy assessor who shall receive a salary of one thousand eight hundred dollars per annum; one supervising deputy assessor who shall receive a salary of one thousand six hundred dollars per annum; one office deputy assessor

who shall receive a salary of one thousand five hundred dollars annum; one searcher of records and office deputy to serve as such a salary of one thousand five hundred dollars per annum; also two deputy assessors who shall serve as such during the months of March, April, May, and June of each year who shall each receive a salary of one hundred twenty-five dollars per month; two deputy assessors to serve as such during six months of each year who shall receive a salary of one hundred dollars each per month; four deputy assessors to serve as such during four months of each year who shall receive a salary of one hundred dollars each per month; two copyists who shall each receive a salary of one thousand two hundred dollars per annum; and six copyists to serve as such only during four months of each year who shall receive a salary of one hundred dollars each per month; provided that the above salaries and compensation shall be in full for all services rendered by him as such assessor and that no commission for collection of state or infirmity poll taxes or personal property taxes shall be retained by him but that all such commissions shall be paid into the county treasury. The deputies and copyists herein provided for shall be paid at the same time and in the same manner and out of the same fund as is the county assessor; provided, that the assessor shall be allowed the actual and necessary expenses incurred by him in the performance of official duties.

9. **District attorney.** The district attorney, three thousand six hundred dollars per annum; he may appoint a chief deputy at a salary of two thousand seven hundred dollars per annum; one assistant district attorney at a salary of two thousand one hundred dollars per annum; one assistant district attorney at a salary of one thousand eight hundred dollars per annum; and a deputy district attorney at a salary of one thousand eight hundred dollars per annum; one detective shall serve at a salary of one thousand five hundred dollars per annum; provided, however, that no further or additional amounts shall be allowed for detective services without the previous consent and authority of the board of supervisors, and a clerk at a salary of one thousand one hundred dollars per annum, all of whom shall be paid in the same manner as said district attorney; provided, that said district attorney shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties. All fees and commissions collected by him shall be paid into the county treasury.

10. **Coroner and public administrator.** The coroner and public administrator such fees as are now or may hereafter be allowed by law. The coroner may appoint deputies not to exceed three in number; provided that said deputy coroner shall receive only such fees as the coroner would receive if acting.

11. **Superintendent of schools.** The county superintendent of schools shall receive three thousand dollars per annum, and the said superintendent of schools may appoint a deputy superintendent of schools who shall receive a salary of one thousand five hundred dollars per annum, and one deputy superintendent of schools who shall receive one thousand two hundred dollars per annum; and the said superintendent of schools shall also be paid actual traveling expenses when visiting the schools of the county. The deputies herein provided for shall be paid at the same time

in the manner and out of the same fund as is the superintendent of schools.

12. Surveyor. The county surveyor, the sum of three thousand six hundred dollars per annum; and said surveyor may appoint a deputy surveyor who shall receive a salary of one thousand eight hundred dollars per annum; also one deputy who shall receive a salary of one thousand five hundred dollars per annum; one deputy at a salary of one thousand three hundred eighty dollars per annum; one deputy at a salary of one thousand three hundred twenty dollars per annum and one deputy at a salary of one thousand two hundred dollars per annum who shall be a draftsman whose duties shall include the preparation of maps for the county assessor; and one deputy at nine hundred dollars per annum. Such compensation and salaries as above set forth shall be in full for all services as such county surveyor, and all fees and compensation received or collected by him for surveying other than for the county, shall be paid into the county treasury; provided, that said county surveyor shall be allowed all necessary transportation and expenses incurred by himself or deputies for work performed in the field, and in the official discharge of his duties. Such salaries shall be paid at the same time and in the same manner as the salaries of other county officers are paid. Said surveyor shall also have power to appoint such inspectors as he may deem necessary, for the proper supervision of all roads and bridges under construction, and the compensation of said inspectors shall be a proper charge against the county.

13. Fish and game warden. The fish and game warden, one thousand two hundred dollars per annum and the actual and necessary expenses incurred by him in the performance of his official duties, not to exceed six hundred dollars for any one year.

14. Supervisors. The board of supervisors may at any time grant such additional assistance, or pay for such additional employees or service as it deems necessary to perform any service required by or in connection with any of the foregoing county offices in counties of this class.

15. Justices of peace. In counties of this class, justices of the peace shall be compensated as follows, and all salaries shall be payable monthly in the same manner as the salaries of county officers are paid, viz.:

(1) In townships having a population of twenty thousand or more, justices of the peace shall each receive a salary of two hundred fifty dollars per month as full compensation for all services rendered by them, except as hereinafter provided; provided, however, that in all such townships having a population of twenty thousand or more, there shall be two township justices of the peace in and for any such township, and said justices of the peace shall each be allowed a clerk to be appointed by such justice of the peace at a salary of one hundred twenty-five dollars per month, each, payable monthly in the same manner as salaries of county officers are paid, and shall be furnished with offices and necessary supplies by the board of supervisors.

(2) In townships having a population of five thousand and less than twenty thousand, justices of the peace shall each receive a salary of one

hundred thirty-seven dollars and fifty cents per month for all services rendered by them, except as hereinafter provided.

(3) In townships having a population of four thousand four hundred and less than five thousand, justices of the peace shall each receive a salary of one hundred thirty-five dollars per month as full compensation for all services rendered by them, except as hereinafter provided.

(4) In townships having a population of two thousand five hundred and less than four thousand four hundred, justices of the peace shall each receive a salary of seventy-five dollars per month as full compensation for all services rendered by them except as hereinafter provided.

(5) In townships having a population of two thousand two hundred fifty and less than two thousand five hundred, justices of the peace shall each receive the sum of sixty dollars per month as salary for all services rendered in both civil and criminal cases. All fees collected by them shall be paid monthly by them into the county treasury.

(6) In townships having a population of one thousand and less than two thousand five hundred, justices of the peace shall each receive a salary of fifty dollars per month as full compensation for all services rendered by them, except as hereinafter provided.

(7) In townships having a population of less than one thousand, justices of the peace shall each receive a salary of thirty dollars per month as full compensation for all services rendered by them, except as hereinafter provided.

Justices of the peace in all townships in counties of the fourth class shall be permitted to receive and retain for their own use, fees for celebrating marriages and returning certificates thereof, but all other fees shall be collected by them and by them paid into the county treasury at least once a month.

16. Constables. In counties of this class constables shall be compensated as follows, and all salaries herein provided shall be paid in the same manner as the salaries of county officers are paid, viz.:

(1) In townships having a population of twenty thousand or more, constables shall each receive a salary of one hundred dollars per month for all services rendered by them in criminal cases. As compensation for all services rendered in civil cases and all other matters wherein they may charge fees for their services, a constable may collect and retain for his own use as his compensation such fees as are now, or may hereafter be allowed by law.

(2) In townships having a population of five thousand and less than twenty thousand, constables shall each receive the sum of seventy-seven dollars and fifty cents per month as salary for all services rendered by them in criminal cases. As compensation for all services rendered by them in civil cases and in all other matters wherein they may charge fees for their services, constables may collect and retain for their own use as compensation such fees as are now or may hereafter be allowed by law.

(3) In townships having a population of four thousand four hundred and less than five thousand, constables shall each receive the sum of seventy-seven dollars and fifty cents per month as salary for all services rendered by them in criminal cases, civil cases and in the performance of all other duties imposed upon them by law. All fees

chargeable and collectible in both criminal cases, civil cases, and in all other cases wherein fees are chargeable by constables, shall be collected in advance and paid monthly into the county treasury.

(4) In townships having a population of two thousand five hundred and less than four thousand four hundred, constables shall each receive the sum of sixty dollars per month as a salary for all services rendered by them in both civil and criminal cases. All fees collected by them in civil and criminal cases shall be paid monthly by them into the county treasury. For all other services performed by them, they may charge and retain for their own use such fees as are chargeable at law.

(5) In townships having a population of two thousand two hundred fifty and less than two thousand five hundred, constables shall each receive the sum of sixty dollars per month as salary for all services rendered in both civil and criminal cases. All fees collected by them shall be paid monthly by them into the county treasury.

(6) In townships having a population of one thousand and less than two thousand two hundred fifty, constables shall each receive the sum of forty dollars per month as salary for all services rendered in criminal cases. All fees collected by them in criminal cases shall be paid monthly by them into the county treasury. For all other services performed by them they may charge and collect for their own use such fees as are allowed by law.

(7) In townships having a population of less than one thousand, constables shall each receive the sum of thirty dollars per month as a salary for all services rendered by them in criminal cases. All fees collected by them in criminal cases shall be paid monthly into the county treasury. For all other services performed by them they may charge and collect for their own use such fees as are allowed by law.

Constables shall be allowed all necessary expenses incurred in conveying prisoners.

The population herein referred to in classifying townships for the purpose of regulating the compensation of justices of the peace and constables shall be the population found and determined by the federal census taken in the year 1910; provided, however, that a township census may be taken for the purpose of establishing the official census of such township in the manner hereinafter specified and when so taken, such census shall be known as and shall become the official census of such township in which it is taken and the population therein determined shall be and become the official population of such township. Whenever there shall be presented to the board of supervisors of the county a petition signed by the qualified electors of any township or townships in number equal to twenty-five per cent of the votes cast at the preceding general election, praying that said township or townships may be allowed to take the census of said township or townships for the purpose of ascertaining the population therein contained, the board of supervisors may order such census to be taken by one or more suitable persons appointed therefor by the board of supervisors and such census shall be taken by such persons so appointed, of all of the inhabitants of such township or townships. The full name of each person shall be plainly written, the names alphabetically arranged and regularly numbered in one complete series and when completed, shall be verified by the proper official authorized to administer oaths and be filed with

the county clerk and thereupon, the same shall be known and shall be the official census of said township or townships.

17. Supervisors. Each supervisor, two thousand four hundred dollars per annum and mileage of ten cents per mile for each mile actually traveled in going to and from their residence to the county seat or the performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month and that the total mileage allowed shall not exceed five hundred dollars in any one calendar year; provided, that nothing in this subdivision shall be deemed to affect the compensation or mileage of any incumbent supervisor, but said incumbent shall be paid such compensation and allowed such mileage as now provided and allowed by law.

18. Jurors. The fees of grand jurors and trial jurors in the superior courts of said counties of the fourth class, in civil and criminal cases shall be three dollars, in lawful money of the United States, for each day's attendance, and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriation for the payment of the fees herein provided for. [Amendment approved May 27, 1919; Stats. 1919, p. 992.]

This section was also amended in 1917. See Stats. 1917, p. 1260.

§ 4233a. Counties of fourth class: fees of jurors. In counties of the fourth class, trial jurors in all criminal cases tried in the superior court and grand jurors shall receive three dollars per day for each day's attendance while engaged in the performance of the duties required of them, and in addition thereto, shall receive for each mile actually traveled, in going only, while acting as such juror, fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage and the treasurer shall pay the same. [New section added April 30, 1919; Stats. 1919, p. 239.]

§ 4234. Counties of fifth class, salaries of officers. Fresno. In counties of the fifth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office the following salaries, to wit:

1. County clerk. The county clerk, three thousand four hundred dollars per annum; he shall have one deputy at a salary of two thousand one hundred dollars per annum, two deputies at a salary of one thousand eight hundred dollars each per annum, five deputies at a salary of one thousand six hundred twenty dollars each per annum, two deputies at a salary of one thousand five hundred dollars each per annum and two deputies at a salary of one thousand two hundred dollars each per annum. He shall also have two additional deputies for a period of no

to exceed ten months during each and every even-numbered year at a salary of eighty dollars a month each during their said employment, and five copyists for a period not to exceed six months during each and every even-numbered year, such copyists to receive a salary of eighty dollars a month each during their said employment; and also for any such even-numbered year he shall appoint such deputies in the county as are necessary for the purpose of registering electors, such deputies to receive five cents for each elector legally registered by them. The county clerk shall pay into the county treasury at the close of each month all fees received by him as county clerk during the month, accompanied by statement of the sources from whence received.

2. **Sheriff.** The sheriff, six thousand dollars per annum. He shall have an under-sheriff at a salary of two thousand dollars per annum; one field deputy at a salary of two thousand dollars per annum, and two field deputies at a salary of one thousand six hundred twenty dollars per annum each; one office deputy, who shall have charge of the records made under the Bertillon system and who shall act as photographer, and who shall receive a salary of one thousand six hundred twenty dollars per annum; five deputies whose salaries shall be one thousand three hundred twenty dollars per annum each; a stenographer whose annual salary shall be one thousand three hundred twenty dollars; and one jailer at a salary of one thousand six hundred twenty dollars per annum. The sheriff shall pay into the county treasury all sums received by him for service of process.

3. **Recorder.** The recorder, three thousand dollars per annum. He shall have one deputy at a salary of two thousand dollars per annum, one deputy at a salary of one thousand eight hundred dollars per annum, two deputies at salaries of one thousand six hundred twenty dollars each per annum, a statistician for compiling the vital statistics of the county at a salary of one thousand six hundred twenty dollars per annum, and an abstract clerk at a salary of one thousand six hundred twenty dollars per annum, and one deputy at a salary of one thousand six hundred twenty dollars per annum. The recorder shall have such copyists as are necessary to perform the duties of the office at a compensation of seven cents per folio; provided, however, that all instruments that are partly written or typewritten and partly printed, and for the recording of which the county has furnished the county recorder with books containing printed forms corresponding to such instrument, the compensation shall be three and one-half cents per folio for the entire number of folios of written and printed matter in said instrument.

4. **Auditor.** The auditor, three thousand dollars per annum. He shall have one deputy at a salary of two thousand dollars per annum and one deputy at a salary of one thousand six hundred twenty dollars per annum; a redemption clerk at a salary of one thousand six hundred twenty dollars per annum; an additional deputy to act as book-keeper at one thousand six hundred twenty dollars per annum; and three deputies for not to exceed one hundred and twenty days in each year at a salary of four dollars a day each, who shall make segregation of road district values and perform such other services as are required by law.

5. **Treasurer.** The treasurer, three thousand dollars per annum. He shall have one deputy at a salary of two thousand one hundred dollars per annum; one deputy who shall act as bookkeeper, at a salary of one thousand eight hundred dollars per annum; and one deputy at a salary of one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, three thousand dollars per annum. He shall have one deputy who shall act as cashier at a salary of two thousand dollars per annum; one deputy who shall act as assistant cashier and tax sale clerk, at a salary of one thousand eight hundred dollars per annum; two deputies at a salary of one thousand six hundred twenty dollars per annum each; and one deputy, who shall act as bookkeeper at a salary of one thousand eight hundred dollars per annum; and one deputy who shall act as stenographer and assistant bookkeeper at a salary of one thousand three hundred twenty dollars per annum; and ten additional deputies for not exceeding three months in each year, at a salary of one hundred dollars per month each; and three deputies for not to exceed three months in each year, at a salary of five dollars per day each, and four copyists, not to exceed three months in each year, at three dollars and fifty cents a day each. The tax collector shall be allowed the actual and necessary expense incurred by him in the performance of his official duties as license collector in Fresno county.

7. **Assessor.** The assessor shall receive four thousand dollars per annum for all services rendered as assessor. He shall have one deputy at a salary of two thousand dollars per annum; one draftsman at a salary of one thousand eight hundred dollars per annum; one real estate transfer deputy at a salary of one thousand six hundred twenty dollars per annum; one office deputy at a salary of one thousand six hundred twenty dollars per annum; a stenographer at a salary of one thousand two hundred dollars per annum; he shall also have five first deputies for a period not to exceed three months each year at a salary of six dollars a day each when actually employed; twenty-four second deputies for a period not to exceed three months each year at a salary of five dollars a day each when actually employed; three deputies for a period not to exceed six months each year at salaries of five dollars a day each; and five deputies for not to exceed six months each year at four dollars a day each; and five copyists for a period not to exceed six months each year at a salary of three dollars and fifty cents per day each when actually employed. All sums collected by the assessor or his deputies, as personal property taxes, shall be paid into the county treasury monthly as collected, with a statement of account of such collections.

8. **Jurors.** In counties of this class grand and trial jurors shall receive three dollars per day while engaged in the performance of their duties required of them, and in addition thereto shall receive the mileage now allowed by law.

9. **District attorney.** The district attorney, three thousand six hundred dollars per annum. He shall have one assistant at a salary of two thousand seven hundred dollars per annum; one deputy at a salary of two thousand one hundred dollars per annum; two deputies at salaries of one thousand eight hundred dollars per annum each; or

deputy at a salary of one thousand six hundred twenty dollars per annum; a detective at a salary of one thousand five hundred dollars per annum; one stenographer at a salary of one hundred twenty-five dollars per month; one stenographer at a salary of one hundred fifteen dollars per month.

Neither of these stenographers shall receive other compensation by reason of services as stenographic reporter in any action or proceeding wherein the fee or per diem of the stenographic reporter constitutes a charge against the county.

10. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

11. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

12. **Superintendent of schools.** The superintendent of schools, three thousand dollars per annum. He shall have three supervising assistants at salaries of two thousand dollars per annum each; one deputy at a salary of two thousand dollars per annum; one deputy at a salary of one thousand six hundred eighty dollars per annum; and one stenographer at a salary of one thousand two hundred dollars per annum; one deputy to act as an attendance officer for the schools of Fresno county, whose duty shall be to enforce the laws in regard to compulsory attendance of pupils and who shall perform such other duties in connection with school work as the county superintendent may direct, at a salary of one thousand eight hundred dollars per annum. The superintendent and his supervising assistants and attendance officers shall be allowed their actual traveling expenses incurred while visiting schools in the county.

13. **Surveyor.** The surveyor, three thousand dollars per annum in full compensation for all services as county surveyor, and as road viewer or inspector, and he shall be allowed one field deputy at a salary of two thousand dollars per annum, and one deputy at a salary of one thousand six hundred and twenty dollars per annum. The county surveyor shall be allowed all necessary traveling and field expenses of himself and chainmen or other necessary help in the field. In addition, the county surveyor shall be allowed to employ all necessary inspectors and field or office help needed in the preparation of plans, specifications or surveys preliminary to the submission to the qualified voters of a county of this class of a proposition to issue bonds under the provisions of section four thousand eighty-eight of the Political Code for the construction of roads, bridges or highways; provided, however, that before employing such inspectors or field or office help, the surveyor shall first obtain the consent of the board of supervisors to such employment; provided, however, that the term of employment of such inspectors or field or office help shall cease at the completion of such preliminary work hereinabove provided for. The salaries and expenses of such inspectors or field or office help shall be paid out of the county general fund upon proper claims presented therefor to the board of supervisors. In any county of this class, where bonds have been or shall hereafter be issued under the provisions of section four thousand eighty-eight of the Political Code, for the construction of roads, bridges or highways, the county surveyor may, at any time during the planning, laying out

or construction of such roads, bridges or highways, employ all necessary inspectors and field or office help to assist him in planning, laying out or constructing such roads, bridges and highways; provided, however, that before employing such inspectors and field or office help, the surveyor shall first obtain the consent of the board of supervisors to such employment. Inspectors and field or office help shall not be employed longer than necessary to actually complete the roads, bridges or highways paid for out of funds created by such bond issue. There shall also be allowed to such surveyor, from and after the issue of bonds, provided in said section four thousand eighty-eight, an additional deputy at a salary of three thousand six hundred dollars per annum, whose duties shall be limited to operations contemplated under such bond issue, and whose term of employment shall cease at the completion of such operation; provided, however, that before employing such additional deputy, the surveyor shall first obtain the consent of the board of supervisors for such employment. The salaries of all such persons employed as inspectors or field or office help shall be prescribed by the board of supervisors, and all such salaries, together with the field expense of all such inspectors or field or office help, as well as the salary of said additional deputy, shall be paid out of the fund created by such issue of bonds, upon proper demands therefor presented to the board of supervisors. The surveyor and his deputies shall devote their entire time and service to the work of the county, and are prohibited from engaging in private surveying and engineering work, and shall do no surveying and engineering work for the county, including the preparation of plans and specifications for the construction of bridges.

14. Population of townships. Classification of townships. The registered population of the several judicial townships of this county is hereby determined to be the registered votes as shown by the great register of the county in the office of the county clerk January 1, 1911, as follows, to wit:

Judicial township No. 1.....	814
Judicial township No. 2.....	2,205
Judicial township No. 3.....	17,730
Judicial township No. 4.....	2,058
Judicial township No. 5.....	2,171
Judicial township No. 6.....	2,841
Judicial township No. 7.....	1,931
Judicial township No. 8.....	1,807
Judicial township No. 9.....	858
Judicial township No. 10.....	863
Judicial township No. 11.....	1,219
Judicial township No. 12.....	277
Judicial township No. 13.....	683
Judicial township No. 14.....	679
Judicial township No. 15.....	1,021

And for the purpose of regulating the compensation of the constables and justices of the peace, townships of this class of counties are hereby classified as follows: Townships having a registered voting population of ten thousand and more shall belong to and be known as townships of the first class; townships having a like population of one thousand four hundred fifty and less than ten thousand shall belong to and be

known as townships of the second class; townships having a like population of six hundred and less than one thousand four hundred fifty shall belong to and be known as townships of the third class; townships having a like population of less than six hundred shall belong to and be known as townships of the fourth class.

15. Justices of peace. Justices of the peace and persons now performing the duties of justices of the peace shall receive the following monthly salaries to be paid each month as the county officers are paid, and the same shall be in full compensation for all services rendered and shall include their office rent, except as otherwise provided by law, to wit:

In townships of the first class.....	\$200
In townships of the second class.....	75
In townships of the third class.....	60
In townships of the fourth class.....	50

Justices of the peace shall pay to the county treasurer once a month all fees and fines collected by them and shall be responsible for the collection and payment to the county treasurer of all such fees and fines as herein provided.

16. Constables. Constables shall receive the following monthly salaries to be paid each month as the county officers are paid and to be in full compensation for all services rendered by them in criminal cases, to wit:

In townships of the first class.....	\$100
In townships of the second class.....	75
In townships of the third class.....	60
In townships of the fourth class.....	50

In addition to the monthly salaries above provided each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil cases, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or prison, which expenses shall be audited by the board of supervisors and paid out of the county treasury; provided, further, that when a constable is required to go out of the county to serve a warrant of arrest or any other paper in a criminal case, he shall be allowed mileage in going and returning outside of the county at the rate of five cents per mile.

17. Supervisors. The supervisors shall receive each the sum of two thousand one hundred dollars per annum, payable monthly in installments of one hundred seventy-five dollars per month, in full compensation for all services rendered, either as supervisors or road overseers.

18. Salaries payable monthly. The salaries of all county and township officers and their deputies shall be payable in installments monthly on the first day of each month. [Amendment approved May 27, 1919; Stats. 1919, p. 1039.]

This section was also amended in 1917. See Stats. 1917, p. 1144.

§ 4235. Counties of sixth class, salaries of officers. Sacramento. In counties of the sixth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum and also such compensation as is now or may hereafter be allowed by law; provided, that in counties of this class there shall be, and there is hereby allowed to the county clerk, the following deputies, clerks and employees to be appointed by said county clerk, whose positions are hereby created, and the salaries of which are hereby fixed as follows:

One chief deputy, who shall serve as chief deputy and registrar voters, two thousand four hundred dollars per annum; one deputy, two thousand two hundred eighty dollars per annum; five deputies, one thousand eight hundred dollars, each, per annum; eight deputies, one thousand five hundred dollars, each, per annum; provided, that whenever a special state, or special county, or municipal election is held, the county clerk, in counties of this class, shall be, and he is hereby allowed the following additional help: Five clerks for a period of, and not exceeding, sixty days, immediately preceding such election day, whose salary shall be one hundred dollars, each, per month; provided, further, that in such years as the compilation of a great register of voters is required by law, to be made, the county clerk in counties of this class shall be, and he is hereby allowed the following additional help: as many clerks as are necessary, in his discretion, from January first to November first, at one hundred dollars, each, per month, and whose compensation shall not exceed the sum of two thousand five hundred dollars in the aggregate for all clerks so employed; provided, further, that the county clerk may appoint such number of registration deputies in any precinct as may be necessary for the purpose of registering electors, each of whom shall be a qualified elector in his respective precinct; each of said deputies in precincts outside of the corporate limits of municipalities containing twenty-five thousand or more, inhabitants, shall be paid the sum of ten cents per name, for each person legally registered by him, and that each said deputies, within the corporate limits of a municipality containing twenty-five thousand or more inhabitants, shall be paid the sum of five cents per name for each person legally registered by him, and the said registration deputies to be paid for their services on the presentation and filing with the county auditor of said county, a duly verified claim therefor, duly approved by the said county clerk.

The salaries and compensations of each of said deputies, clerks and employees to be paid out of the county treasury in equal monthly installments in the same manner and at the same time as other county officials are paid.

No deputy or employee, other than those above mentioned, shall be allowed the county clerk in counties of the sixth class, nor shall any legal charge accrue against the said county for any other deputy or employees employed or appointed by the county clerk of the board of supervisors or any other authority in counties of the sixth class that are in any manner used or employed to assist the county clerk or any of his deputies or employees.

2. **Sheriff.** The sheriff shall receive three thousand six hundred dollars per annum, salary; the sheriff shall also receive for his own use the fees for mileage which are now, or which may hereafter be allowed by law, and the fees and commissions for the service of all papers whatsoever issued by any court of the state outside of said county.

and shall also receive his necessary expenses in all criminal cases. The sheriff shall also be paid twelve and one-half cents per meal each for all meals furnished prisoners confined in the county jail. That in counties of this class there shall be and there is hereby allowed to the sheriff, the following deputies, jailers and bailiffs to be appointed by the said sheriff, which positions are hereby created and the salaries of which are hereby fixed as follows: One deputy who shall act as undersheriff at a salary of two thousand two hundred eighty dollars per annum; one deputy who shall act as chief criminal deputy at a salary of one thousand eight hundred dollars per annum; nine deputies who shall act as criminal deputies, bailiffs and jailers at a salary of one thousand five hundred dollars per annum; one matron to attend female prisoners at a salary of one hundred dollars per month, one deputy to act as engineer or fireman to attend to the heating apparatus in the county jail, at a salary of one hundred dollars per month. All deputies herein mentioned shall be paid at the same time and manner that their principal is paid.

No deputy or employee, other than those above mentioned, shall be allowed the sheriff in counties of the sixth class, except in extreme cases of riot or disorder or when necessary to preserve the public peace, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the sheriff or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the sheriff or any of his deputies or employees, except in extreme cases of riot or disorder, or when necessary to preserve the public peace.

3. Recorder. The recorder, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the recorder, which said positions are hereby created, the following deputies, clerks and copyists, who shall be appointed by such recorder and shall be paid salaries and compensations as follows:

One comparing clerk, at a salary of one thousand eight hundred dollars per annum; one chief deputy, at a salary of two thousand two hundred eighty dollars per annum; one mortgage clerk, at a salary of one thousand three hundred twenty dollars per annum; one index clerk at a salary of one thousand eight hundred dollars per annum. Said recorder may also appoint such copyists, not to exceed four, as may be required for the recording of all papers, notices or documents in his office, who shall receive as compensation for their services the sum of one thousand three hundred twenty dollars each, per annum; said recorder may also appoint two filing clerks, at a salary of one thousand three hundred twenty dollars each, per annum. The salaries and compensation of all deputies, clerks and copyists herein provided for, each of whom shall be a deputy county recorder, shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the county recorder is paid.

No deputy or employee, other than those above mentioned, shall be allowed the recorder in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the recorder or the board of supervisors or any other authority in counties of the sixth class, that are in

any manner used or employed to assist the recorder or any of his deputies or employees.

4. Auditor. The auditor, three thousand six hundred dollars per annum; that in counties of this class there shall be, and there is hereby allowed to the auditor, which said positions are hereby created, the following deputies who shall be appointed by the auditor of such county and shall be paid salaries and compensations as follows: One chief deputy at a salary of two thousand two hundred eighty dollars per annum; one redemption deputy at a salary of one thousand nine hundred eighty dollars per annum; one warrant deputy at a salary of one thousand nine hundred eighty dollars per annum; one claim expert at a salary of two thousand one hundred dollars per annum; one statistician at a salary of one thousand five hundred dollars per annum; one stenographer at a salary of one thousand five hundred dollars per annum; one deputy auditor at a salary of one thousand three hundred eighty dollars per annum and such additional assistants as the auditor may require and whose compensation shall not exceed five hundred forty dollars per annum in the aggregate, for all assistance so rendered; and provide further, that the auditor shall certify thereon to the correctness of such claims for said additional assistance. The salaries herein provided for shall be paid by the county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the auditor is paid.

No deputy or employee, other than those above mentioned shall be allowed the auditor in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the auditor, or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the auditor or any of his deputies or employees.

5. Treasurer. The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the following deputies, to be appointed by said treasurer, which positions are hereby created: One chief deputy, at a salary of two thousand two hundred eighty dollars per annum; one deputy to act as a warrant clerk at a salary of one thousand nine hundred eighty dollars per annum; one deputy to act as assistant warrant clerk, at a salary of one thousand five hundred dollars per annum. The salary of each said deputies and warrant clerks to be paid out of the county treasury in equal monthly installments in the same manner and at the same time as other county officials; it is hereby further provided, that in counties of this class, the treasurer shall receive the commission heretofore or hereafter allowed by law.

No deputy or employee, other than those above mentioned, shall be allowed the treasurer in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the treasurer or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the treasurer or any of his deputies or employees.

6. Tax Collector. The tax collector, three thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby

allowed to the tax collector, the following deputies, bookkeepers and assistants to be appointed by said tax collector, which positions are hereby created: One chief deputy, at a salary of two thousand two hundred eighty dollars per annum; one office deputy, at a salary of one thousand six hundred twenty dollars per annum; and one bookkeeper at a salary of one thousand six hundred twenty dollars per annum; and one deputy, which office is hereby created, who shall be correspondence and mail clerk at a salary of one thousand three hundred twenty dollars per annum; provided, further, that the tax collector shall have two additional deputy tax collectors to serve as such for a period of six months in each year and who shall receive a salary of one hundred ten dollars each month, also three additional deputy tax collectors to serve as such for a period of three months in each year and who shall receive a salary of one hundred ten dollars, each, per month; also one additional deputy tax collector to serve as cashier for two months in each year and who shall receive a salary of one hundred ten dollars, each, per month, all of which shall be paid by the county. The salaries of all deputies, assistants, and bookkeepers herein provided for shall be paid by the said county in equal monthly installments at the same time and in the same manner and out of the same fund as the tax collector is paid.

No deputy or employee, other than those above mentioned, shall be allowed the tax collector in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the tax collector or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the tax collector or any of his deputies or employees.

7. License collector. The license collector, one thousand eight hundred dollars per annum; said license collector shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties and he shall pay into the county treasury all fees received by him in his official capacity from whatever source they may be derived.

No deputy or employee, other than those above mentioned, shall be allowed the license collector in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the license collector or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the license collector or any of his deputies or employees.

8. Assessor. The assessor, four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the assessor, the following deputies, clerks and assistants, to be appointed by said assessor, which positions are hereby created, and the salaries of which are hereby fixed as follows: One assistant county assessor at two thousand two hundred eighty dollars per annum; one chief deputy assessor, at one thousand nine hundred eighty dollars per annum; one office deputy assessor, at one thousand six hundred eighty dollars per annum; one city real estate valuation deputy, at one thousand six hundred eighty dollars per annum; one country real estate valuation deputy, for not exceeding eight months in any one year, at a salary of one hundred forty dollars per month; one mortgage and transfer

assistant assessor, at a salary of one thousand five hundred dollars per annum; one field deputy assessor, for not exceeding six months in any one year, at a salary of one hundred forty dollars per month; one head country field deputy, for not exceeding four months in any one year, at a salary of one hundred forty dollars per month; one head city field deputy, for not exceeding four months in any one year, at a salary of one hundred forty dollars per month; six field deputy assessors, for not exceeding four months in any one year, at a salary of one hundred forty dollars each, per month; ten field deputy assessors, for not exceeding four months in any one year, at a salary of one hundred twenty dollars per month each; two clerks, for not exceeding two months in any one year, at a salary of one hundred fifteen dollars each, per month. The salaries of the assistant county assessor, chief deputy assessor, office deputy assessor, city real estate valuation deputy, country real estate valuation deputy, head country field deputy, head city field deputy, clerks, mortgage and transfer assistant assessor, and field deputy assessors herein provided for shall be paid by the said county in monthly installments at the same time, manner, and out of the same fund from which the county assessor is paid; it is hereby further provided, that in counties of this class, the assessor shall receive no commission for his collection of taxes on personal property, nor shall such assessor receive such compensation or commission for the collection of poll taxes or real estate poll taxes.

No deputy or employee, other than those above mentioned, shall be allowed to the assessor in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the assessor or the board of supervisors or any other authority in counties of the sixth class, that are in a manner used or employed to assist the assessor or any of his deputies or employees.

9. District attorney. The district attorney, five thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby created and allowed to the district attorney, the following assistant, deputies and employees, who shall be appointed by the district attorney of said county, and who shall be paid salaries as follows: One assistant district attorney, whose salary is hereby fixed at the sum of three thousand six hundred dollars per annum; one chief deputy district attorney, whose salary is hereby fixed at the sum of two thousand seven hundred dollars per annum; two deputy district attorneys, whose salaries are hereby fixed at the sum of two thousand four hundred dollars each per annum, whose duties it shall be, in addition to performing services as deputy district attorneys, to attend preliminary examinations held in all police and justices' courts in the county and to conduct on behalf of the people all prosecutions for felonies at such preliminary examinations, and, also, to attend and appear before the juvenile court of said county and prosecute proceedings therein; one clerk, who shall be a stenographer, whose salary is hereby fixed at the sum of one thousand five hundred dollars per annum; one county detective, who shall perform such duties as may be required of him by the district attorney, or by the ordinances of the board of supervisors of the county, whose salary is hereby fixed at the sum of one thousand eight hundred dollars per annum; provided, further, that in addition

to the salary herein fixed for said county detective he shall be allowed and paid the actual and necessary expenses incurred by him in the performance of his official duties; provided, further, that the said county detective shall file with the board of supervisors, a verified statement and claim showing in detail the amount paid, and the persons to whom and the purpose for which such payments were made; and provided, further, that in counties of this class the district attorney, in addition to the salary herein fixed, shall be allowed his traveling and other personal expenses incurred in criminal cases arising in the county, and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by him in the investigation and detection of crime and the prosecution of criminal cases and in civil actions and proceedings, and all other matters in which the county is interested, all of which said charges and expenses so incurred by him shall be a legal charge against the county.

10. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law; provided, the coroner, or other officer holding an inquest upon the body of a deceased person may subpoena a chemist to make an analysis of the contents of the stomach or tissues of the body, or a physician or surgeon to inspect the body, or hold a post-mortem examination of the deceased, and give a professional opinion as to the cause of death; and shall cause the testimony of all the witnesses at such inquest to be reduced to writing under his direction. The coroner in counties of this class shall be and he is hereby allowed the following assistants, namely, one deputy and one stenographer, which offices are hereby created; said deputy shall have the power and it shall be his duty when directed by the coroner to hold inquests, and all such power conferred by law upon the coroner may be exercised by said deputy, who shall receive a salary of one thousand three hundred twenty dollars per annum; the salary of said stenographer shall be one thousand five hundred dollars per annum, which salary shall be in full for all services rendered by him as such stenographer. Said stenographer shall take down in shorthand the testimony of witnesses at inquests and shall transcribe the same into long-hand and file a verified copy thereof with the county clerk. The salaries of said deputy and stenographer shall be paid by the county in the same manner, at the same time and out of the same fund as other county officers are paid. The said deputy coroner and the said stenographer shall each be appointed by the coroner.

No deputy or employee, other than those above mentioned, shall be allowed the coroner, in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the coroner or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the coroner or any of his deputies or employees.

11. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

12. **Superintendent of schools.** The superintendent of schools, three thousand dollars per annum, and actual traveling expenses when visiting schools of the county, not exceeding five hundred dollars per annum; and the said superintendent of schools may appoint one assistant super-

intendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation, the sum of one thousand one hundred dollars per annum, and the said superintendent of schools may appoint one deputy superintendent of schools, which office is hereby created, who shall receive as compensation the sum of one thousand eight hundred dollars per annum, the salary of said assistant superintendent of schools and deputy superintendent of schools is payable at the same time and in the same manner as the salary of other county officers are paid. Each member of the board of education of the county shall receive five dollars per day as compensation for his services when in actual attendance upon said board, and mileage at the rate of twenty cents per mile, one way only, from his residence to the place of meeting of said board. The secretary of said board of education of said county shall receive five dollars per day for his services for the actual time that the board may be in session. The compensation of the members of the said board and of said secretary shall be paid out of the same fund as the salary of the superintendent of schools. Claims of such services and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named and in the same manner as other claims against the county are allowed. The compensation of members of the county board of education of this county hereby provided is not in addition to that provided in section one thousand seven hundred seventy of this code.

No deputy or employee, other than those above mentioned, shall be allowed the superintendent of schools, in counties of the sixth class, nor shall any legal charge for salary accrue against the said county for any other deputy or employee employed or appointed by the superintendent of schools or the board of supervisors or any other authority in counties of the sixth class, that are in any manner used or employed to assist the superintendent of schools or any of his deputies or employees.

13. **Surveyor.** The surveyor, two thousand four hundred dollars per annum and in addition thereto all necessary expenses for work performed in the office and all necessary expenses and transportation for work performed in the field; provided, that in counties of this class whenever the board of supervisors shall order or the assessor may require assessor's map or block-books, then the surveyor shall receive, in addition to the salary above noted, the sum of one thousand five hundred dollars additional expenses required for the preparation and completion of said maps or block-books.

14. **Justices of peace.** In counties of the sixth class, justices of the peace shall be compensated as follows, and all salaries shall be payable monthly in the same manner as the salaries of county officers are payable, viz.:

(1) In townships having a population of twenty-five thousand or more, justices of the peace shall each receive a salary of three hundred dollars per month as full compensation for all services rendered by them in both criminal cases and in civil cases and in all cases wherein justices of the peace perform the duties of coroner. All fees chargeable and collectible by justices of the peace in criminal and civil cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury; provided, however, that in all such townships

having a population of twenty-five thousand or more, there shall be one clerk to be appointed by the justices of the peace, such clerk to receive a salary of one hundred fifteen dollars per month, payable monthly in the same manner as salaries of county officers are paid.

(2) In townships having a population of five thousand and less than twenty-five thousand, justices of the peace shall receive the sum of one hundred forty dollars per month as full compensation for all services rendered by them in both criminal cases and civil cases and in all cases wherein justices of the peace perform the duties of coroner. All fees chargeable and collectible by justices of the peace in criminal cases and in civil cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury.

(3) In townships having a population of three thousand and less than five thousand, justices of the peace shall each receive the sum of one hundred twenty-five dollars as full compensation for all services rendered by them in both criminal cases and civil cases and in all cases wherein the justices of the peace perform the duties of coroner. All fees chargeable and collectible by justices of the peace in criminal cases and in civil cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury.

(4) In townships having a population of two thousand and less than three thousand, justices of the peace shall each receive the sum of one hundred dollars per month as full compensation for all services rendered by them in both criminal cases and in civil cases and in all cases wherein justices of the peace perform the duties of coroner. All fees chargeable and collectible by justices of the peace in criminal and civil cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury.

(5) In townships having a population of nine hundred and less than two thousand, justices of the peace shall each receive the sum of seventy-five dollars per month as full compensation for all services rendered by them in both criminal cases and in civil cases and in all cases wherein justices of the peace perform the duties of coroner. All fees chargeable and collectible by justices of the peace in criminal cases and in civil cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury.

(6) In townships having a population of less than nine hundred, justices of the peace shall each receive the sum of fifty dollars per month as full compensation for all services rendered by them in both criminal cases and in civil cases and in all cases wherein justices of the peace perform the duties of coroner. All fees chargeable and collectible by justices of the peace in criminal and civil case for services rendered by them shall be collected by them and by them paid monthly into the county treasury; provided, however, that justices of the peace in townships contiguous to municipalities containing twenty-five thousand or more inhabitants or in which a penal institution is located shall be allowed a salary of one hundred forty dollars per month each, as full compensation for all services rendered by them in both criminal and civil cases and in all cases wherein the justices of the peace perform the duties of coroner, and all fees chargeable and collectible by said justices of the peace in criminal cases and in civil cases for services rendered by them shall be collected by them and by them paid monthly

into the county treasury. The population referred to in classifying the townships for the purpose of regulating the compensation of justices of the peace shall be the population found and determined by the federal census taken in the year 1910; provided, that if the township census be taken after the taking of the federal census under the provision of section four thousand fifty-five, then said census shall be known as the township census, and shall become the official census of the townships in which the same is taken, and the population therein determined shall be and become the official population of said township.

15. **Constables.** Constables, in townships having a population of between nine hundred, and one thousand, and between two thousand two hundred and two thousand four hundred inhabitants, as found and determined by the last preceding federal census, shall be allowed a salary of seventy-five dollars per month each and fifteen cents per mile actually traveled in taking prisoners to the county jail, in lieu of all fees in criminal cases. In all other townships, constables, such fees as are now or may be hereafter allowed by law, except that the constables in townships containing twenty thousand or more inhabitants shall be allowed a salary of one hundred twenty-five dollars per month each, in lieu of all fees in criminal cases; provided, further, that constables in townships contiguous to municipalities containing twenty-five thousand or more inhabitants, or in which a state penal institution is located, shall be allowed a salary of one hundred dollars per month each, and fifteen cents per mile for every mile actually traveled in taking prisoners to the county jail, in lieu of all fees in criminal cases; provided, further, that constables, in townships not contiguous to municipalities containing twenty-five thousand or more inhabitants, and constables in townships in which a state penal institution is not located, shall receive in addition to the fees now provided by law, three dollars per diem for each day in actual attendance on the court in criminal cases, and fifteen cents per mile for each mile actually traveled in taking prisoners to the county jail. The salary of the constables as above provided to be paid at the same time and in the same manner as county officers are paid.

16. **Supervisors.** Each supervisor, one hundred twenty-five dollars per month, and in addition thereto the board of supervisors as a whole shall be allotted and paid five hundred dollars per year for traveling expenses, and ten cents per mile for traveling to and from the county seat; provided, mileage for traveling to and from the county seat shall not be allowed oftener than once in each month.

17. **Offices to be separate.** The offices of recorder and auditor shall be separate and shall not be consolidated by the board of supervisors.

18. **Jurors.** For attending as juror in any court, for each day's attendance, per diem three dollars. For each mile actually traveled in attending court as juror, or as juror of the grand jury, in going only per mile, fifteen cents. In addition to the foregoing, each member of the grand jury committees in the performance of their duties be paid for each mile actually traveled going only, fifteen cents.

19. **Analyst.** In counties of this class there may be a county analyst to be appointed by the board of supervisors, who shall receive a salary of not less than fifty dollars per month, to be paid at the same time and in the same manner as other county officers are paid. He shall

furnish his own laboratory. He shall perform such service as may be required by the district attorney, coroner, or by ordinances of the board of supervisors. He shall have been a resident of the county for at least two years and shall be a graduate of a recognized university or technical school and shall have had at least three years' experience in forensic and analytical chemistry.

20. **Office accommodations for justices and constables.** In townships containing twenty thousand or more inhabitants, the board of supervisors shall furnish the justice of the peace and the constables of such townships, an office, to be occupied by such justice and constables jointly.

§ 2. **Repealed.** All acts and parts of acts in conflict with the provisions of this act are hereby repealed. [Amendment approved May 27, 1919; Stats. 1919, p. 1075.]

§ 4236. **Counties of seventh class, salaries of officers. San Diego.** In counties of the seventh class the county and township officers shall receive as full compensation for the services required of them by law, or by virtue of their office the following salaries:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk one chief deputy who shall receive a salary of two thousand dollars per annum; one registration clerk who shall receive a salary of one thousand six hundred eighty dollars per annum; four court clerks who shall receive salaries of one thousand five hundred dollars each per annum; one deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; one index clerk who shall receive a salary of one thousand two hundred dollars per annum; one stenographer who shall receive a salary of one thousand twenty dollars per annum; one copyist who shall receive a salary of one thousand twenty dollars per annum; and a deputy or deputies, not to exceed five, for the purpose of registering electors, to be paid not to exceed three dollars per diem each; provided, that said deputies so employed for registering electors shall not be employed except during a year when a general election is to be held throughout the state, and then only between the first day of January and the fifteenth day of November of said year, and not more than one deputy for each precinct for the purpose of registering electors in precincts outside of the corporate limits of municipalities containing twenty-five thousand or more inhabitants during said year of the general election, who shall be paid ten cents per name for each person legally registered by them, the salaries and compensation of each of said deputies and clerks to be paid out of the county treasury in equal monthly installments in the same manner and at the same time as the other county officials are paid.

2. **Sheriff.** The sheriff, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff one under-sheriff, whose salary is hereby fixed at the sum of two thousand dollars per annum, and the following deputies and employees: One deputy who shall be head jailer, and who shall receive the salary of one thousand five hundred dollars per annum; one deputy who shall receive a salary of one thousand two hundred

dollars per annum; one deputy who shall receive a salary of one thousand twenty dollars per annum; two deputies who shall receive a salary of one thousand five hundred dollars each per annum; four deputies who shall receive salaries of one thousand two hundred dollars each per annum; one stenographer who shall receive a salary of one thousand twenty dollars per annum; one bookkeeper who shall receive a salary of one thousand two hundred dollars per annum; six deputies who shall be turnkeys at the jail, whose salaries shall be one thousand two hundred dollars each, per annum, but no more turnkeys are to be employed than are absolutely necessary to handle the requirements of the jail; such county deputies as may be necessary at such compensation as the sheriff shall determine, but not more than two thousand four hundred dollars shall be paid to all such deputies in any one year. In counties of this class there shall be a matron of the county jail, to be appointed by the sheriff, and who, under the direction of the sheriff, shall have charge of all female prisoners in the county jail, and who shall receive a salary of one thousand two hundred dollars per annum, to be paid by the county in monthly installments at the same time, in the same manner and out of the same fund as is the salary of the sheriff. In counties of this class the sheriff shall be allowed by the board of supervisors the actual necessary expenses for pursuing criminals, or for transacting criminal business, and paid as other county charges are paid. In counties of this class the sheriff shall not be allowed to retain for his office use any fees or mileage for the service of any process issued out of the court of this county but such fees and mileage when collected shall be paid into the county treasury.

3. **Recorder.** The recorder, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the recorder the following deputies and copyists who shall be appointed by the recorder of said county, and shall be paid as follows: One chief deputy who shall receive one thousand eight hundred dollars per annum; one deputy who shall receive a salary of one thousand five hundred dollars per annum; two deputies who shall receive salaries of one thousand two hundred dollars each per annum; and as many copyists as may be required, who shall receive as compensation the sum of five cents per folio for recording all instruments or notes except maps and plats, and for copies of any records, five cents per folio.

4. **Auditor.** The auditor, three thousand six hundred dollars per annum; provided, that there is hereby allowed to the auditor the following deputies: One chief deputy who shall receive a salary of one thousand nine hundred fifty dollars per annum; one deputy who shall receive a salary of one thousand six hundred eighty dollars per annum; one deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; one deputy who shall receive a salary of one thousand twenty dollars per annum; five additional deputies at a salary of five dollars per day each, for each day employed for a period not to exceed one hundred fifty-six days in any one year.

5. **Treasurer.** The treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the treasurer one deputy who shall receive a salary of two thousand one hundred dollars per annum. The salary of the treasurer hereinabove provided shall be in full compensation for all

vices rendered, and the fees heretofore chargeable and collected by him for returning to the state the collateral inheritance tax and for the performance of his official duties in connection therewith shall be paid into the county treasury and be the property of said county; and said treasurer shall receive no fees, compensation or commissions of any kind or character for any service rendered by him in connection with said collateral inheritance tax.

6. **Tax collector.** The tax collector, three thousand six hundred dollars per annum; one chief deputy who shall receive a salary of two thousand one hundred dollars per annum; two deputies who shall receive salaries of one thousand five hundred dollars each, per annum; one deputy who shall receive a salary of one thousand two hundred dollars per annum; a stenographer who shall receive a salary of one thousand twenty dollars per annum; ten additional clerks at a salary of four dollars per day each, for each day employed, for a period not to exceed one hundred fifty-six days in any one year.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be, and there hereby is allowed to the assessor, one chief deputy who shall receive a salary of one thousand eight hundred dollars per annum; one deputy who shall receive a salary of one thousand six hundred fifty dollars per annum; one deputy who shall receive a salary of one thousand three hundred fifty dollars per annum; two deputies for a period not exceeding six months in any one year at salaries of one hundred dollars per month each; one deputy for a period not exceeding five months in any one year at a salary of one hundred dollars per month; four deputies for a period not exceeding four months in any one year, at salaries of one hundred dollars each per month; one stenographer who shall receive a salary of one thousand twenty dollars per annum; six deputies for a period not exceeding one hundred four days each fourth year, whose per diem shall be four dollars each when actually employed. It is further provided that in counties of this class the assessor shall receive no commission for his collection of taxes on personal property, nor shall the assessor receive any compensation for making out the military roll of persons returned to him as subject to military duty as provided by section one thousand nine hundred one of the Political Code. It is further provided that in counties of this class, in addition to the deputies already allowed, there shall be and is hereby allowed to the assessor, five deputies who shall receive salaries of five dollars per day each and twenty-one deputies who shall receive salaries of four dollars per day each, for a period not exceeding seventy-eight days in any one year.

8. **District attorney.** The district attorney, four thousand dollars per annum; also one assistant district attorney, who shall receive a salary of three thousand dollars per annum; two deputy district attorneys who shall receive salaries of two thousand five hundred dollars each per annum; one deputy district attorney who shall receive a salary of two thousand dollars per annum; two stenographers who shall receive salaries of one thousand two hundred dollars each, per annum; and a detective who shall receive a salary of one thousand six hundred fifty dollars per annum. Neither the district attorney nor any of his deputies shall engage in private practice of law.

9. **Superintendent of schools.** The superintendent of public schools three thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the superintendent of public schools one assistant superintendent who shall receive a salary one thousand eight hundred dollars per annum; and one bookkeeper who shall receive a salary of one thousand two hundred dollars per annum. In counties of this class the secretary of the county board of education shall not be paid or allowed to receive any compensation whatever for his services as secretary of such board, nor for any services rendered in connection therewith; and provided, further, that in counties of this class, the county school superintendent shall receive his actual and necessary traveling expenses for visiting and examining schools and school properties of the county not to exceed the sum of five dollars per district in any one school year, the claims for such expenses to be subject to the approval of the board of supervisors.

10. **Public administrator.** The public administrator, such fees as he now or may hereafter be allowed by law.

11. **Coroner.** The coroner, one thousand five hundred dollars, and in addition thereto the board of supervisors shall allow the coroner actual traveling expenses in the performance of his official duties, not to exceed the sum of five hundred dollars in any one calendar year. In counties of this class there shall be and there is hereby allowed the coroner, one assistant coroner, who shall receive a salary of one thousand two hundred dollars per annum, who shall also act as autopsy surgeon. The sheriff shall act as summoning officer for the coroner and shall serve all processes requested by him.

12. **Surveyor.** The surveyor, three thousand dollars per annum, and two deputies who shall receive salaries of one thousand eight hundred dollars per annum each; and such other assistants as may be necessary for field work, who shall receive a compensation of four dollars per day and expenses, when working in the field.

13. **Classification of townships.** For the purpose of regulating compensation of the justices of the peace and constables, townships in counties of this class are hereby classified as follows: Townships having a population of thirty thousand or more shall belong to and be known as townships of the first class; townships having a population less than thirty thousand shall belong to and be known as townships of the second class.

14. **Justices of peace.** In counties of this class justices of the peace shall receive the following compensation, and all such salaries shall be paid monthly in the same manner as the salaries of county officers are paid, viz.:

In townships of the first class, three thousand dollars per annum each.

In townships of the second class, six hundred dollars per annum.

Such salaries shall be as full compensation for all services rendered by them in both civil and criminal cases. All fees chargeable and collectible by justices of the peace in civil and criminal cases for services rendered by them shall be paid monthly into the county treasury.

In townships of the first class the board of supervisors of counties of this class shall furnish the justices of the peace suitable courtrooms.

In townships of the first class, in counties of this class, there shall be two justices of the peace and the said offices are hereby created. In all other townships in counties of this class there shall be one justice of the peace.

15. Constables. In counties of this class constables shall receive the following compensation, and all such salaries shall be paid monthly in the same manner as the salaries of county officers are paid, viz.:

In townships of the first class in all criminal cases in lieu of fees now allowed by law one thousand two hundred dollars per annum.

In townships of the second class in all criminal cases in lieu of fees now allowed by law six hundred dollars per annum.

In all townships in counties of this class the constables shall be allowed in addition to the compensation above set forth all fees in civil cases as are now or may hereafter be allowed by law, and actual traveling expenses only in lieu of mileage for taking prisoners to the county jail.

In townships of the first class, in counties of this class the board of supervisors shall furnish the constables' offices and with necessary and proper furniture for each of said constables.

16. Supervisors. Each member of the board of supervisors, two thousand dollars per annum and fifteen cents per mile in going from his residence to the county seat at each meeting of the board. This shall cover all his services as supervisor and road commissioner.

17. Deputies, etc. The deputies, clerks, copyists and employees mentioned in this section are hereby allowed to the respective county officers named, who shall appoint the same, and said deputies, clerks, copyists and employees shall be paid by the counties of this class in monthly installments, at the same time, in the same manner and out of the same fund as the salaries of the county officers are paid.

18. Constitutionality. If any section, subdivision, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subdivisions, sentences, clauses, or phrases be declared unconstitutional. [Amendment approved May 27, 1919; Stats. 1919, p. 974.]

This section was also amended in 1917. See Stats. 1917, p. 1269.

§ 4236a. Jurors' fees in counties of seventh class. San Diego. In counties of the seventh class trial jurors in all criminal cases tried in the superior court and grand jurors shall receive three dollars per day for each day's attendance while engaged in the performance of the duties required of them; and in addition thereto shall receive for each mile actually traveled, in going only, while acting as such juror fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for such per diem and mileage, and the treasurer shall pay the same. [New section added May 27, 1919; Stats. 1919, p. 1302.]

§ 4237. Counties of eighth class, salaries of officers. San Bernardino. In counties of the eighth class, the county and township officers shall

receive as compensation for the services required of them by law, or by virtue of their office, the following salaries and shall have as deputies or assistants the respective employees hereinafter named, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum, and there shall be and there is hereby allowed to the county clerk in addition, one chief deputy, to be appointed by the county clerk who shall be paid a salary of one thousand five hundred dollars per annum, two additional deputies, who shall be paid the sum of one thousand two hundred dollars per annum each, and one additional deputy who shall be paid the sum of nine hundred dollars per annum; said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid. All fees which are now or may hereafter be allowed by law for all services performed by the county clerk shall by him be paid into the county treasury, and no part thereof shall be retained by him as compensation.

2. **Sheriff.** The sheriff, two thousand four hundred dollars per annum and there shall be, and there is hereby created the office of jailer; such jailer shall be appointed by the sheriff and shall be paid a salary of one thousand two hundred dollars per annum, and also one chief deputy, to be designated under-sheriff, to be appointed by the sheriff, who shall be paid a salary of one thousand five hundred dollars per annum, and also three deputies to be appointed by the sheriff who shall be paid a salary of one thousand two hundred dollars per annum each; also one deputy who shall be paid a salary of eight hundred dollars per annum; there is also hereby created the office of jail matron; such matron shall be appointed by the sheriff and shall be paid a salary of four hundred eighty dollars per annum; said salaries to be paid by such county in monthly installments, at the time and in the manner and out of the same fund as the salary of county officers are paid; provided, further, that the sheriff shall be allowed the said sheriff and his deputies their actual travelling expenses incurred in attending to the duties of the office, both civil and criminal, including their necessary expenses incurred in pursuing criminals or transacting any criminal business. All fees, commissions and mileage which are now or may hereafter be allowed by law to the sheriff shall by him be paid into the county treasury and no part thereof shall be retained by him as compensation.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum, in addition thereto there is hereby allowed to the county recorder one deputy to be appointed by the county recorder who shall be paid a salary of one thousand two hundred dollars per annum, and said recorder is hereby allowed one deputy, to be appointed by said county recorder who shall receive a salary of nine hundred dollars per annum; said salaries to be paid by such county in monthly installments, at the time and in the manner, and out of the same fund as the salary of county officers are paid; provided, further, that in counties of this class the recorder shall be entitled to the actual costs necessarily incurred by him for the recording of all papers, documents and records in his office, not to exceed five cents per folio, and not to exceed three and one-half cents per folio for typewriting done in the recording of each paper or document so recorded; provided, further, that said recorder shall file monthly with the

county auditor a statement under oath showing in detail the names of the persons employed by him as copyists, the number of folios copied and the amount paid to each of such persons for services rendered as copyists. All fees which are or may hereafter be allowed by law to the county recorder shall by him be paid into the county treasury and no part thereof shall be retained as compensation.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum, and in addition thereto there is hereby allowed to the county auditor one chief deputy to be appointed by the auditor who shall be paid a salary of one thousand two hundred dollars per annum, and there shall be, and there is allowed to the auditor in addition, four deputies to be appointed by the auditor who shall be paid a salary of one thousand two hundred dollars per annum each, said salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the county officers are paid. All fees which are or may hereafter be allowed by law to the county auditor shall by him be paid into the county treasury, and no part thereof shall be retained as compensation.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum, in addition thereto there is hereby allowed to the treasurer one deputy, to be appointed by the county treasurer, who shall receive a salary of one thousand two hundred dollars per annum. Said salaries shall be paid by such county in monthly installments and at the time and in the manner and out of the same fund as the salary of the county officers are paid. All fees which are or may hereafter be allowed by law to the treasurer shall be paid by him into the county treasury and no part thereof shall be retained as compensation.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum, and there shall be and there is allowed to the tax collector one deputy, to be appointed by the tax collector, who shall be paid a salary of one thousand two hundred dollars per annum; and there is hereby allowed to the tax collector such additional assistants as the tax collector may require; such additional assistants shall be paid a salary of four dollars per day, each; provided, however, that the compensation of such additional assistants shall not exceed in the aggregate the sum of two thousand dollars per annum. Said salaries shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of county officers are paid. All fees which are or may hereafter be allowed by law to the tax collector shall by him be paid into the county treasury and no part thereof shall be retained as compensation.

7. **Assessor.** The assessor, two thousand four hundred dollars per annum, and there shall be and there is hereby allowed to the assessor in addition one chief deputy to be appointed by the assessor and who shall be paid a salary of one thousand five hundred dollars per annum, and one deputy, who shall be paid a salary of eight hundred forty dollars per annum, and there is hereby allowed to the assessor, in addition thereto, two office clerks at a salary of seven hundred eighty dollars per annum, each, and there shall be and there is hereby allowed to the assessor seventeen other deputies for such time as may be necessary between

the first Monday in March and the first Monday in July of each year each of said seventeen deputies shall be paid the sum of four dollars a day for the time actually employed by them in making assessments; and salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid; provided, further, that there shall be and there is hereby allowed said assessor and his deputies their actual traveling expenses necessarily incurred in attending to the duties of the office. All fees and percentages which are or may hereafter be allowed by law to the assessor shall be paid by him into the county treasury and no part thereof shall be retained as compensation.

8. **District attorney.** The district attorney, two thousand seven hundred dollars per annum, and there shall be, and there is allowed to the district attorney in addition, one chief deputy, to be appointed by the district attorney, who shall be paid a salary of one thousand eight hundred dollars per annum; and there is hereby allowed to the district attorney, in addition thereto, one chief trial deputy to be appointed by the district attorney, who shall be paid a salary of one thousand eight hundred dollars per annum, and one additional deputy, to be appointed by the district attorney, who shall be paid a salary of one thousand two hundred dollars per annum, each of whom shall be an attorney at law regularly admitted to practice before the supreme court of California, and there is hereby allowed to the district attorney one office stenographer to be appointed by the district attorney, who shall receive a salary of seven hundred eighty dollars per annum, and there is hereby allowed to the district attorney one special officer, who may be a deputy sheriff; such special officer shall be appointed by the district attorney, and shall be paid a salary of one thousand two hundred dollars per annum; and salaries to be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of the county officers are paid. All fees which are or may hereafter be allowed by law to the district attorney shall be by him paid into the county treasury and no part thereof shall be retained as compensation.

9. **Coroner.** The coroner, two thousand four hundred dollars per annum, which salary shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salary of county officers are paid. All fees which are or may hereafter be allowed by law to the coroner shall by him be paid into the county treasury and no part thereof shall be retained by him as compensation.

10. **Public administrator.** The public administrator, one dollar per annum, which salary shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid. All fees which are or may hereafter be allowed by law to the public administrator shall by him be paid into the county treasury and no part thereof shall be retained by him as compensation.

11. **Superintendent of schools.** The superintendent of schools, for full services including attendance on the county board of education, two thousand four hundred dollars per annum, and all actual traveling expenses necessarily incurred in the performance of his duties, and there is allowed

to the superintendent of schools in addition, one deputy, to be appointed by the superintendent of schools, who shall be paid a salary of one thousand two hundred dollars per annum. Said salaries shall be paid by such county in monthly installments at the time and in the manner and out of the same fund as the salaries of county officers are paid. The office of superintendent of schools shall be kept open upon all business days from nine o'clock A. M. until five P. M.

12. Board of education. Each member of the board of education shall receive five dollars per day as compensation for his services when in actual attendance on said board, and actual traveling expenses incurred in traveling to and from his home and a meeting place of said board. Said compensation of the members of said board shall be paid out of the same fund as the salaries of county officers are paid. Claims for such services and mileage shall be presented to the board of supervisors and allowed by them in the same manner as other claims against the county are allowed. The compensation of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy of this code.

13. Surveyor. The surveyor, two thousand four hundred dollars per annum, and in addition thereto all necessary expenses incurred in the field in performance of the county work, to be paid by the board of supervisors, and there shall be and there is allowed to the surveyor in addition, one chief deputy, who shall be a competent civil engineer to be appointed by the surveyor, who shall be paid a salary of one thousand five hundred dollars per annum, and also two deputies, who shall be competent draftsmen, to be appointed by the surveyor, who shall be paid a salary of one thousand three hundred fifty dollars per annum, each, and also one assistant draftsman, which office of assistant draftsman is hereby created, who shall be paid a salary of nine hundred sixty dollars per annum, and also one clerk who shall be appointed by the surveyor, which office of clerk is hereby created, who shall be paid a salary of nine hundred dollars per annum. Said salaries to be paid in monthly installments at the same time and in the same manner and out of the same funds as the salary of county officers are paid. All fees and compensation received for outside surveying shall be paid into the county treasury and no part thereof shall be retained as compensation.

14. Justices of the peace. Justices of the peace, the following monthly salaries to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered by them in both criminal and civil cases: In townships having a population of eighteen thousand and over, one hundred forty dollars per month; in townships having a population of twelve thousand and less than eighteen thousand, one hundred ten dollars per month; in townships having a population of six thousand and less than twelve thousand, ninety dollars per month; in townships having a population of two thousand four hundred and less than six thousand, seventy dollars per month; in townships having a population of one thousand five hundred and less than two thousand four hundred, sixty dollars per month; in townships having a population of eight hundred and less than one thousand five hundred, fifty-five dollars per month; in townships having a population of five hundred and less than eight hundred, thirty dollars per month; in townships having

a population of less than five hundred, ten dollars per month. And justices of the peace of each township shall charge and collect the fees which are now or may hereafter be allowed by general law, in civil cases and pay the same monthly to the county treasurer.

15. Constables. Constables, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be full for all services rendered by them in criminal cases: In townships having a population of ten thousand and more, one hundred dollars per month; in townships having a population of five thousand and less than ten thousand, eighty-five dollars per month; in townships having a population of two thousand five hundred and less than five thousand, seventy-five dollars per month; in townships having a population of one thousand five hundred and less than two thousand five hundred, sixty dollars per month; in townships having a population of eight hundred and less than one thousand five hundred, fifty dollars per month; in townships having a population of five hundred and less than eight hundred, twenty dollars per month; in townships having a population of less than five hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil cases.

16. Supervisors. The supervisors, the sum of one hundred twenty-five dollars per month, each, as supervisors and road commissioners and actual traveling expenses not to exceed five hundred dollars for each supervisor in any one year.

17. Jurors. The grand jurors and jurors in the superior court in criminal cases shall be paid two dollars and fifty cents per day for each day attendance, and for each mile actually traveled in going only, while acting as such jurors, fifteen cents, and the judge of said court shall make an order directing the auditor to draw his warrant on the treasury in favor of such jurors for said per diem and mileage and the treasurer shall pay the same.

18. Population of townships. The population of townships shall, for the purposes of this section, be determined to be the population of such townships as shown by the federal census taken in the year Anno Domini one thousand nine hundred ten, or by a subsequent census taken as provided in section four thousand fifty-five of the Political Code, provided; and in case townships are formed after the taking of the census, then the population shall be determined by multiplying the vote for governor cast in such township, at the last preceding election, by four. [Amendment approved May 28, 1917; Stats. 1917, p. 1113.]

§ 4238. Counties of ninth class, salaries of officers. San Joaquin. In counties of the ninth class, the county and township officers shall receive as compensation for the services required of them by law, or in the virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, three thousand six hundred dollars per annum.

2. Sheriff. The sheriff, four thousand five hundred dollars per annum. The sheriff shall also be allowed his actual, reasonable and necessary expenses in all civil and criminal cases.

3. **Recorder.** The recorder, two thousand seven hundred fifty dollars per annum.

4. **Auditor.** The auditor, three thousand six hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand six hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand nine hundred dollars per annum. The tax collector shall pay all his own traveling expenses.

7. **Assessor.** The assessor, four thousand dollars per annum. The assessor shall also receive his actual, reasonable and necessary expenses while engaged in his official duties in the field.

8. **District attorney.** The district attorney, three thousand six hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, three thousand three hundred dollars per annum. The superintendent of schools shall pay all his own traveling expenses when visiting the schools of this county.

12. **Surveyor.** The surveyor, two thousand four hundred dollars per annum, and actual, reasonable and necessary expenses when engaged in the field or in the office in the discharge of his official duties in the county.

13. **Justices of peace.** Justices of the peace shall receive the following salaries for all services rendered by them, payable in the same manner as county officers are paid, viz.: In townships having a population of twenty thousand or more, two hundred fifty dollars per month; in townships having a population of not less than five thousand nor more than twenty thousand, one hundred dollars per month; in townships having a population of not less than three thousand nor more than five thousand, sixty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred, nor more than two thousand, thirty-five dollars per month; in all townships having a population of less than one thousand four hundred, twenty-five dollars per month; provided, that for the purposes of this section the population of the several townships shall be ascertained by multiplying the number of registered voters at the last general election by three and one-half. The compensation herein fixed for justices of the peace shall be in full for all services rendered and all fees collected by them shall be paid into the county treasury as provided by law; provided, that justices of the peace now holding office shall, during their present term, be entitled to retain for their own use all civil fees. In townships having a population of twenty thousand or more, the justice of the peace shall be allowed a clerk, which position is hereby created. Such clerk shall be appointed by the justice of the peace of said township, and shall hold office during the pleasure of said

justice of the peace. Said clerk shall give a bond in the sum of one thousand dollars, with at least two sureties to be approved by a judge of the superior court of the county in which said township is situated, conditioned for the faithful discharge of the duties of the office; and he shall receive an annual salary of one thousand five hundred dollars. The justice's clerk shall keep a record of the proceedings of the court, and shall issue all process ordered by the court, and shall collect and receive all fines and forfeitures in criminal cases and pay the same to the authorities legally entitled to receive the same, at the time and in the manner provided by law. He shall prepare bonds, justify bonds when the amount has been fixed by the court, and shall have authority to administer and certify oaths and take and certify affidavits in any action, suit or proceedings in said justice's court. The clerk shall be in attendance on the court in the courtroom of said justice's court for the dispatch of official business, daily, legal holidays excepted, from nine o'clock A. M., until five o'clock P. M., and during such reasonable times thereafter as may be necessary for the proper performance of his duties.

14. Constables. Constables shall receive the following salaries for services rendered by them in criminal cases, payable monthly in the same manner as county officers are paid, viz.: In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand and more than fourteen thousand, seventy-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty-five dollars per month; in townships having a population of not less than one thousand four hundred nor more than two thousand, thirty-five dollars per month. In all townships having a population of less than one thousand four hundred, twenty-five dollars per month. Constables of counties of this class shall also receive for their own use and benefit such fees as are now or may be hereafter allowed by law for mileage in criminal cases and shall also receive such fees as are now or may be hereafter be allowed by law in civil cases. Such mileage in criminal cases is intended to cover the ordinary expenses of constables, and other than such mileage, they shall be allowed the following expenses and other, to wit: In criminal, insane, inebriate and drug habitue cases, the actual, reasonable and necessary cost of transporting prisoners to and from the county jail; of supporting such prisoners while in their custody; of pursuing criminals when a felony has been committed within their township and no warrant has been issued, whether an arrest is made or not; of transporting inebriates, drug habitues and insane persons from the justice's court to the place of detention and from the place of detention to the superior court, and from the superior court to the insane asylum, but no mileage shall be allowed for such transportation to the place of detention, to the superior court, or to the insane asylum.

15. Supervisors. Each member of the board of supervisors, two hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board, and fifteen cents a mile in traveling to and from his residence to the county seat; provided, that not more than one mileage at any one time

of the board shall be allowed. Each member of said board may be allowed his actual expenses in attending the annual state convention of members of county boards of supervisors; provided, that the total expense of all members attending such convention shall not exceed fifty dollars in any one year.

16. Bonds of officers. The bonds of the clerk, sheriff, recorder, auditor, treasurer, tax collector, assessor, district attorney, coroner, public administrator, superintendent of schools and surveyor, shall be executed with a reliable bond and security company, and the cost of said bond, when duly approved, shall be a charge against the county, and payable out of the general fund.

17. Deputies. **County clerk; recorder; treasurer; auditor; district attorney; superintendent of schools; sheriff; surveyor; coroner; assessor.** The county clerk shall have one chief deputy, at a salary of two thousand one hundred dollars per annum; three courtroom deputies at a salary of one thousand eight hundred dollars per annum each; three office deputies at a salary of one thousand five hundred dollars per annum each; one judgment clerk at a salary of one thousand five hundred dollars per annum; one deputy who shall act as clerk to the board of supervisors at a salary of one thousand eight hundred dollars per annum; one deputy who shall act as assistant clerk to the board of supervisors at a salary of one thousand five hundred dollars per annum; and a deputy or deputies not to exceed fifteen, for the purpose of registering electors or other emergencies, who shall be paid not to exceed four dollars per diem each; also a deputy or deputies, to register electors outside of the county seat, who shall receive a compensation of eight cents for each elector registered, and shall receive no other compensation or expenses.

The county recorder, one first assistant at a salary of one thousand eight hundred dollars per annum; one second assistant at a salary of one thousand five hundred dollars per annum; three comparing or index clerks at a salary of one thousand three hundred eighty dollars per annum each; two copyists at a salary of one thousand three hundred eighty dollars per annum each; the recorder may, with the consent of the board of supervisors, hire necessary assistance in cases of emergency at a salary not to exceed four dollars per diem each, nor shall the aggregate salaries for such work exceed two thousand four hundred dollars in any one calendar year.

The treasurer, one chief deputy at a salary of two thousand five hundred dollars per annum, and one deputy at a salary of one thousand nine hundred twenty dollars per annum, and one deputy at a salary of one thousand six hundred eighty dollars per annum, and one deputy at a salary of one thousand five hundred dollars per annum, and one deputy to serve not longer than six months in any one calendar year at a salary of one hundred ten dollars per month, and an emergency deputy or deputies, which position is hereby created, at a salary of four dollars per diem, which said emergency deputy or deputies shall not receive more than one thousand eight hundred dollars in any one calendar year.

The county auditor, one chief deputy at a salary of one thousand eight hundred dollars per annum, one deputy at a salary of one thousand five hundred dollars per annum; the auditor may, with the consent of the board of supervisors, hire necessary assistants for the purpose of

extending taxes, and in cases of emergency at a salary not to exceed four dollars per diem each, nor shall the aggregate salaries for such emergency work exceed one thousand dollars in any one calendar year.

The district attorney, an assistant district attorney, at a salary of two thousand seven hundred dollars per annum; and two deputies at a salary of one thousand eight hundred dollars per annum each; and a stenographer at a salary of two thousand one hundred dollars per annum.

The superintendent of schools, one deputy at a salary of one thousand two hundred dollars per annum; and an emergency deputy or deputies, which position is hereby created, at a salary of four dollars per diem, which said emergency deputy or deputies shall not receive more than four hundred dollars in any one calendar year.

The sheriff, an under-sheriff, who shall receive a salary of two thousand one hundred dollars per annum; a clerk who shall receive a salary of one thousand five hundred dollars per annum; a stenographer and a clerk who shall receive a salary of one thousand five hundred dollars per annum; three deputy sheriffs, who shall receive a salary of one thousand five hundred dollars per annum each; three bailiffs or courtroom deputies, who shall receive a salary of one thousand five hundred dollars per annum each; and one motor boat deputy, who shall receive a salary of one hundred fifteen dollars per month; two speed cop deputies who shall furnish and maintain at their own expense the motor cycle for their use and whose salary and expense for the purpose here named shall be one hundred thirty-five dollars per month each; two jailers, who shall receive a salary of one thousand five hundred dollars per annum each; one deputy sheriff for emergencies, and as a guard for working prisoners who shall receive a salary of one thousand five hundred dollars per annum, and a deputy sheriff for the purpose of serving papers and other emergencies, who shall receive a salary of one thousand five hundred dollars per annum.

The county surveyor, one chief deputy, who shall be paid a salary of two thousand one hundred dollars per annum.

The coroner, one deputy, who shall be paid by the coroner out of fees.

The county assessor shall have one chief deputy at a salary of two thousand one hundred dollars per annum; one draftsman at a salary of one thousand eight hundred dollars per annum; one stenographer and a copyist at a salary of nine hundred dollars per annum; one office deputy at a salary of one thousand six hundred twenty dollars per annum; one platter to serve not to exceed one hundred eighty days in each year at a salary of four dollars per diem; two office deputies for preparing assessment-rolls to serve not to exceed one hundred days each in any one year at a salary of four dollars per diem each; one office deputy for preparing assessment-rolls to serve not to exceed one hundred days in any one year at a salary of four dollars per diem; one copyist to serve not to exceed forty-three days in any one year at a salary of four dollars per diem; fifteen field deputies to serve not to exceed eighty days each in any one year at a salary of five dollars per diem each; and an emergency deputy or deputies, at a salary of four dollars per diem each, which said emergency deputy or deputies shall not receive more than four hundred dollars in any one calendar year; all the deputy assistants, emergency help and clerks herein mentioned shall be paid

at the time and in the same manner that the principals are paid, and they shall be paid from the salary fund.

18. Salaries, full compensation. Fees, etc., paid into county treasury. The salaries, fees, mileage and commissions herein provided shall be in full for all official services performed. No county, district or township officer shall receive from the county any salary, compensation, fees, commission or mileage, except as in this section provided. All compensation, commissions, fees and mileage now or hereafter provided by law to be paid to any county, district, or township officer for any official service, except as in this section otherwise provided, shall be paid into the county treasury to the credit of the general fund, unless some other fund is specially designated by law. All compensations, fees, commissions and mileage, except as in this section otherwise provided, received by any county, district or township officer, either as such officer, or as the agent of the state of California, or of any officer thereof, or as the agent of any political subdivision of the state of California, or of any officer thereof, shall be paid into the county treasury to the credit of the general fund, unless some other fund is specially designated by law. Until such county, district or township officer shall pay into the county treasury all compensation, commissions, fees and mileage as herein required to be paid, he shall receive no salary, and it shall be the duty of the auditor to refuse to deliver to him thereafter a salary warrant, and it shall be the duty of the treasurer to refuse to pay the same.

19. Jurors. For attending as a grand juror or as a juror in the superior court, for each day's attendance per day three dollars. For each mile actually traveled in attending court as a juror, in going only, per mile, twenty-five cents. [Amendment approved April 15, 1919; Stats. 1919, p. 82.]

This section was also amended in 1917. See Stats. 1917, p. 1294.

§ 4239. Counties of tenth class, salaries of officers. Sonoma. In counties of the tenth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, two thousand five hundred dollars per annum and such fees as are allowed by law; provided, that he shall appoint one chief deputy at a salary of one thousand six hundred twenty dollars per annum, two courtroom deputies at a salary of one thousand three hundred twenty dollars per annum each, two office deputies at one thousand three hundred twenty dollars per annum each, and one copyist at a salary of nine hundred dollars per annum, whose duty it shall be to act as copyist for the county clerk as such, as well as for the clerk as ex-officio clerk of the board of supervisors and do copying work when required by the board of supervisors; and deputy clerks not to exceed three in number for the purpose of registering electors in the office of the county clerk, to be paid at not to exceed seventy-five dollars per month each; provided, that such deputies so employed for registering electors shall not be employed except during a year when a general election is held throughout the

state and said deputies shall be employed only between the first day of January and the first day of December of such years; one or more deputies for the purpose of registering electors outside of the county seat in said years, who shall receive a compensation of ten cents for each elector legally registered by them, and shall receive no other compensation or expenses. Each of said deputies to be paid at the same time and in the same manner as county officers are paid.

2. **Sheriff.** The sheriff, two thousand dollars per annum; provided, he shall appoint one under-sheriff at a salary of one thousand eight hundred dollars per annum and four deputy sheriffs at a salary of one thousand five hundred dollars per annum each; one deputy sheriff at a salary of nine hundred dollars per annum; and one deputy sheriff to be paid for only between June first and October first each year (for months), at a salary of seventy-five dollars per month; and a person to act as matron of the county jail at a salary of seventy-five dollars per month. Said under-sheriff and each of said deputies and assistants shall be paid at the same time and in the same manner as county officers are paid. The sheriff shall also receive such fees as are allowed sheriffs by section four thousand three hundred and six of the Political Code of the state of California, except that for traveling in the service of any paper required by law to be served, in either civil or criminal process or proceeding for each mile actually and necessarily traveled one way only, twenty cents. No constructive mileage to be allowed.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum; provided, that the recorder shall appoint one chief deputy at a salary of one thousand six hundred twenty dollars per annum, one copyist, who may also perform the duties of a deputy at a salary of one thousand one hundred twenty dollars, three copyists at a salary of nine hundred dollars each per annum, to be paid at the same time and in the same manner as county officers are paid.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum; provided, that the expenses incurred, if any, in making extensions of assessments and tax-rolls shall be paid out of said sum; two thousand four hundred dollars, compensation above mentioned; and provided, further, that said auditor shall appoint one deputy at a salary of one thousand two hundred dollars per annum; one deputy at a salary of one thousand dollars per annum, and two copyists at a salary of seven hundred twenty dollars per annum each, to be paid at the same time and in the same manner as county officers are paid.

5. **Treasurer.** The treasurer, two thousand dollars per annum, and such fees as are now or may hereafter be allowed by law; provided, that the treasurer shall appoint one deputy at a salary of one thousand two hundred dollars per annum, to be paid at the same time and in the same manner as county officers are paid.

6. **Tax collector.** The tax collector, three thousand dollars per annum; provided, that said tax collector shall appoint one revenue and taxation deputy at a salary of one thousand five hundred dollars per annum; and provided, further, that he shall appoint one stenographer to be paid only between July first and January first of each year, at a salary of seventy-five dollars per month; and provided, further, that he shall be allowed additional help to be employed by him when needed, at

expense of not to exceed the sum of one thousand dollars in any one year, to be paid at the same time and in the same manner as county officers are paid.

7. Assessor. The assessor, three thousand dollars per annum; provided, that the assessor shall appoint one assistant assessor at a salary of one thousand six hundred twenty dollars per annum, one chief deputy at a salary of one thousand six hundred twenty dollars per annum and one title transfer deputy at a salary of one thousand three hundred twenty dollars per annum, one draftsman at a salary of one thousand three hundred twenty dollars per annum, one property ownership deputy at a salary of one thousand three hundred twenty dollars per annum, and one office deputy at a salary of one thousand three hundred twenty dollars per annum. The salaries of which deputies shall be paid in the same manner and at the same time and from the same funds as county officers are paid. The assessor may also appoint as many deputies as may be necessary to carry on his work at an expense to the county not to exceed four thousand dollars during any fiscal year. The salaries of which last-named deputies shall be paid at the same time and in the same manner and from the same fund as the assessor is paid. The amount of each of which payments shall be determined by the auditor from a certificate furnished by the assessor showing the person and amount to which payments are due and the period of time for which compensation is made, or, the salaries of said deputies may be paid by claim presented to the board of supervisors in regular form and approved by the assessor, the total amount of which claims, however, shall not exceed the sum of four thousand dollars above mentioned, for any one fiscal year. The assessor shall also receive six per cent of the personal property tax collected by him and the amount allowed by law for making out the military roll.

8. District attorney. The district attorney, three thousand dollars per annum; provided, that he shall appoint one assistant district attorney at a salary of two thousand dollars per annum, and one deputy district attorney at a salary of one thousand five hundred dollars per annum, and one stenographer at a salary of nine hundred dollars per annum; said assistant, deputy and stenographer to be paid at the same time and in the same manner as county officers are paid.

9. Coroner. The coroner, such fees as are now or may be hereafter allowed by law.

10. Public administrator. The public administrator, such fees as are now or may be hereafter allowed by law.

11. Superintendent of schools. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting schools of his county; provided, such superintendent of schools may appoint an assistant superintendent of schools at a salary of one thousand six hundred twenty dollars per annum, one deputy at a salary of one thousand two hundred dollars per annum, and one accountant at a salary of one thousand dollars per annum, payable at the same time and in the same manner as county officers are paid.

12. Surveyor. The surveyor, one thousand eight hundred dollars per annum for all work performed for the county, and in addition thereto

all necessary and actual traveling expenses incurred in connection with field work, and all fees allowed by law; provided, that out of the compensation hereinabove provided he shall pay the cost of platting, tracing or otherwise preparing maps, plats or block-books for the use of the county assessor; provided, further, that all property owners' books, data, and transcript records required for making such maps, plats, or block-books shall be procured at the expense of the county in such manner and by such persons as the board of supervisors may direct; and provided, further, that the fees for land surveys, except when done for the county, shall be ten dollars per day, or fraction thereof, and in addition thereto all necessary and actual traveling expenses. And it shall be the duty of the county surveyor to prepare and furnish all necessary plans and specifications for all bridges and bridge work, in addition to his other duties, without extra compensation. He shall appoint a deputy at a salary of one thousand dollars per annum, payable at the same time and in the same manner as county officers are paid; provided, however, that in cases of emergency additional help may be furnished the county surveyor by the board of supervisors at a compensation to be fixed by the board.

13. Justices of peace. The justices of the peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases.

In townships having a population of thirteen thousand or more, one hundred fifty dollars per month;

In townships having a population of over eight thousand and less than thirteen thousand, ninety dollars per month;

In townships having a population of four thousand and less than eight thousand, sixty dollars per month;

In townships having a population of two thousand five hundred and less than four thousand, forty dollars per month;

In townships having a population of one thousand five hundred and less than four thousand, thirty-five dollars per month;

In townships having a population of one thousand and less than one thousand five hundred, thirty dollars per month;

In townships having a population of nine hundred and less than one thousand five hundred, twenty dollars per month;

In townships having a population of less than nine hundred, fifteen dollars per month.

Each justice of the peace must pay into the county treasury on the first day of each month all fines collected by him; and provided, further, that for the purposes of this subdivision the population of the several townships shall be ascertained from the United States census reports of 1910.

14. Constables. In townships having a population of thirteen thousand or more, constables shall receive as compensation in lieu of fees in criminal cases, the sum of one hundred dollars per month; in townships having a population of eight thousand and less than thirteen thousand, the sum of sixty dollars per month; in townships having a population of four thousand and less than eight thousand, the sum of forty dollars per month; in townships having a population of one thousand five hundred and less than four thousand, fifteen dollars per month; in townships having a population of one thousand and less

than one thousand five hundred, ten dollars per month; in townships having a population of less than one thousand, five dollars per month; provided, that in addition to the fees and salaries herein allowed, each constable shall receive for traveling expenses outside of his own township, but within his own county, for the service of a civil or criminal process, the sum of fifteen cents per mile for each mile actually and necessarily traveled, one way only, no constructive mileage to be allowed; and provided, further, that such salaries for services in criminal cases shall be paid at the same time and in the same manner as the salaries of county officers are paid; and provided, further, that in addition to the salaries provided herein, constables in all townships shall receive for their own use the fees which are now or may hereafter be allowed by law in civil cases; and provided, further, that for the purposes of this subdivision, the population of the several townships shall be ascertained from the United States census report of 1910.

15. **Supervisors.** Each member of the board of supervisors for all services required of them by law, or by virtue of their office, except as road commissioners, shall be allowed one thousand two hundred dollars per annum as a salary, and fifteen cents per mile in traveling to and from his place of residence to the courthouse; provided, that only one mileage must be allowed at each term; and provided, further, that said salary and mileage shall be in lieu of all fees otherwise provided by law for supervisors. Each supervisor shall receive for services as road commissioner, thirty cents per mile one way for all distances actually traveled by him in the performance of his duties; provided, that he shall not in any one year receive more than six hundred dollars as such road commissioner; provided, that no member of the board of supervisors or other county officer, shall, except for his own services or expenses, present or verify by his oath attached thereto, any claim, account, or demand for allowance against the county.

16. **Salaries payable monthly.** All salaries herein not otherwise provided for shall be paid out of the treasury of said county in equal monthly payments on the last day of each month.

17. **Jurors.** The fees for jurors in counties of this class shall be as follows: For attending as a grand juror or juror in the superior court, for each day's attendance, while serving as such juror, per day, three dollars; for each day's attendance when not selected to serve, two dollars. For attending justice's court, for each juror sworn to try the cause, per day, in civil cases, only, one dollar and fifty cents. A juror excused at his own request shall not be entitled to a per diem fee. For each mile actually and necessarily traveled in attending court as a juror, except in criminal cases in justice's court, for which no allowance shall be made, in going only, per mile, fifteen cents. [Amendment approved May 27, 1919; Stats. 1919, p. 1172.]

This section was also amended in 1917. See Stats. 1917, p. 1155.

§ 4240. **Counties of eleventh class, salaries of officers. Kern.** In counties of the eleventh class the officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum, and twelve and one-half cents for each elector regi-

tered; provided, that in counties of this class, there shall be and there is hereby allowed to the county clerk, which said positions are hereby created, the following deputies, who shall be appointed by the county clerk of such county, and shall be paid salaries as follows: One deputy at a salary of two thousand one hundred dollars per annum, two deputies at a salary of one thousand eight hundred dollars each per annum, and three deputies at a salary of one thousand six hundred fifty dollars each per annum, two deputies at a salary of one thousand five hundred dollars each per annum, and a deputy or deputies not to exceed three for a period of employment not to exceed one calendar month to be employed in the discretion of the county clerk, at such time as he may deem necessary preceding each county election, at a salary of four dollars each per diem, two deputies for five months during the fiscal year of 1919-1920 for the purpose of refilling papers, at a salary of one hundred dollars per month. The deputies herein provided shall be paid by such county at the same time and in the same manner and out of the same fund that the salary of the county clerk is paid. In counties of this class the county clerk shall pay into the county treasury all fees received by him in his official capacity. The provisions herein contained shall apply to present incumbents.

2. **Sheriff.** The sheriff, four thousand eight hundred dollars per annum. The sheriff shall also receive for his own use the fees for mileage, which are now, or which may hereafter be allowed by law, and the fees and commissions for the service of all papers whatsoever issued by any court of this state, outside of this county. The sheriff shall also receive the necessary expenses incurred in the pursuit of criminals; provided, that no constructive mileage shall be allowed. In counties of this class there shall be, and there is hereby allowed to the sheriff, which said positions are hereby created, the following deputies, who shall be appointed by the sheriff of such county, and shall be paid salaries as follows: One deputy at a salary of two thousand one hundred dollars per annum, ten deputies, one of whom shall be a woman, at a salary of one thousand eight hundred dollars each per annum. The deputies herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the sheriff is paid. In counties of this class the sheriff shall make no charge for the boarding of prisoners over and above the actual cost of materials. The provisions herein contained shall apply to present incumbents.

3. **Recorder.** The recorder, four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the recorder, which said positions are hereby created, the following deputies and copyists, who shall be appointed by the recorder of such county, and shall be paid salaries as follows: One deputy recorder at a salary of one thousand eight hundred dollars per annum, two deputies at a salary of one thousand two hundred dollars per annum, two copyists at a salary of one thousand dollars per annum; provided, that said copyists being eligible, may also be appointed deputy recorders without further compensation. The recorder may also employ such additional copyists, not to exceed two, as may be required to copy instruments filed for record within a reasonable time after the same are filed for record and which the other copyists here

provided, are unable to copy within such time. The compensation of such additional copyists shall be paid out of the general fund of said county at the rate of seventy-five dollars a month, and proper claims therefor shall be presented to and allowed by the board of supervisors. The deputies and copyists herein provided for, other than additional copyists, shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the recorder is paid; provided, that in counties of this class the recorder may be allowed the actual necessary expenses incurred by him in the performance of his official duties and shall pay into the county treasury all fees received by him in his official capacity from whatsoever source they may be derived. The provisions herein contained shall apply to present incumbents.

4. Auditor. The auditor, four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the auditor, which said positions are hereby created, the following deputies and assistants who shall be appointed by the auditor of such county, and shall be paid salaries as follows: Three deputy auditors at a salary of one thousand eight hundred dollars each per annum, one deputy at a salary of one thousand five hundred dollars per annum, one deputy who shall be a stenographer at a salary of one thousand five hundred dollars per annum; provided, further, that the auditor may appoint ten additional assistants for a period of employment not to exceed two months in each year, to be paid four dollars each per diem. The deputies and assistants herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund as the salary of the auditor is paid. In counties of this class the auditor shall pay into the county treasury all fees received by him in his official capacity.

5. Treasurer. The treasurer, four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the treasurer, which said position is hereby created, one deputy, who shall be appointed by the treasurer of such county, and shall be paid a salary of two thousand one hundred dollars per annum. The deputy herein provided for shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the treasurer is paid. In counties of this class the treasurer shall pay into the county treasury all fees received by him in his official capacity.

6. Tax and license collector. The tax and license collector, four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the tax and license collector, which said positions are hereby created, the following deputies and assistants, who shall be appointed by the tax and license collector of said county, and shall be paid salaries as follows: One deputy at a salary of one thousand eight hundred dollars per annum, one deputy at a salary of one thousand five hundred dollars per annum, two assistants for a period of employment not exceeding eight months each per year to be paid four dollars per diem each, and two assistants for a period of employment not exceeding five months each per year to be paid four dollars per diem each, and four additional copyists for a period of employment not exceeding four months each per year to be

paid four dollars per diem each; such additional assistants, not exceed five, for a period of time not to exceed two months, said additional assistants to be paid out of the general fund of the county the rate of four dollars per diem each. The deputies and assistants herein provided for shall be paid by said county at the same time in the same manner and out of the same fund that the salary of the tax and license collector is paid. The provisions herein contained shall apply to present incumbents.

7. **Assessor.** The assessor, five thousand dollars per annum. In counties of this class there shall be, and there is hereby allowed to the assessor, the following deputies and employees, who shall be appointed by the assessor and who shall be paid salaries as follows: One deputy assessor who shall receive a salary of one thousand eight hundred dollars per annum; one deputy assessor who shall receive a salary of one thousand five hundred dollars per annum; four deputies who shall be employed not to exceed one hundred four days each year whose per diem shall be eight dollars each when actually employed; four deputies who shall be employed not to exceed one hundred four days in each year whose per diem shall be seven dollars each when actually employed; four deputies who shall be employed not to exceed one hundred four days in each year whose per diem shall be five dollars each when actually employed; six deputies who shall be employed not to exceed one hundred four days in each year whose per diem shall be four dollars each when actually employed; such additional deputies, whose aggregate compensation shall not exceed two thousand dollars in a fiscal year, as may be necessary to carry on the work of his office; ten copyists who shall be employed not to exceed one hundred thirty days in each year, whose per diem shall be three dollars each when actually employed; and one stenographer who shall be employed not to exceed four months in each year whose salary shall be eighty dollars per month; provided, that the above salaries and compensations shall be in full payment for all services rendered by him as such assessor and that no commission for the collection of state taxes or infirmity taxes for road taxes or personal property taxes shall be retained by him, nor shall the assessor receive any compensation for making or the military roll of persons returned to him as subject to military duty as provided by section one thousand nine hundred one of the Political Code of the state of California, but that all fees and commissions shall be paid into the county treasury. The deputies herein provided for shall be paid at the same time and in the same manner and out of the same fund as the salary of the county assessor is paid; provided, that the assessor shall be allowed the actual and necessary expenses incurred by him in the performance of his official duties. The provisions herein contained shall apply to present incumbents.

8. **District attorney.** The district attorney four thousand dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the district attorney, which said positions are hereby created, the following: One assistant district attorney at a salary of two thousand seven hundred dollars per annum, one deputy district attorney at a salary of two thousand four hundred dollars per annum, one deputy district attorney at a salary of two thousand dollars per annum, and one stenographer at a salary of one thousand dollars per annum.

thousand five hundred dollars per annum and one stenographer at a salary of one thousand two hundred dollars per annum. The assistant, deputies and stenographer herein provided for shall be appointed by, and hold office at the pleasure of, the district attorney, and shall be paid by said county at the same time and in the same manner and out of the same fund that the salary of the district attorney is paid; provided, that the assistant district attorney herein provided for shall possess the powers and may perform the duties attached by law to the office of his principal; provided, further, that no employee of the district attorney's office shall accept any other compensation by reason of services rendered in any action or proceeding wherein fees or per diem would constitute a charge against the county.

9. Coroner and public administrator. The coroner and public administrator, three thousand dollars per annum, and his actual necessary expenses in traveling outside of the county seat. He shall hold inquests as prescribed by chapter two, title twelve, part two of the Penal Code, except that he may in his discretion dispense with a jury. The coroner or other officer holding an inquest upon the body of a deceased person may subpoena a physician or surgeon to inspect the body, or a chemist to make analysis of the contents of the stomach or tissues of the body, or hold a post-mortem examination of the deceased, and give his professional opinion as to the cause of death. The coroner in counties of this class, shall be and is hereby allowed one deputy at a salary of one hundred dollars per month, and his necessary traveling expenses in traveling outside of the county seat; said deputy shall have the power, and it shall be his duty, when directed by the coroner, to hold inquests, and all power conferred by law upon the coroner may be exercised by said deputy; one clerk, which office is hereby created, at a salary of one hundred fifty dollars per month and his actual necessary expenses in traveling outside of the county seat, whose duty it shall be when called upon by the coroner, to attend all inquests and take down in shorthand the testimony of all witnesses at such inquests; when such testimony is taken down by such clerk, his transcription thereof, duly certified to by him, shall constitute the depositions of the witnesses testifying at such inquests so reported by such clerk; the salary of the said deputy and said clerk herein provided for shall be paid by the county, in the same manner, at the same time, and out of the same funds as the salary of the coroner and public administrator is paid. Said deputy and said clerk shall be appointed by the coroner, and shall hold office at the pleasure of the coroner. All fees and commissions collected by the coroner and public administrator in his official capacity and by his said deputy in his official capacity shall be paid into the county treasury.

10. Superintendent of schools. The superintendent of schools, three thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools, which said positions are hereby created, the following deputies, who shall be appointed by the superintendent of schools of such county, and shall be paid salaries as follows: One field deputy at a salary of two thousand one hundred dollars per annum, and two deputies at a salary of one thousand eight hundred dollars per annum each. The deputies herein provided shall be paid by said county at the same time and in

the same manner and out of the same fund that the salary of the superintendent of schools is paid. In counties of this class the superintendent of schools shall receive his actual and necessary traveling expenses visiting and examining schools and school properties of the county in performing such other duties as are incident to the full discharge of the requirements of the office of superintendent of schools. The provisions herein contained shall apply to present incumbents.

11. Surveyor. The surveyor, one thousand eight hundred dollars annum; provided, that in counties of this class there shall be and there is hereby allowed to the surveyor, which position is hereby created, a deputy who shall be appointed by the surveyor of such county, and shall receive a salary of one thousand five hundred dollars per annum. The deputy herein provided shall be paid by said county at the same rate and in the same manner and out of the same fund as the salary of the surveyor is paid.

12. Supervisors. Orphan aid. Records of institutions receiving county aid. Supervisors, three thousand dollars per annum each, and necessary traveling expenses in the performance of the duties of their office; provided, that in counties of this class the board of supervisors shall have power to provide for the maintenance and support of minor children under eighteen years of age who are orphans or abandoned, abandoned or destitute minors; to lease, construct, maintain appropriate buildings therefor; to provide suitable salaries for the necessary teachers and superintendents thereof. In the event that any regularly organized corporation whose sole purpose is the care, welfare and support of orphans, half orphans, abandoned or destitute minors under eighteen years of age, has already a building, structure, grounds and officers and have been in the business of caring for such destitute minors for eight years prior to the passage of this act, then the board of supervisors of the county are authorized to pay to the directors of the corporation so caring for said destitute minors a sum not to exceed the sum of fifteen dollars per month for each minor so cared for.

Every institution receiving aid as above provided for must keep following records which at all times must be open for inspection to the board of supervisors of such county, or to any person appointed by the board to examine the same.

1. A record on which must be entered the date of admission, age, sex, and place of birth of each and every orphan, half orphan, destitute or abandoned child, who is or may hereafter be received and admitted into such institution, and the date of discharge of any child, when such discharge is made, the parentage, if known; the estate, if any, to which the child is heir, and the insurance, if any, on the father's or mother's life; so far as can be ascertained, the place where either parent or both died, the nativity of the parents, where married, the marriage certificate, where recorded, when they came to California, place of residence in California, and habits of sobriety.

2. A book entitled "monthly accounts." In it must be entered, on the debtor side, all the moneys received from any and all sources segregated under the proper heads; on the credit side must be entered the disbursements made, specifying for what purposes made, and the amount entered in detail so disbursed, segregated under their proper heads.

3. A pay-roll of the employees, and the amounts disbursed to each.

4. A book in which must be entered in detail the amounts paid for the specific support of every orphan, half-orphan, destitute or abandoned child and the date of such payments.

13. **Justices of peace and constables. Population of townships.** In counties of this class the township officers shall receive the following compensation, to wit: In townships having a population of twenty-five thousand or more, justices of the peace shall receive a monthly salary of two hundred dollars and may appoint one clerk at a salary of seventy-five dollars per month; and constables a monthly salary of one hundred twenty-five dollars.

In townships having a population of ten thousand or more and less than twenty-five thousand, justices of the peace shall receive a monthly salary of one hundred sixty-five dollars and constables a monthly salary of one hundred dollars.

In townships having a population of four thousand nine hundred and thirty, or more, and less than ten thousand, justices of the peace shall receive a monthly salary of one hundred forty dollars, and constables a monthly salary of one hundred twenty-five dollars.

In townships having a population of four thousand one hundred forty, or more, and less than four thousand nine hundred thirty, justices of the peace shall receive a monthly salary of seventy-five dollars, and constables a monthly salary of one hundred dollars.

In townships having a population of three thousand nine hundred thirty-five, or more, and less than four thousand one hundred forty, justices of the peace shall receive a monthly salary of one hundred dollars, and constables a monthly salary of ninety dollars.

In townships having a population of three thousand five hundred eight, or more, and less than three thousand nine hundred thirty-five, justices of the peace shall receive a monthly salary of seventy-five dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of three thousand four hundred ninety-five, or more, and less than three thousand five hundred eighty, justices of the peace shall receive a monthly salary of twenty dollars, and constables a monthly salary of twenty-five dollars.

In townships having a population of two thousand six hundred thirty, or more, and less than three thousand four hundred ninety-five, justices of the peace shall receive a monthly salary of sixty-five dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of two thousand four hundred ninety, or more, and less than two thousand six hundred thirty, justices of the peace shall receive a monthly salary of seventy-five dollars, and constables a monthly salary of sixty-five dollars.

In townships having a population of two thousand four hundred fifty-five, or more, and less than two thousand four hundred ninety, justices of the peace shall receive a monthly salary of ninety dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of one thousand seven hundred seventy, or more, and less than two thousand four hundred fifty-five, justices of the peace shall receive a monthly salary of sixty-five dollars, and constables a monthly salary of seventy-five dollars.

In townships having a population of one thousand four hundred thirty-five, or more, and less than one thousand seven hundred seventy,

justices of the peace shall receive a monthly salary of fifty dollars, and constables a monthly salary of sixty dollars.

In townships having a population of one thousand two hundred fifteen, or more, and less than one thousand four hundred thirty-five, justices of the peace shall receive a monthly salary of ninety dollars, and constables a monthly salary of ninety dollars.

In townships having a population of eight hundred fifty-five, or more, and less than one thousand two hundred fifteen, justices of the peace shall receive a monthly salary of twenty dollars, and constables a monthly salary of twenty dollars.

In townships having a population of eight hundred, or more, and less than eight hundred fifty-five, justices of the peace shall receive a monthly salary of thirty dollars, and constables a monthly salary of thirty dollars.

In townships having a population of five hundred eighty, or more, and less than eight hundred, justices of the peace shall receive a monthly salary of one hundred dollars, and constables a monthly salary of one hundred dollars.

In townships having a population of three hundred thirty, or more, and less than five hundred eighty, justices of the peace shall receive a monthly salary of twenty dollars, and constables a monthly salary of twenty dollars.

Salaries of justices of the peace shall be in full compensation for all services rendered by them in both civil and criminal cases. Salaries of constables shall be in full compensation for all services rendered by them in criminal cases, and in addition to the monthly salaries here provided, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil cases, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury.

The salaries of justices of the peace and of constables shall be paid monthly by the county in the same manner that the salaries of county officers are paid; provided, that for the purposes of this section, the population of the several judicial townships of this county shall be ascertained by multiplying the number of votes cast for president at the election held in the year 1916, A. D., by five, which said population of said judicial townships has been computed and is determined to be as follows, to wit:

Judicial township No. 1.....	1,435
Judicial township No. 2.....	1,213
Judicial township No. 3.....	13,025
Judicial township No. 4.....	3,580
Judicial township No. 5.....	2,490
Judicial township No. 6.....	27,350
Judicial township No. 7.....	475
Judicial township No. 8.....	330
Judicial township No. 9.....	855
Judicial township No. 10.....	580
Judicial township No. 11.....	2,455
Judicial township No. 12.....	3,495
Judicial township No. 13.....	2,630

Judicial township No. 14.....	800
Judicial township No. 15.....	3,935
Judicial township No. 16.....	4,930
Judicial township No. 17.....	4,140
Judicial township No. 18.....	1,770
Judicial township No. 19.....	5,310

14. **Jurors.** In the superior court, jurors' fees and witness fees shall be as follows:

For attending as a grand juror, for each day's actual attendance per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, and but once during the term for which such juror is drawn, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

For attending as a trial juror for each day's actual attendance, per day three dollars, and fifteen cents per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and mileage and the treasurer shall pay the same.

For attending as a witness in criminal cases and before the grand jury, for each day's actual attendance the sum of two dollars, and fifteen cents per mile for each mile actually traveled in going only, and the judge of said court shall make an order directing the auditor to draw his warrant in favor of such witness for said per diem and mileage, and the treasurer shall pay the same; provided, however, that in criminal cases such per diem and mileage shall only be allowed on a showing to the court by the witness the same was necessary for the expenses of the witness in attending, and the court shall determine the necessity for the same, and may disallow any fees to a witness unnecessarily subpoenaed.

The fees for jurors in criminal cases in justice courts shall be two dollars per day for each day of actual service as a juror, and the justice of said court shall make an order directing the auditor to draw his warrant in favor of such juror for said per diem and the treasurer shall pay the same.

15. **County Librarian.** The county librarian shall receive two thousand dollars per year. [Amendment approved May 27, 1919; Stats. 1919, p. 1024.]

This section was also amended in 1917. See Stats. 1917, p. 1027.

§ 4241. **Counties of twelfth class, salaries of officers. Tulare.** In counties of the twelfth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries:

1. **County clerk.** The county clerk, four thousand dollars per annum, one chief deputy to act as clerk of the board of supervisors at one thousand eight hundred dollars per annum, and also one deputy to act as courtroom clerk at one thousand two hundred dollars per annum. The county clerk shall also have for use in his office, and under his supervision and control, two stenographers, and each of said stenographers shall receive a salary of seventy-five dollars per month, to be paid in the same manner and out of the same fund as the salaries of county officers are

paid. The said positions of stenographers shall be filled by the county clerk in the same manner as deputies are appointed by him. The county clerk shall also receive ten cents per name of each elector entered upon the great register of the county, and also such fees as may be allowed by law for issuing hunting and fishing licenses, and all naturalization fees allowed to the clerk by the naturalization laws of the United States. In any county of this class where an additional deputy clerk has been allowed on account of an increase in the number of departments of the superior court in and for said county since the year 1910, the deputy herein provided for to act as courtroom clerk shall take the place of and perform the duties of such additional deputy so allowed on account of an increase in the number of departments of the superior court.

2. **Sheriff.** The sheriff, six thousand five hundred dollars per annum and mileage for the service of any and all processes required by law to be served by him at the rate of ten cents per mile necessarily traveled in the performance of such duty within the county, and at the rate of ten cents per mile, one way only, for every mile necessarily traveled in the performance of such duty outside of the county. He shall have a deputy at a salary of one thousand five hundred dollars per annum.

In any county of this class where an additional deputy sheriff has been allowed on account of an increase in the number of departments of the superior court in and for said county since the year 1910, the deputy herein provided for shall take the place of and perform the duties of such additional deputy so allowed on account of an increase in the number of departments of the superior court. The sheriff shall also have for use in his office, and under his supervision and control, a stenographer, and said stenographer shall receive a salary of seven hundred five dollars per month, to be paid in the same manner and out of the same fund as the salaries of county officers are paid. The said position of stenographer shall be filled by the sheriff in the same manner as deputies are appointed by him. Whenever any female prisoner or prisoners are in custody in the county jail of counties of this class, the sheriff of said county is hereby authorized and empowered, immediately upon such prisoner or prisoners being brought to the jail, to employ a matron, and to retain such matron in employment at the county jail so long as any female prisoner is in custody therein. Said matron shall perform the duties prescribed for matrons of the county jail in section four thousand two hundred twenty-six of the Political Code, and shall have the same rights and authority as are prescribed in said section for matrons of the county jail. For each and every day that said matron is actually employed, she shall receive a salary of three dollars, payable upon the presentation of a proper claim therefor, presented to and allowed by the board of supervisors.

3. **Recorder.** The county recorder, two thousand dollars per annum and one deputy at one thousand five hundred dollars per annum; and six cents per folio for every instrument of any character transcribed by him or his deputies, which said amount shall be paid by the county treasurer out of the county treasury.

4. **Auditor.** The county auditor, two thousand four hundred dollars per annum, and two deputies each to receive one thousand five hundred dollars per annum. In addition to said deputies, the county auditor shall have the right to employ from time to time in his office, such add

tional assistants as may be required to promptly perform the work required to be done therein. Such assistants shall receive a salary of three dollars each, for each day that they are actually and necessarily employed, and such salary shall be paid out of the general fund of the county upon proper claims presented therefor to the board of supervisors; provided, however, that the total amount to be paid such assistants shall not exceed three hundred dollars in any one year.

5. **Treasurer.** The county treasurer, two thousand four hundred dollars per annum, and one deputy at one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum, and one deputy at one thousand five hundred dollars per annum. The tax collector shall also have for use in his office, and under his supervision and control, one stenographer, and said stenographer shall receive a salary of seventy-five dollars per month, to be paid in the same manner and out of the same fund as the salaries of county officers are paid. The said position of stenographer shall be filled by the tax collector in the same manner as deputies are appointed by him. The tax collector shall also have ten clerks at seventy-five dollars per month each for not to exceed two months during each and every year. In addition to said deputy and said clerks, the tax collector shall have the right to employ from time to time in his office, such additional assistants as may be required to promptly perform the work required to be done therein. Such assistants shall receive a salary of three dollars each, for each day that they are actually and necessarily employed and such salary shall be paid out of the general fund of the county upon proper claims presented therefor to the board of supervisors; provided, however, that the total amount to be paid such assistants shall not exceed three hundred dollars in any one year.

7. **Assessor.** The county assessor, two thousand four hundred dollars per annum, a chief deputy at one thousand five hundred dollars per annum, and fifteen field deputies for the months of March, April, May and June of each year, each of which field deputies shall receive a salary of five dollars per day for each day actually employed in the performance of his duties. He shall also have two clerks for the months of January, February, March, April, May and June of each year at a salary of seventy-five dollars per month each, and one index clerk for the months of January, February, March, April, May and June of each year at a salary of seventy-five dollars per month. He shall also have for use in his office, and under his supervision and control, a draftsman, which office of draftsman is hereby by the terms of this act expressly created. It shall be the duty of said draftsman to prepare, under the supervision of the assessor for use in said office, proper books, blanks and plat-books. Said position of draftsman shall be filled by the assessor in the same manner as deputies are appointed by him, and said draftsman shall receive a salary of one thousand five hundred dollars per annum, to be paid in the same manner as the salaries of county officers are paid.

8. **District attorney.** The district attorney, three thousand dollars per annum. He shall have one deputy at a salary of two thousand four hundred dollars per annum, and one deputy at a salary of two thousand one hundred dollars per annum; and he shall also have for use in his office, and under his supervision and control, a stenographer, which office of

stenographer is hereby by the terms of this act, expressly created. said position of stenographer shall be filled by the district attorney in the same manner as deputies are appointed by him, and said stenographer shall receive a salary of one hundred dollars per month, to be paid in the same manner as the salaries of county officers are paid.

9. **Coroner.** The coroner, such fees as are now, or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now, or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, for his services, including his duties with and on the county board of education, two thousand five hundred dollars per annum, and actual traveling expenses when visiting schools of his county. He shall have a first deputy at a salary of one thousand eight hundred dollars per annum and a second deputy at a salary of one thousand two hundred dollars per annum, said first deputy to be a qualified teacher capable of doing either field or office work.

12. **Surveyor.** The county surveyor shall receive a salary of two thousand dollars per annum, and he shall be allowed one deputy at a salary of one thousand five hundred dollars per annum. The county surveyor shall be allowed all necessary traveling and field expenses of himself and chainmen or other help in the field. In addition, the county surveyor shall be allowed to employ all necessary inspectors and field or office help; provided, however, that before employing such inspectors or field or office help, the surveyor shall first obtain the consent of the board of supervisors to such employment. The salaries and expenses of such inspectors or field or office help shall be paid out of the county general fund upon proper claims presented therefor to the board of supervisors. In any county of this class where bonds have been or shall hereafter be issued under the provisions of section four thousand eighty-eight of the Political Code for the construction of roads, bridges or highways, the board of supervisors may at any time during the planning, laying out or construction of such roads, bridges or highways, employ all necessary inspectors and field or office help to assist the surveyor in planning, laying out or constructing such roads, bridges and highways. All inspectors and field or office help so employed by the board of supervisors shall work under the supervision of the surveyor, and board of supervisors, and shall not be employed longer than is necessary to actually complete the roads, bridges or highways constructed with funds created by such bond issue. The salaries of all persons so employed by the board of supervisors as such inspectors or field or office help, shall be as prescribed by the said board, and all such salaries, together with the field expenses of all such inspectors or field or office help, shall be paid out of the fund created by such issue of bonds upon proper claims presented therefor to the board of supervisors.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered as hereinafter provided: In townships having a population of three thousand or more, one hundred dollars per month. In townships having a population of not less than two thousand and under three thousand

fifty dollars per month. In townships having a population of not less than one thousand and under two thousand, forty dollars per month. In townships having a population of less than one thousand, thirty dollars per month; provided, however, that in townships having a population of six thousand or more, no person other than a duly qualified attorney at law shall be eligible to the office of justice of the peace and shall be allowed the services of a clerk at fifty dollars per month. Said salaries enumerated in this paragraph shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases. All such fees as are allowed by law in civil cases shall be paid by all justices into the county treasury in the same manner as the fees of county officers are paid. It is hereby found as a fact that as to all townships having a population of less than three thousand the salaries provided for in this subdivision do not work an increase in compensation and the same shall apply immediately to incumbents.

14. **Constables.** Constables shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases: In townships having a population of more than three thousand, eighty dollars per month. In townships having a population of not less than two thousand and under three thousand, sixty dollars per month. In townships having a population of not less than one thousand and under two thousand, forty dollars per month. In townships having a population of less than one thousand, twenty-five dollars per month. All such fees as are now or may be hereafter allowed by law in civil cases shall be paid by all constables into the county treasury in the same manner as the fees of county officers are paid. It is hereby found as a fact that the changes in salaries of constables do not work an increase in compensation and the same shall apply immediately to incumbents. In addition to the monthly salary allowed herein, each constable shall be allowed ten cents per mile, for each mile necessarily traveled in the execution of all criminal process within the county, and ten cents per mile, one way only, for each mile necessarily traveled in the execution of all criminal process outside the county. In addition, each constable shall be allowed all expenses necessarily and actually incurred by him in transporting prisoners to court, and to prison, and all expenses necessarily and actually incurred by him in executing all process in civil cases.

15. **Statements of constables and justices.** It shall be the duty of each and every constable and justice of the peace to file on or before the first Monday of each and every month, a full and complete statement, showing all business, both civil and criminal, done during the preceding month, with the board of supervisors, and he shall file the same on or before said date above mentioned, with the clerk of said board. The statement of the constable shall contain a full and correct account of all process served in both civil and criminal actions, also in criminal cases the places where defendants were arrested, together with the mileage. And justices of the peace shall file a full and correct statement of all civil and criminal actions and fees received therefrom. Said statements to be sworn to either before the county clerk or some officer allowed by law to administer oaths.

stenographer is hereby by the terms of this act, expressly created. said position of stenographer shall be filled by the district attorney in the same manner as deputies are appointed by him, and said stenographer shall receive a salary of one hundred dollars per month, paid in the same manner as the salaries of county officers are paid.

9. **Coroner.** The coroner, such fees as are now, or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now, or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, for his services, including his duties with and on the county board of education, shall receive two thousand five hundred dollars per annum, and actual traveling expenses when visiting schools of his county. He shall have a first deputy at a salary of one thousand eight hundred dollars per annum and a second deputy at a salary of one thousand two hundred dollars per annum, said first deputy to be a qualified teacher capable of doing field or office work.

12. **Surveyor.** The county surveyor shall receive a salary of two thousand dollars per annum, and he shall be allowed one deputy at a salary of one thousand five hundred dollars per annum. The county surveyor shall be allowed all necessary traveling and field expenses of self and chainmen or other help in the field. In addition, the county surveyor shall be allowed to employ all necessary inspectors and field or office help; provided, however, that before employing such inspectors or field or office help, the surveyor shall first obtain the consent of the board of supervisors to such employment. The salaries and expenses of such inspectors or field or office help shall be paid out of the county general fund upon proper claims presented therefor to the board of supervisors. In any county of this class where bonds have been or shall hereafter be issued under the provisions of section four thousand eighty-eight of the Political Code for the construction of roads, bridges or highways, the board of supervisors may at any time during the planning, laying out or construction of such roads, bridges or highways, employ all necessary inspectors and field or office help to assist the surveyor in planning, laying out or constructing such roads, bridges and highways. All such inspectors and field or office help so employed by the board of supervisors shall work under the supervision of the surveyor, and board of supervisors, and shall not be employed longer than is necessary to complete the roads, bridges or highways constructed with funds created by such bond issue. The salaries of all persons so employed by the board of supervisors as such inspectors or field or office help, shall be as prescribed by the said board, and all such salaries, together with the field expenses of all such inspectors or field or office help, shall be paid out of the fund created by such issue of bonds upon proper claims presented therefor to the board of supervisors.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered as hereinafter provided: In townships having a population of three thousand or more, one hundred dollars per month. In townships having a population of not less than two thousand and under three thousand,

fifty dollars per month. In townships having a population of not less than one thousand and under two thousand, forty dollars per month. In townships having a population of less than one thousand, thirty dollars per month; provided, however, that in townships having a population of six thousand or more, no person other than a duly qualified attorney at law shall be eligible to the office of justice of the peace and shall be allowed the services of a clerk at fifty dollars per month. Said salaries enumerated in this paragraph shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases. All such fees as are allowed by law in civil cases shall be paid by all justices into the county treasury in the same manner as the fees of county officers are paid. It is hereby found as a fact that as to all townships having a population of less than three thousand the salaries provided for in this subdivision do not work an increase in compensation and the same shall apply immediately to incumbents.

14. Constables. Constables shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases: In townships having a population of more than three thousand, eighty dollars per month. In townships having a population of not less than two thousand and under three thousand, sixty dollars per month. In townships having a population of not less than one thousand and under two thousand, forty dollars per month. In townships having a population of less than one thousand, twenty-five dollars per month. All such fees as are now or may be hereafter allowed by law in civil cases shall be paid by all constables into the county treasury in the same manner as the fees of county officers are paid. It is hereby found as a fact that the changes in salaries of constables do not work an increase in compensation and the same shall apply immediately to incumbents. In addition to the monthly salary allowed herein, each constable shall be allowed ten cents per mile, for each mile necessarily traveled in the execution of all criminal process within the county, and ten cents per mile, one way only, for each mile necessarily traveled in the execution of all criminal process outside the county. In addition, each constable shall be allowed all expenses necessarily and actually incurred by him in transporting prisoners to court, and to prison, and all expenses necessarily and actually incurred by him in executing all process in civil cases.

15. Statements of constables and justices. It shall be the duty of each and every constable and justice of the peace to file on or before the first Monday of each and every month, a full and complete statement, showing all business, both civil and criminal, done during the preceding month, with the board of supervisors, and he shall file the same on or before said date above mentioned, with the clerk of said board. The statement of the constable shall contain a full and correct account of all process served in both civil and criminal actions, also in criminal cases the places where defendants were arrested, together with the mileage. And justices of the peace shall file a full and correct statement of all civil and criminal actions and fees received therefrom. Said statements to be sworn to either before the county clerk or some officer allowed by law to administer oaths.

16. **Population of townships.** The board of supervisors shall determine the population of each township for the purpose of fixing the salaries of the township officers aforesaid.

17. **Supervisors.** Each supervisor, one thousand five hundred dollars per annum, for personal services performed by him as supervisor, member of the board of equalization, and road commissioner. Each supervisor shall also receive his actual and necessary traveling expenses incurred in performing any of the duties of his office, to be allowed by the board of supervisors and paid out of the county general fund; provided, that the amount so allowed him for such expenses shall not exceed eighty dollars for any one month.

18. **License fees.** No fees shall be allowed the sheriff or tax collector for collecting licenses in counties of this class. [Amendment approved May 27, 1919; Stats. 1919, p. 969.]

This section was also amended in 1917. See Stats. 1917, p. 995.

§ 4242. **Counties of thirteenth class, salaries of officers.** **Riverside.** In counties of the thirteenth class, county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand eight hundred dollars per annum, and there shall be and there is hereby allowed to the county clerk, in addition, one deputy who shall be paid the sum of one thousand six hundred dollars per annum, and one deputy who shall be paid the sum of one thousand five hundred dollars per annum, and one deputy who shall be paid the sum of one thousand two hundred dollars per annum and one deputy who shall be paid the sum of one thousand one hundred dollars per annum; the said salaries to be paid by said county in monthly installments at the time and in the manner and out of the same fund as the salaries of the county officers are paid; and provided, further, that in each year in which a new and complete registration of voters is required by law, said county clerk shall appoint additional deputy or deputies, who shall receive the sum of seven and one-half cents per name for taking affidavits of registration, and claims for their service at said rate shall be presented to and allowed by the board of supervisors as other claims are presented and allowed; and provided, further, that all fees and commissions received by this officer shall be turned over to the county and become the property of the county.

2. **Sheriff.** The sheriff, three thousand three hundred dollars per annum, and all commissions, fees and mileage for the service of papers or process coming from courts other than those of his own county; provided, that in counties of this class there shall be and is hereby allowed to the sheriff, one under-sheriff whose salary is hereby fixed at the sum of one thousand six hundred dollars per annum, and one deputy who shall be jailer, whose salary is hereby fixed at the sum of one thousand one hundred dollars per annum; and one deputy whose salary is hereby fixed at the sum of one thousand dollars per annum; and one deputy whose salary is hereby fixed at the sum of nine hundred dollars per annum; said deputies to be appointed by the sheriff and their salaries be paid by the county in equal monthly installments at the time and

the manner and out of the same fund as the salaries of county officers are paid.

3. **Recorder.** The recorder, two thousand eight hundred dollars per annum; and one deputy, whose office is hereby expressly created, to be appointed by the recorder who shall receive a salary of one thousand five hundred dollars per annum, payable in monthly installments; and provided, further, that the recorder is hereby allowed as many copyists as may be required, who shall receive as compensation the sum of four cents per folio for recording any instrument or notice. The salaries of the deputy recorder and copyists herein provided, shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of county officers are paid. All fees and commissions received by this office shall be turned over to the county and become the property of the county.

4. **Auditor.** The auditor, two thousand eight hundred dollars per annum; and there shall be and there is hereby allowed to the auditor in addition one chief deputy to be appointed by the auditor who shall be paid a salary of one thousand eight hundred dollars per annum, and one deputy who shall be appointed by the auditor who shall be paid a salary of one thousand two hundred dollars per annum, and one deputy who shall be appointed by the auditor who shall be paid a salary of nine hundred dollars per annum, and such additional clerks and assistants as the auditor may require, and whose compensation in the aggregate shall not exceed four hundred dollars in any one year; and provided, that the auditor shall file with the county clerk a verified statement showing in detail the amount paid, and the persons to whom said compensation is paid for such extra assistants aforesaid. The salaries herein provided shall be paid by the county in monthly installments at the same time and out of the same fund as the salaries of county officers are paid.

5. **Treasurer.** The treasurer, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the treasurer, one deputy, to be appointed by him, who shall receive from the county a salary of one thousand one hundred dollars per annum, to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salaries of county officers are paid. All fees and commissions received by the treasurer shall be turned over to the county and become the property of the county.

6. **Tax collector.** The tax collector, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector the following deputies and assistants, whose offices are hereby created and who shall be appointed by the tax collector; one deputy at a salary of one thousand three hundred dollars per annum; and such assistants as the tax collector may require; provided, that the compensation of such assistants shall not, in the aggregate exceed the sum of one thousand two hundred fifty dollars in any one year; and provided, that the tax collector shall file with the county auditor a verified statement showing in detail, the amounts and the persons to whom said compensation is paid. The salaries of the said deputy and other assistants shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of the county officers are paid.

7. **Assessor.** The assessor, two thousand eight hundred dollars annum, and his actual traveling expenses when away from his office on county business; provided, that in counties of this class there shall be and there is hereby allowed to the assessor the following deputies and assistants, whose offices are hereby created and who shall be appointed by the assessor; one deputy at a salary of one thousand six hundred dollars per annum, one stenographer at a salary of one thousand dollars per annum, one stenographer at a salary of nine hundred dollars per annum and such other deputies as the assessor may require, and whose compensation in the aggregate shall not exceed the sum of five thousand five hundred dollars in any one year; and provided, that the assessor shall file with the county auditor, a verified statement showing in detail the amounts, and the persons to whom said compensation is paid. The salaries of such deputies and stenographers shall be paid by said county in monthly installments and at the same time and in the same manner as out of the same fund that county officers are paid. All fees and commissions, including poll tax, collected by this office shall be turned over to the county and become the property of the county.

8. **Coroner.** The coroner, such fees as are now, or may hereafter be allowed by law.

9. **Public administrator.** The public administrator, such fees as are now, or may hereafter be allowed by law.

10. **District attorney.** The district attorney, two thousand five hundred dollars per annum, and actual traveling expenses when away from his office on county business; provided, that in counties of this class there shall be and there is hereby allowed to the district attorney, one deputy to be appointed by the district attorney who shall be paid a salary of one thousand two hundred dollars per annum; and one deputy to reside at Blythe or vicinity, who shall be paid a salary of five hundred dollars per annum; and provided, further, that a stenographer appointed by the district attorney to be paid a salary of nine hundred dollars per annum. Said deputies and stenographer shall be paid by the county treasury in monthly installments in the same manner as out of the same fund as county officers are paid.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum; his office shall be kept open on all business days from nine A. M. to five P. M., he shall be allowed his actual traveling expenses when visiting the schools of his county; provided, that in counties of this class there shall be and there hereby is allowed to the superintendent of schools, one deputy to be appointed by him who shall receive from the county a salary of one thousand two hundred dollars per annum; and provided, further, that in counties of this class the superintendent of schools shall be allowed not to exceed the sum of three hundred dollars per annum for necessary work and a stenographer. Said deputy and stenographer shall be paid by the county in monthly installments in the same manner and out of the same fund as the salaries of county officers are paid.

12. **Surveyor.** The surveyor, one thousand five hundred dollars per annum, and in addition thereto, all necessary field assistants; provided, that in counties of this class there shall be and there hereby is allowed to the surveyor, two deputies who shall be appointed by the surveyor.

said county, and who shall be paid salaries as follows: One deputy at a salary of one thousand six hundred dollars per annum and one deputy at one thousand one hundred dollars per annum. The salaries of said deputies herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salaries of county officers are paid. All necessary expenses for field assistants shall be paid by the county, and the actual cost of preparing assessor's maps, whenever a complete set of such maps is ordered prepared by the board of supervisors, said cost of preparing said assessor's maps not to exceed the sum of one thousand eight hundred dollars.

13. **One justice of peace and one constable in townships.** From and after the first Monday after the first day of January, one thousand nine hundred fifteen, the officers of townships in counties of this class shall be one justice of the peace and one constable, anything in the provisions of section four thousand fourteen of this code to the contrary notwithstanding.

14. **Justices of peace.** The justice of the peace in townships having a city or a portion thereof, situated therein and having a population of twelve thousand or more, one thousand five hundred dollars per annum, payable in monthly installments, which shall be in full for all services rendered by him in both civil and criminal cases tried before him, and he shall each month pay to the county treasurer all fines, commissions and fees collected by him as such justice of the peace, including fees for celebrating marriages and returning certificates thereof to the county recorder; and provided, further, that the board of supervisors of counties of the thirteenth class shall furnish each justice of the peace in townships having a population of twelve thousand or more, with a suitable office in which to hold court and shall also furnish the necessary furniture, books, blanks and supplies for said court; and provided, further, that in townships having a population of twelve thousand or more there shall be and there is hereby allowed to the justice of the peace, one clerk which office is hereby created who shall be appointed by the justice of the peace of said township, subject to the approval of the board of supervisors of the county and whose salary is hereby fixed at the sum of six hundred dollars per annum, payable in equal monthly installments out of the same fund and in the same manner and at the same time as the salary of the justice of the peace is paid. Said clerk shall take the oath of office prescribed for county officers and give a bond in the sum of one thousand dollars conditioned for the faithful discharge of the duties of his office which bond shall be approved and filed in the same manner as are bonds of county officers. He shall keep a record of the proceedings of said court and issue all processes ordered by the justice of said court and receive and pay into the county treasury all fines, forfeitures and fees paid into said court. He shall render each month to the county auditor and the county treasurer, an exact account under oath of all fines, forfeitures and fees paid and collected and he shall prepare bonds, and justified bail when the amount has been fixed by the court or justice and may administer and certify oaths and shall remain in the courtroom of said court during court hours and during such other reasonable times as may be necessary for the proper performance of his duty. He shall have the custody of

all records and papers of said court. In townships having a population of six thousand and less than twelve thousand the justice of the peace therein shall receive seventy-five dollars per month; in townships having a population of four thousand and less than six thousand, thirty-five dollars per month; in townships having a population of one thousand five hundred and less than four thousand, twenty-five dollars per month; in townships having a population of one thousand and less than one thousand five hundred, fifteen dollars per month, and in all other townships in said county, ten dollars per month; provided, however, that in all townships having an area equal to or exceeding one thousand square miles such salary shall not be less than fifty dollars per month. Each justice of the peace must pay into the county treasury once a month all fines collected by him in criminal cases, and the auditor shall withhold the warrant for salary until a sworn statement has been furnished with him of all criminal cases tried and fines collected and paid into the county treasury. All provisions of this paragraph to apply to present incumbents.

15. Constables. Constables in townships having one or more villages or portions thereof situated therein, and having a population of two thousand or more, fifteen hundred dollars per annum, payable in monthly installments, and their actual traveling expenses when engaged in official business outside of such townships, which shall be in full for all services rendered by them in all civil and criminal business. They shall charge and collect such fees as are allowed by law, and they shall once a month pay into the county treasury all fees, forfeitures, fines, and commissions collected by them in the discharge of their duties as such constables. In townships having a population of six thousand and less than twelve thousand the constable shall receive fifty dollars per month; in townships having a population of four thousand and less than six thousand, twenty-five dollars per month; in townships having a population of one thousand five hundred and less than four thousand, twenty dollars per month; and in all other townships in said county ten dollars per month; provided, that in all townships having an area equal to or exceeding one thousand square miles such salary shall not be less than fifty dollars per month; provided, further, that in addition to the salaries herein allowed, each constable except constables in towns having a city or portion thereof situated therein, and having a population of twelve thousand or more shall receive for their own use in criminal cases the fees allowed by law, and shall be paid out of the treasury of the county his actual traveling expenses outside of his own township but within his county, for the service of the warrant of arrest or other paper in a criminal case, both going and returning, ten cents per mile, for each mile actually traveled outside of his county both going and returning from the place of arrest or other service, five cents per mile; and for transporting prisoners to the county jail, the actual cost of transportation.

16. Population of townships. The population of several judicial townships for the purpose of fixing compensation of township officers shall be ascertained and declared by the board of supervisors on the first Monday after the first day of January, every odd-numbered year.

17. Supervisors. Each supervisor one thousand five hundred dollars per annum, payable in monthly installments, and fifteen cents per

one way for traveling expenses from his residence to the place of meeting of the board at the county seat, for not more than four board meetings per month, and the necessary actual expenses incurred by him while engaged in county business outside of his district, not exceeding in the aggregate the sum of three hundred dollars per annum.

18. [There is no subdivision of this number.]

19. **Additional help for unfinished work.** Whenever the work of an office has not been brought down to date by the retiring officer and the present incumbent shall present to the board of supervisors a signed sworn statement setting forth explicitly, and in detail the work so lacking and which was in that condition when he was inducted into office, and provided the county auditor shall also certify to the public necessity of the work, the board of supervisors shall investigate such condition and may, if they, by resolution, certify that the public necessity demands it before the new incumbent can make up such work, employ additional help and provide for compensation for such time as such work consumes, at a rate not to exceed eighty dollars per month for each person so employed.

20. **Additional clerical help for formation of districts.** Whenever the board of supervisors shall by resolution certify that on account of the formation of storm water, irrigation, drainage, road or other special districts, the formation of which is provided by law, and the work of which imposes temporary and excessive clerical burdens upon any county office, or officers, and that the public convenience and necessity requires prompt dispatch of business not possible by the normal office help, they may appoint such additional help as they deem necessary until the said extra work is completed, and they shall fix the compensation therefor at a rate not to exceed eighty dollars per month for each person so employed, and they may designate that such extra help shall work part of the time in one office and part of the time in another office. This shall not be construed to provide for permanent positions in any office to care for work which the law now may impose on such county office, but shall only be exercised as a temporary measure to expedite the public business in a reasonable and businesslike manner for the purposes and under the conditions named. [Amendment approved May 27, 1919; Stats. 1919, p. 1015.]

This section was also amended in 1917. See Stats. 1917, p. 1125.

§ 4243. Counties of fourteenth class, salaries of officers. Orange. In counties of the fourteenth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk one deputy for each department of the superior court in each of said counties, which offices are hereby created, as provided by section four thousand two hundred ninety of the Political Code of the state of California. Said deputies shall be appointed by said county clerk, shall be courtroom clerks of said department, and shall each receive a salary of one hundred twenty-five dollars per month, which shall be paid by said county in monthly

all records and papers of said court. In townships having of six thousand and less than twelve thousand the j. therein shall receive seventy-five dollars per month: a population of four thousand and less than six thousand dollars per month; in townships having a population of five hundred and less than four thousand, two hundred dollars per month; in townships having a population of one thousand five hundred, fifteen dollars per month; in townships in said county, ten dollars per month; in all townships having an area of one square mile such salary shall not exceed the salary of the clerk of the peace. Each justice of the peace must pay the sum of one month all fines collected by him, and the claims for the same, withhold the warrant for salary, and the claims for the same, with him of all criminal cases, and the claims for the same, the county treasury. All claims for salary, and the claims for the same, present incumbents. All claims for salary, and the claims for the same, present incumbents.

15. Constables.

Constables are hereby created, and whose compensation shall be the sum of one thousand two hundred dollars in all counties so employed. All fees received by them shall be turned over to the county and become the property of the county. All the provisions in this paragraph are to apply to the present incumbents.

The sheriff, two thousand five hundred dollars per annum; and such mileage as is now allowed by law, and also all fees for services of papers in actions arising outside of this county; provided, that in counties of this class there shall be and hereby is allowed to the sheriff six deputies, whose offices are hereby created, and who shall be appointed by the sheriff, and shall be paid salaries as follows: One deputy sheriff at a salary of one thousand eight hundred dollars per annum; one deputy sheriff, to act as a finger-print expert, at a salary of one thousand eighty dollars per annum; one deputy sheriff, to act as jailer, at a salary of one thousand five hundred dollars per annum; one deputy sheriff, to act as assistant jailer, at a salary of one thousand eight hundred dollars per annum; two deputies who shall act as bailiffs of the superior court of said county, at a salary of one thousand dollars per annum each, one for each department thereof, as provided by section four thousand two hundred ninety of the Political Code of the State of California; and there shall be and hereby is allowed to said sheriff an office deputy who shall be a stenographer, which office is hereby created, at a salary of one thousand two hundred dollars per annum and who shall be appointed by the sheriff. The salaries of all of said deputies and said stenographer shall be paid by said county in equal monthly installments at the same time and in the same manner as out of the same funds as the salary of the sheriff is paid. All fees and commissions except as hereinbefore in this paragraph mentioned shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbents.

3. Recorder.

The recorder, two thousand six hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the recorder an office deputy who shall be a stenographer, which office is hereby created, at a salary of one thousand two hundred dollars per annum and who shall be appointed by the recorder. The salaries of all of said deputies and said stenographer shall be paid by said county in equal monthly installments at the same time and in the same manner as out of the same funds as the salary of the recorder is paid. All fees and commissions except as hereinbefore in this paragraph mentioned shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbents.

allowed the recorder six deputies who shall be appointed by and shall be paid the following salaries, to wit:

- 1. Deputy at a salary of one thousand five hundred dollars
 - 2. deputies at a salary of one thousand two hundred
 - 3. three deputies at a salary of nine hundred dollars
- Salaries of said deputies shall be paid by the county in monthly installments at the same time and in the same manner as the salary of the county officers are paid. The property received by this office shall be turned over to the property of the county. All the provisions to apply to the present incumbents.

thousand six hundred dollars per annum.

The auditor may appoint assistant auditors, who shall be created, and whose compensation shall not exceed three thousand dollars per annum in the aggregate for all so employed; and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts and the persons to whom such compensation has been paid for such assistants as aforesaid. The salaries of assistant auditors herein provided for shall be paid by the said county at the same time and in the same manner and out of the same funds as the salary of the auditor is paid. All the provisions of this paragraph are to apply to the present incumbents.

3. Treasurer. The treasurer, two thousand five hundred dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the treasurer one chief office deputy, which office is hereby created, at a salary of one hundred dollars per month, and one office deputy, which office is hereby created, at a salary of seventy-five dollars per month, both of whom shall be appointed by the treasurer. The salary of said deputies herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid. All the provisions of this paragraph are to apply to the present incumbents.

6. Tax collector. The tax collector, two thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector the following deputies, whose offices are hereby created, and who shall be appointed by the tax collector; one chief deputy at a salary of one hundred dollars per month, and such assistants as the tax collector may require; provided, that the compensation of such assistants shall not in the aggregate exceed the sum of three thousand dollars in any one year; and provided, further, that the tax collector shall file with the county auditor a verified statement, showing in detail the amounts and the persons to whom said compensation is paid. The salaries of the said deputy and assistants herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid. All provisions of this paragraph are to apply to the present incumbents.

7. Assessor. The assessor, three thousand three hundred dollars per annum; provided, that in counties of this class there shall be allowed to the assessor the following deputies, whose offices are hereby created,

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his residence to the place of meeting
not more than four board
members insured by him
not exceeding

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installments at the same time, in the same manner and out of the same funds as the salary of the county clerk is paid. There shall be one deputy, and is hereby allowed to said county clerk a chief deputy and one deputy, which offices are hereby created. Said deputies shall be appointed by said county clerk, the chief deputy to receive a salary of one hundred fifty dollars per month, and the office deputy to receive a salary of one hundred twenty-five dollars per month, which salaries shall be paid by said county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerk is paid. In each year in which a new and complete registration of voters is required by law, said county clerk shall appoint an additional deputy or deputies, who shall receive the sum of seventy-five cents per name for taking the affidavits of registration outside of the office of said county clerk, and the claims for such services at said rate shall be presented to and allowed by the board of supervisors as other claims are presented and allowed. In each year in which a general election is held the county clerk may appoint assistant clerks, which offices are hereby created, and whose compensation shall not exceed the sum of one thousand two hundred dollars in the aggregate for all assistants so employed. All fees received by the county clerk's office shall be turned over to the county and become the property of the county. All the provisions in this paragraph are to apply to the present incumbents.

2. **Sheriff.** The sheriff, two thousand five hundred dollars per annum and such mileage as is now allowed by law, and also all fees for services of papers in actions arising outside of this county; provided, that in counties of this class there shall be and hereby is allowed to the sheriff six deputies, whose offices are hereby created, and who shall be appointed by the sheriff, and shall be paid salaries as follows: One chief deputy sheriff at a salary of one thousand eight hundred dollars per annum; one deputy sheriff, to act as a finger-print expert, at a salary of one thousand eighty dollars per annum; one deputy sheriff, to act as jailer, at a salary of one thousand five hundred dollars per annum; one deputy sheriff, to act as assistant jailer, at a salary of one thousand eighty dollars per annum; two deputies who shall act as bailiffs of the superior court of said county, at a salary of one thousand dollars per annum each, one for each department thereof, as provided by section four thousand two hundred ninety of the Political Code of the State of California; and there shall be and hereby is allowed to said sheriff an office deputy who shall be a stenographer, which office is hereby created, at a salary of one thousand two hundred dollars per annum and who shall be appointed by the sheriff. The salaries of all of the deputies and said stenographer shall be paid by said county in equal monthly installments at the same time and in the same manner as out of the same funds as the salary of the sheriff is paid. All fees and commissions except as hereinbefore in this paragraph mentioned shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbents.

3. **Recorder.** The recorder, two thousand six hundred dollars per annum; provided, that in counties of this class there shall be and hereby

is hereby allowed the recorder six deputies who shall be appointed by the recorder, and shall be paid the following salaries, to wit:

One chief deputy at a salary of one thousand five hundred dollars per annum; two deputies at a salary of one thousand two hundred dollars per annum; three deputies at a salary of nine hundred dollars per annum. The salaries of said deputies shall be paid by the county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county officers are paid. All fees and commissions received by this office shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbents.

4. **Auditor.** The auditor, two thousand six hundred dollars per annum. In counties of this class the auditor may appoint assistant auditors, which offices are hereby created, and whose compensation shall not exceed the sum of three thousand dollars per annum in the aggregate for all assistants so employed; and provided, that the auditor shall file with the county clerk a verified statement, showing in detail the amounts paid and the persons to whom such compensation has been paid for such assistants as aforesaid. The salaries of assistant auditors herein provided for shall be paid by the said county at the same time and in the same manner and out of the same funds as the salary of the auditor is paid. All the provisions of this paragraph are to apply to the present incumbents.

5. **Treasurer.** The treasurer, two thousand five hundred dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the treasurer one chief office deputy, which office is hereby created, at a salary of one hundred dollars per month, and one office deputy, which office is hereby created, at a salary of seventy-five dollars per month, both of whom shall be appointed by the treasurer. The salary of said deputies herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid. All the provisions of this paragraph are to apply to the present incumbents.

6. **Tax collector.** The tax collector, two thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector the following deputies, whose offices are hereby created, and who shall be appointed by the tax collector; one chief deputy at a salary of one hundred dollars per month, and such assistants as the tax collector may require; provided, that the compensation of such assistants shall not in the aggregate exceed the sum of three thousand dollars in any one year; and provided, further, that the tax collector shall file with the county auditor a verified statement, showing in detail the amounts and the persons to whom said compensation is paid. The salaries of the said deputy and assistants herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid. All provisions of this paragraph are to apply to the present incumbents.

7. **Assessor.** The assessor, three thousand three hundred dollars per annum; provided, that in counties of this class there shall be allowed to the assessor the following deputies, whose offices are hereby created,

and who shall be appointed by the assessor: One deputy who shall be chief office deputy at a salary of one hundred fifty dollars per month; one office deputy at a salary of one hundred twenty-five dollars per month; and such field deputies as the assessor may require, and whose compensation in the aggregate shall not exceed seven thousand five hundred dollars in any one year; and provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom said compensation is paid. The salaries of such deputies shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as county officers are paid. All fees and commissions including commissions on poll taxes, collected by this office shall be turned over to the county and become the property of the county. All the provisions of this paragraph are to apply to the present incumbents.

8. **District attorney.** The district attorney, three thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the district attorney, two deputies, to be appointed by the district attorney, and who shall be regularly admitted to practice before the courts of the state of California. Each of said deputies shall receive a salary of one thousand eight hundred dollars per annum, which salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the said district attorney is paid. There shall be and there is hereby allowed to the district attorney a stenographer to be appointed by the district attorney, at a salary of one hundred dollars per month, which said salary shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the district attorney. The provisions of this paragraph are to apply to the present incumbents.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand two hundred fifty dollars per annum and actual traveling expenses when visiting the schools of the county; provided, that in counties of this class there shall be and there is hereby allowed to the superintendent of schools one office deputy, which office is hereby created, at a salary of one hundred dollars per month, and who shall be appointed by the said superintendent of schools. The salary of a deputy herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid. The provisions of this paragraph are to apply to the present incumbents.

12. **Surveyor.** The county surveyor shall receive a salary of two thousand four hundred dollars per annum, and he shall be allowed one office deputy at a salary of one thousand five hundred dollars per annum. The county surveyor shall be allowed all necessary traveling and field expenses of self and chainmen, and other help in the field. There shall be, and there is hereby allowed to the surveyor a stenographer, to

appointed by the surveyor at a salary of seventy-five dollars per month. The salaries of said office deputy and said stenographer shall be paid by said county in equal monthly installments at the same time, and in the same manner, and out of the same funds as the salary of the surveyor. In addition, the county surveyor shall be allowed to employ all necessary inspectors and field or office help; provided, however, that before employing such inspectors or field or office help, the surveyor shall first obtain the consent of the board of supervisors to such employment, the salary and expenses of such inspectors or field or office help to be paid out of such fund as shall be directed by the board of supervisors, upon proper claim presented therefor. All the provisions of this paragraph are to apply to the present incumbents.

13. Justices of peace. Justices of the peace shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them as such officers: (1) In townships having a population of twelve thousand or over, one hundred twenty-five dollars; (2) in townships having a population of nine thousand or over up to twelve thousand, one hundred dollars; (3) in townships having a population of six thousand or over up to nine thousand, seventy-five dollars; (4) in townships having a population of three thousand or over up to six thousand, twenty-five dollars; (5) in townships having a population less than three thousand, ten dollars. All the provisions of this paragraph are to apply to the present incumbents.

14. Constables. Constables shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid; which shall be in full for all services rendered by them in criminal cases: (1) In townships having a population of twelve thousand or over, one hundred twenty-five dollars; (2) in townships having a population of nine thousand or over up to twelve thousand, one hundred dollars; (3) in townships having a population of six thousand or over up to nine thousand, fifty dollars; (4) in townships having a population of three thousand or over up to six thousand, twenty-five dollars; (5) in townships having a population less than three thousand, ten dollars; provided, that in townships having more than one constable, each such officer shall receive a salary of seventy-five dollars per month; also provided, further, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the court or to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Supervisors. Each supervisor, one thousand five hundred dollars per annum, payable in monthly installments, and fifteen cents per mile one way for traveling expenses from his residence to the place of meeting of the board at the county seat, for not more than four board meetings per month, and the necessary actual expenses incurred by him while engaged in county business outside of his district, not exceeding in the aggregate the sum of three hundred dollars per annum.

16. Livestock inspector. A livestock inspector, one hundred twenty dollars per annum, which shall be in full payment for all services ren-

dered by said inspector. The provisions of this paragraph shall apply to the present incumbent.

17. **Population of townships.** For the purposes of sections thirteen and fourteen hereof, the population of the several judicial townships shall be determined by the United States census taken in 1910; provided, that the board of supervisors of said county may each year thereafter cause a census of any or all townships in the county to be taken for the purpose of determining the population of said townships or townships upon which to base the salaries of justices of the peace and constables.

18. **Jurors.** In counties of this class grand and trial jurors in superior courts shall receive for each day's attendance, per day the sum of three dollars. In justices' courts in civil cases jurors shall receive for each day's attendance per day the sum of two dollars. In justices' and recorders' courts in criminal cases jurors shall receive for each day's attendance per day the sum of one dollar and fifty cents, and all jurors shall receive for each mile actually and necessarily traveled from their residences to the place of service, in going only, the sum of fifteen cents per mile, such mileage to be allowed but once during each session of the court where such jurors serve; provided, that the salaries of all trial jurors in civil cases shall be paid by the litigants as costs are paid, and jurors in criminal cases in recorders' courts shall be paid by the municipality in which such court is or may be established.

19. **Constitutionality.** If any paragraph, sentence, clause or phrase in this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this section. The legislature hereby declares that it would have passed this section in each paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more paragraphs, sentences, clauses or phrases may be declared unconstitutional. [Amendment approved April 15, 1919; Stats. 1919, p. 74.]

This section was also amended in 1917. See Stats. 1917, p. 100.

§ 4244. **Counties of fifteenth class, salaries of officers.** Humboldt. In counties of the fifteenth class, the county and township officers shall receive, as compensation for the services required of them by law and by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk shall receive three thousand five hundred dollars per annum and the fees that have been and are now allowed said clerk by the United States bureau of naturalization; provided, that in counties of this class there shall be, and there hereby shall be allowed to the county clerk the following clerks, deputies and employees who shall be appointed by the county clerk and shall be paid salaries as follows: two deputies at a salary of one hundred twenty dollars per month each; one deputy at a salary of seventy-five dollars per month, and one stenographer and one copyist at a salary of seventy-five dollars per month each.

2. **Sheriff.** The sheriff shall receive four thousand eight hundred dollars per annum; and there shall be and there is hereby allowed to the sheriff the following deputies, who shall be appointed by the sheriff

and shall be paid salaries as follows: One chief deputy at a salary of one thousand eight hundred dollars per annum; one courtroom deputy at a salary of one thousand three hundred twenty dollars per annum; one deputy sheriff to act as jailer, at a salary of one thousand three hundred twenty dollars per annum.

3. **Recorder.** The recorder, two thousand five hundred dollars per annum, and there shall be and there is hereby allowed to the county recorder two deputies who shall be appointed by the recorder and shall be paid a salary of nine hundred dollars per annum each. The recorder shall collect and pay into the county treasury the fees required by law; provided, that whenever the amount of the fees so collected in any one month shall exceed the sum of four hundred dollars, the recorder may in addition to his salary, retain for his own use one-half of all such excess.

4. **Auditor.** The auditor shall receive three thousand dollars per annum, and there is hereby allowed to the auditor three deputies, who shall be appointed by the auditor, one who shall be paid one thousand two hundred dollars per annum and one who shall be paid one thousand eighty dollars per annum and one who shall be paid sixty dollars per month for two months of each year; and it is further provided, that if the board of supervisors in any year shall act, order or direct the auditor to prepare and compile its annual statistical report, and on so performing such services and in that event, he shall be allowed the further sum of three hundred dollars payable upon the completion and acceptance of said report.

5. **Treasurer.** The treasurer shall receive two thousand four hundred dollars per annum; and there is hereby allowed to the treasurer one deputy to be appointed by him who shall receive a salary of one thousand two hundred dollars per annum.

6. **Tax collector.** The tax collector shall receive two thousand eight hundred dollars per annum; and there shall be and there hereby is allowed to the tax collector one deputy who shall be appointed by the tax collector and shall receive a salary of one hundred twenty-five dollars per month.

And there shall be and there hereby is allowed to the tax collector one copyist for not exceeding six months in the year at a salary of seventy-five dollars per month.

7. **License collector.** The license collector shall receive ten per cent of all licenses collected by him.

8. **Assessor.** The assessor shall receive four thousand dollars per annum; provided, that in counties of this class there shall be, and there hereby is, allowed to the assessor the following deputies, clerks and assistants to be appointed by said assessor, which positions are hereby created and the salaries of each of which are hereby fixed as follows: One chief deputy assessor, one thousand eight hundred dollars per annum; eight field deputy assessors for not exceeding four months in any one year, one hundred twenty-five dollars per month; four field deputy assessors for not exceeding three months in any one year, one hundred twenty-five dollars per month; two copyists, one thousand eighty dollars per annum each, and such additional assistants as the assessor

may require, and whose compensation shall not in the aggregate exceed the sum of seven hundred eighty dollars per annum, said additional assistants to be paid for their services on the presentation and filing with the board of supervisors of said county a duly verified claim for claims therefor.

Said assessor may employ such assistants as may be necessary in making maps, plats and drawings essential for use in the assessor's office in the performance of his duties, and the expense thereof shall be a charge against the county. It is hereby further provided, that said assessor shall retain no commissions for the collection of personal property taxes, state poll taxes or road poll taxes, but that all collections shall be paid into the county treasury and become property of the county.

9. **District attorney.** The district attorney shall receive three thousand and six hundred dollars per annum, and said district attorney who in the receipt of said salary shall be disqualified from engaging in the practice of law in any and all of the courts of this state, in any action or cause wherein the county in which he is elected and serves or resides in the state of California is not a party or parties; and there is hereby allowed to the district attorney one deputy to be appointed by him, who shall receive a salary of one thousand eight hundred dollars per annum, one stenographer who shall receive a salary of one thousand two hundred dollars per annum and there is hereby allowed the district attorney one detective, to be appointed by him, who shall receive a salary of one thousand two hundred dollars per annum.

10. **Coroner.** The coroner shall receive such fees as are now, or may hereafter be allowed by law.

11. **Public administrator.** The public administrator shall receive such fees as are now, or may hereafter be allowed by law.

12. **Superintendent of schools.** The superintendent of schools shall receive one thousand five hundred dollars per annum; and there shall be and there is hereby allowed to the superintendent of schools, one deputy, who shall be appointed by the superintendent of schools, and shall be paid a salary of nine hundred dollars per annum.

13. **Surveyor.** The surveyor shall receive two thousand four hundred dollars per annum, and necessary traveling expenses while in the performance of the duties of his office.

14. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum, and mileage at twenty cents per mile, for all distances traveled by him as supervisor or as road commissioner; such mileage not to exceed in any one year the sum of one thousand dollars.

15. **Official reporter.** The official shorthand reporter shall receive one thousand dollars per annum for the department of the superior court to which he has been appointed. Whenever one reporter shall be appointed to, and shall perform the duties required of the official shorthand reporter, for more than one department of said superior court he shall receive a salary therefor of three thousand four hundred dollars per annum. In addition thereto he shall receive for transcripts of notes, the sum of fifteen cents per folio for the original, and five cents per folio for all copies thereof.

16. Justices of peace. Fees. In townships having a population of seven thousand or over, two justices of the peace shall be elected, and each shall receive a salary of one hundred twenty-five dollars per month. In townships having a population less than seven thousand and over four thousand there shall be but one justice of the peace elected and he shall receive a salary of fifty dollars per month. In all other townships there shall be but one justice of the peace who shall receive a salary of twenty dollars per month. All justices in counties of this class shall collect in civil cases only, the following fees, to wit:

(1) For all services before trial or entry of judgment by default or confession, two dollars and for all additional services in such action, including execution and satisfaction of judgment, two dollars.

(2) For the trial of civil actions and all proceedings subsequent thereto, three dollars.

(3) For certificate and transmitting papers and transcript on appeal, one dollar.

(4) For copies of papers on docket per folio, ten cents.

(5) For issuing a search-warrant, the fee to be paid by the party demanding the same, one dollar.

(6) For celebrating a marriage, and returning a certificate thereof to the county recorder, five dollars.

(7) For taking an acknowledgment of an instrument, for the first name fifty cents, and for each additional name twenty-five cents.

(8) For administering an oath, and certifying the same, fifty cents.

(9) For issuing a commission to take testimony, one dollar.

(10) For all services connected with the posting of estrays, one dollar.

(11) For issuing each affidavit, certificate, process, writ, order, or paper required by law to be issued, not otherwise herein provided for, twenty-five cents.

(12) For taking bail in all proceedings, pending before another magistrate, fifty cents.

All such fees collected by such justice shall be paid into the salary fund of the county treasury.

17. Constables. Fees. In townships having a population of seven thousand or over, two constables shall be elected and each shall receive a salary of forty dollars per month. In townships having a population less than seven and over four thousand, there shall be but one constable elected, and he shall receive a salary of twenty-five dollars per month. In all other townships there shall be but one constable who shall receive twenty dollars per month. All constables in addition to the salaries above provided for, shall receive and collect, for their use and benefit, in civil cases only, the following fees, to wit:

(1) For serving summons and complaints, for each defendant served, fifty cents.

(2) For each copy of summons made by him, twenty-five cents.

(3) For levying writ of attachment or execution, or executing an order of arrest, in a civil case or for delivery of personal property, two dollars.

(4) For serving a writ of attachment or execution on any ship, boat, or vessel, three dollars.

(5) For keeping personal property, such sum as the court may order, but no more than two dollars fifty cents per day, for a keeper, when necessarily employed.

- (6) For taking a bond or undertaking, one dollar.
- (7) For copies of writs or other papers, except summons, complaints, and subpoenas, per folio fifteen cents; provided, that when correct copies are furnished him for use, no charges shall be made for such copies.
- (8) For serving any writ, notice or order, except summons, complaint, or subpoena, for each person served, fifty cents.
- (9) For writing and posting each notice of sale of property, fifty cents.
- (10) For furnishing notice of publication, twenty-five cents.
- (11) For serving subpoenas, each witness including copy, fifty cents.
- (12) For collecting money on execution two and one-half per cent.
- (13) For executing and delivering certificates of sale, fifty cents.
- (14) For executing and delivering constable's deed, two dollars fifty cents.
- (15) For each mile actually traveled within his county in the service of any civil suit, order, or paper, in going only, per mile, twenty-five cents. No constructive mileage shall be allowed.
- (16) For each mile necessarily traveled within his county, in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents; and the actual cost of the transportation of the prisoner or prisoners from the place of arrest to the justice court and the necessary expense of assistance; provided, that for traveling in performance of two or more official services at the same time, including the service of criminal process, but one mileage shall be charged.
- (17) For each mile necessarily traveled outside his county in executing a warrant of arrest, both in going to and returning from the place of arrest, fifteen cents.
- (18) For transporting prisoners to the county jail, from the justice's court or from the county jail to the justice's court actual cost of transportation and assistance, and mileage at twenty-five cents per mile, one way. In conveying two or more prisoners, but one mileage shall be charged.
- (19) For each day in which the constable is charged with the custody of a prisoner or prisoners, two dollars fifty cents, and for necessary expense of maintenance and assistance in keeping said prisoners.
- (20) For summoning a jury in a civil case, twenty-five cents for each of the persons so summoned, and mileage at the rate of twenty-five cents per mile, going only.
- (21) For attending court during the trial of a civil cause, per day, three dollars.
- (22) For making sales of estrays in civil cases, the same fees as for sales on execution.
- (23) For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupants therefrom, three dollars per day, and mileage at twenty-five cents per mile, going only.
- (24) The mileage provided for herein shall be computed for the shortest practicable traveled route between the two points for which mileage is claimed.
18. Jurors in superior courts. The fees of grand jurors and trial jurors in the superior courts of said counties of the fifteenth class, in civil and criminal cases shall be three dollars, in lawful money of the United States, for each day's attendance, and mileage to be computed

at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

19. Jurors in justices' courts. The fees of jurors in justices' courts in civil and criminal cases, shall be two dollars in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court in going only; in criminal cases such fees and mileage of said trial jurors in the justices' courts shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said jury was in attendance and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriations for the payments of the fees herein provided for.

20. Salaries payable monthly. All salaries of principals and deputies provided for in this article shall be paid out of the treasury of the county in monthly installments, and all fees shall be paid from the county treasury as other bills against the county are paid. [Amendment approved May 3, 1919; Stats. 1919, p. 1063.]

This section was also amended in 1917. See Stats. 1917, p. 1249.

§ 4245. Counties of sixteenth class, salaries of officers. Contra Costa. In counties of the sixteenth class, the county and township officers shall receive, as full compensation for the services required of them by law, or by virtue of their office, the following salaries:

1. County clerk. The county clerk, three thousand six hundred dollars per annum; provided, that in counties of this class, there shall be and there is hereby allowed to the county clerk the following clerks, deputies, and employees who shall be appointed by the county clerk and shall be paid salaries as follows: One chief deputy at a salary of one hundred fifty dollars per month; two courtroom deputies at a salary of one hundred fifty dollars each per month; one office deputy at a salary of one hundred twenty-five dollars per month; one stenographer at a salary of one hundred dollars per month; one copyist at a salary of ninety dollars per month; provided, further, that in any year the compilation of a registration of voters is required by law, or supplements to be made thereto, the county clerk shall receive as expenses for compiling such registration of voters and making supplements thereto and work incident to elections, the sum of five cents for each name registered, to be paid upon the filing and presentation of duly verified claims therefor, by the county clerk with the board of supervisors of said county; and provided, further, that in any year when a registration of voters is required by law or supplements to be made thereto, the said county clerk may appoint such number of registration deputies as may

be necessary for the registration of voters in their respective precincts; each of said deputies to receive the sum of ten cents per name for each elector registered by him; said registration deputies to be paid for their services on the presentation and filing with the board of supervisors of said county, a duly verified claim therefor on the general fund of said county, after proper allowance of said claim by said board of supervisors; the salary of the deputies, clerks, and employees herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid; provided, further, that the compensation for registration of electors and compilation of the registration of voters supplements thereto as herein provided for, shall not be paid in monthly installments but shall be paid after proper allowance of such claim by the board of supervisors of said county.

2. Sheriff. The sheriff, five thousand dollars per annum. All mileage for service of papers in civil actions arising either inside or outside of the county, excepting actions in which the county is interested. All fees for service of papers in civil actions. All expenses incurred in criminal cases and mileage in criminal cases, for each mile actually necessarily traveled by automobile twelve and one-half cents per mile. The sum of not less than thirty-seven and one-half cents per day shall be allowed by the board of supervisors for feeding each prisoner committed to his custody; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff, the following deputies, clerks and employees, who shall be appointed by the sheriff, and shall be paid salaries as follows: One under-sheriff at a salary of one hundred seventy-five dollars per month; one chief deputy sheriff for the office at a salary of one hundred fifty dollars per month; one deputy sheriff to act as jailer at a salary of one hundred thirty-five dollars per month; two deputy sheriffs to act as bailiffs at a salary of one hundred twenty-five dollars per month each; one stenographer to the sheriff at a salary of one hundred dollars per month; one office stenographer to the sheriff at a salary of seventy dollars per month. The salaries of the deputies, clerks and employees herein provided for shall be paid by the county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. Recorder. The recorder, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the recorder the following deputies, clerks and employees, who shall be appointed by the county recorder, and shall be paid salaries as follows: One chief deputy, at a salary of one hundred fifty dollars per month; one deputy at a salary of one hundred twenty-five dollars per month; two index clerks, at a salary of one hundred dollars each per month; three copyists at a salary of one hundred dollars each per month; and one copyist, at such times as in the judgment of the county recorder is necessary, at a salary of seventy-five dollars per month. The salaries of the deputies, clerks and employees herein provided for shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the county recorder is paid.

4. Auditor. The auditor, three thousand two hundred fifty dollars per annum; provided, that in counties of this class, there shall be and there is hereby allowed to the auditor the following deputies, clerks and employees, who shall be appointed by the county auditor, and shall be paid salaries as follows: One chief deputy, at a salary of one hundred fifty dollars per month; one deputy at a salary of one hundred twenty-five dollars per month; two index clerks, at a salary of one hundred dollars each per month; three copyists at a salary of one hundred dollars each per month; and one copyist, at such times as in the judgment of the county auditor is necessary, at a salary of seventy-five dollars per month. The salaries of the deputies, clerks and employees herein provided for shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the county auditor is paid.

hereby is allowed to the auditor the following deputies, clerks and employees, who shall be appointed by the county auditor, and shall be paid salaries as follows: One deputy auditor at a salary of one hundred fifty dollars per month; one deputy auditor who shall be a qualified accountant, to act as chief accountant; provided, that the uniform system of accounting as devised by the state board of control is installed by said county and continuously employed therein who shall receive a salary of one hundred fifty dollars per month; and provided, that if said uniform system of accounting is not installed, or not continuously employed, that said deputy shall not be appointed; and such clerks and employees as the auditor may deem necessary and appoint at a salary not to exceed five dollars per day each; provided, however, that the total amount of salary and compensation paid to such clerks and employees shall not exceed the sum of nine hundred dollars per annum; the salary of the deputies herein provided for, shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the auditor is paid; provided, further, that such clerks and employees be paid for their services on the presentation and filing with the board of supervisors of said county their duly verified claims therefor.

5. **Treasurer.** The treasurer, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the treasurer, one deputy treasurer who shall be appointed by the treasurer and who shall receive a salary of one hundred twenty-five dollars per month, said salary to be paid in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid; provided, however, that the bond of the treasurer and his deputy shall be executed with a reliable bonding and surety company and that the premiums on said bonds when the same have been duly approved, shall be a charge against the county and payable out of the general fund upon the presentation and filing of duly verified claims therefor with the board of supervisors.

6. **Tax collector.** The tax collector, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the tax collector the following clerks, deputies and employees, who shall be appointed by the tax collector, and shall be paid salaries as follows: One deputy tax collector at a salary of one hundred fifty dollars per month; one deputy tax collector at a salary of one hundred twenty-five dollars per month; one stenographer to the tax collector at a salary of one hundred dollars per month; and such copyists as the tax collector may appoint at a salary of not to exceed three and one-half dollars per day each; provided, however, that the total amount of salary and compensation paid to such copyists shall not exceed the sum of one thousand seven hundred dollars per annum; one index clerk to be paid not to exceed one cent for each separate assessment appearing on the rolls each year; such copyists and index clerks to be paid for their services on the presentation and filing with the board of supervisors of said county their duly verified claims therefor. The salaries of the deputies, clerks and employees herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, however, that the compen-

sation of said copyists and said index clerks shall be paid on the presentation and filing of claims with the board of supervisors as hereinbefore provided.

7. District attorney. The district attorney, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney the following deputies, clerks and employees who shall be appointed by the district attorney, who shall hold office at the pleasure of the district attorney and shall be paid salaries as follows: One chief deputy district attorney at a salary of two hundred dollars per month; one deputy district attorney at a salary of one hundred fifty dollars per month; and one stenographer to the district attorney at a salary of one hundred fifteen dollars per month. The salary of the deputies, clerks and employees herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid. The district attorney shall be allowed twelve and one-half cents per mile without any constructive mileage for his expenses for traveling, necessarily done by automobile; and his actual traveling expenses when he travels by rail.

8. Superintendent of schools. The superintendent of schools, three thousand two hundred fifty dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the superintendent of schools, one deputy superintendent of schools, who shall be appointed by the superintendent of schools, and shall be paid a salary of one hundred twenty-five dollars per month; one field deputy superintendent of schools, who shall be appointed by the superintendent of schools to assist the superintendent of schools in the discharge of his duty in visiting and examining schools, as provided by the state law, and it shall be the duty of said field deputy superintendent of schools to make written report of his examination, to be transmitted by the superintendent of schools to each trustee of all districts so examined. Said field deputy shall receive a salary of two hundred dollars per month and his actual and necessary traveling expenses while engaged in performing the duties of his office under the direction of the superintendent of schools; one deputy superintendent of schools, who shall be a registered nurse, to be appointed by the superintendent of schools, and who shall receive a salary of one hundred dollars per month. The salary of the deputies provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

9. Assessor. The assessor, five thousand dollars per annum; provided that in counties of this class there shall be and there hereby is allowed to the assessor the following clerks, deputies and employees who shall be appointed by the assessor, and shall be paid salaries as follows: Three deputy assessors at a salary of one hundred fifty dollars per month each; three field deputy assessors to hold office during not to exceed five months each in any one year, at a salary of one hundred twenty-five dollars per month each; one transfer deputy at a salary of one hundred dollars per month; one stenographer at a salary of one hundred dollars per month; and such additional deputy assessors and clerks as the assessor may appoint, at a salary not to exceed five dollars

per day each, not to exceed the sum of two thousand dollars per annum; said additional deputies and clerks to be paid for their services on the presentation and filing with the board of supervisors of said county duly verified claims therefor. The salaries of the deputies, clerks and employees, herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid; provided, however, that the compensation of said additional deputy assessors, at a salary not to exceed five dollars per day, shall be paid on the presentation and filing of claims with the board of supervisors as hereinbefore provided; provided, however, that in counties of this class the assessor shall receive no compensation or commission for collection of personal property taxes, nor shall such assessor receive any compensation or commission for making out the military roll of persons returned by him as subject to military duty as provided by section one thousand nine hundred one of the Political Code.

10. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law; provided, however, that in counties of this class there shall be and there hereby is allowed to the county coroner one stenographer to the coroner whose duty it shall be to act as reporter, and take down in shorthand, and transcribe into longhand the testimony of the witnesses at all inquests. Said stenographer to the coroner shall be appointed by the coroner and be paid a salary of one hundred dollars per month; which salary shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the county officers are paid. The county coroner is further allowed to rent an office for a sum not to exceed fifteen dollars per month, which rental shall be paid on the presentation and filing of duly verified claims therefor with the board of supervisors of said county. All subpoenas or processes issued by said coroner may be served by any peace officer and fees for such service shall be paid as provided by law.

11. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

12. **Surveyor.** The surveyor, three thousand two hundred fifty dollars per annum and in addition thereto he shall by and with the approval of the board of supervisors be allowed his actual, reasonable and necessary expenses when engaged in the field or in the office in the discharge of his official duties; and shall have such field and office assistants, as he may need by and with the approval of the board of supervisors, to be paid as follows: Assistant surveyors at not to exceed seven dollars per day, office and transit men at not to exceed seven dollars per day and chainmen at not to exceed four dollars per day. The compensation of the employees and assistants to the surveyor herein provided for shall be paid by the county upon the presentation and filing with the board of supervisors of said county duly verified claims therefor.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries to be paid each month as the salaries of county officers are paid which shall be in full for all services rendered by them in criminal cases: (1) In townships having a population of ten thousand or more, one hundred seventy-five dollars per month; (2) in townships having a population of three thousand or more, one hundred dollars per month; (3) in townships having a population of two thousand five hun-

to and allowed by the board of supervisors as other claims against county are presented and allowed.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed the sheriff three deputies who shall be appointed by the sheriff; one at a salary of one hundred fifty dollars per month, one at a salary of one hundred dollars per month, and one at a salary of ninety dollars per month. The salaries of said deputies shall be paid by said county at the same time and in the same manner and out of the same funds as the salary of the sheriff is paid; provided, further, that there shall be allowed the said sheriff and his deputies the actual traveling expenses in attending to the duties of the office both civil and criminal including his necessary expenses for pursuing criminals or transacting any criminal business. All fees, commissions and mileage shall be turned over to the county and become the property of the county.

3. **Recorder.** The recorder, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the recorder the following deputies, who shall be appointed by the recorder and shall be paid salaries as follows: one chief deputy at a salary of one hundred dollars per month, and two deputies at a salary of eighty-five dollars per month each, said salaries to be paid by said counties in monthly installments at the same time and in the same manner and out of the same funds as the salary of the recorder is paid.

4. **Auditor.** The auditor, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the auditor one chief deputy, who shall be appointed by the auditor and paid a salary of one hundred ten dollars per month. Said salary to be paid by the county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the auditor is paid; provided, also, that in counties of this class there shall be and hereby is allowed to the auditor such additional clerks and assistants as the auditor may require, and whose compensation in the aggregate shall not exceed one thousand dollars in any one year. Claims for the services of such additional clerks and assistants to be allowed and paid as other claims against the county are allowed and paid.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and hereby is allowed to the tax collector one deputy who shall be appointed by said tax collector, at a salary of one thousand two hundred dollars per annum, said salary to be paid by said county in monthly installments at the same time, in the same manner and out of the same funds as the salary of the tax collector is paid; also provided, that the tax collector shall be allowed such additional clerks and assistants as he may require and whose compensation in the aggregate shall not exceed the sum of four hundred dollars in any one year. Claims for services of such additional clerks and assistants to be allowed and paid as other claims against the county are allowed and paid.

paid as other claims against the county are paid. All commissions and fees of whatever character of the tax collector shall be paid in the county treasury.

7. Assessor. The assessor, two thousand five hundred dollars per annum, which shall be in full compensation for all services rendered by him; provided, that in counties of this class there shall be and is hereby allowed to the assessor two office deputies whose offices are hereby created, one of whom shall receive a salary of one thousand two hundred dollars per year and the other shall receive a salary of ninety dollars per month for seven months in each fiscal year; said deputies shall be appointed by said assessor and said salaries shall be paid by said county at the same time and in the same manner and out of the same funds as the salary of the assessor is paid; provided, also, that in the counties of this class there shall be and is hereby allowed to the assessor the following field deputies: Two for a period of four months each during each fiscal year, whose offices are hereby created and who shall be appointed by the assessor and be paid a salary of two hundred dollars per month each; two for a period of four months each during each fiscal year whose offices are hereby created and who shall be appointed by the assessor and be paid a salary of one hundred twenty-five dollars per month each; one for a period of four months during each fiscal year, whose office is hereby created and who shall be appointed by the assessor and be paid a salary of seventy-five dollars per month; and one for a period of four months during each fiscal year, who shall be appointed by the assessor and be paid a salary of sixty dollars per month; said salaries to be paid by the county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the assessor is paid; and provided, further, that said assessor shall be allowed such additional clerks and assistants as he may require and whose compensation in the aggregate shall not exceed the sum of one thousand dollars in any one year. Claims for the services of such additional clerks and assistants to be allowed and paid as other claims against the county are paid; and provided, further, that the assessor shall be allowed his actual traveling expenses including the expense of operating and maintaining an automobile, when engaged in attending to official business not exceeding the sum of two hundred dollars in any one year, claims for which expenses shall be allowed and paid, but if the county shall provide and maintain an automobile for the use of the assessor's office no transportation expenses shall be allowed the assessor or his deputies when traveling in the county. All commissions or fees heretofore or now allowed by law to the assessor, shall be paid by him into the county treasury.

8. District attorney. The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the district attorney the following deputies and a stenographer, whose offices are hereby created and who shall be appointed by the district attorney and shall be paid salaries as follows: Two deputies at a salary of one hundred fifty dollars per month each, and one stenographer at a salary of ninety dollars per month; said salaries to be paid by said county in monthly installments at the same

sheriff at a salary of one thousand eight hundred dollars per annum, a deputy jailer at a salary of one thousand five hundred dollars per annum, who shall act as a jailer for the county jail, and a deputy jailer who shall be custodian of the courthouse grounds at a salary of one thousand five hundred dollars per annum, and the salaries of their deputies shall be paid by the county in the same manner and out of the same fund as the salaries of other county officers are paid.

3. **Recorder.** The recorder, three thousand dollars per annum. He shall also be allowed one deputy which office of deputy recorder is hereby created, who shall receive as compensation the sum of one thousand eight hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid. He shall also be allowed two copyists which two offices of copyists are hereby created, who shall receive as compensation the sum of one thousand twenty dollars, each per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

4. **Auditor.** The auditor, three thousand dollars and such fees as are allowed by law. The auditor shall also be allowed one deputy auditor which office of deputy auditor is hereby created, who shall receive as compensation the sum of one thousand eight hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand eight hundred dollars per annum. He shall also be allowed one deputy which office of deputy treasurer is hereby created, who shall receive as compensation the sum of one thousand eight hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

6. **Tax collector.** The tax collector, three thousand dollars per annum. He shall also be allowed one deputy, which office of deputy tax collector is hereby created, who shall receive as compensation the sum of one thousand two hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of the other county officers are paid.

7. **Assessor.** The assessor, four thousand dollars per annum. He shall also be allowed one deputy which office of deputy is hereby created, who shall receive as compensation one thousand eight hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid. The assessor shall also be allowed all fees and commissions allowed him by law for collection of personal property taxes and for preparation of roll of persons subject to military duty.

8. **District attorney.** The district attorney, three thousand dollars per annum. The district attorney shall also be allowed one stenographer which office of stenographer is hereby created, who shall receive as compensation the sum of one thousand two hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, eight hundred dollars per annum.

11. **Superintendent of schools.** The superintendent of schools, three thousand dollars per annum, and actual traveling expenses when visiting the schools in his county; provided, the superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of one thousand two hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers are paid.

12. **Surveyor.** The surveyor, three thousand dollars per annum. He shall also be allowed in addition thereto all necessary field and office assistance and expenses including transportation while on duty away from the office.

13. **Justices of peace.** Justices of the peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them: In townships having a population of six thousand or more, one hundred dollars per month; in townships having a population of one thousand five hundred and less than six thousand, seventy-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of five hundred and less than one thousand, twenty dollars; in townships having a population of less than five hundred, ten dollars. Each justice must pay into the county treasury, once a month, all fines and fees collected by him in criminal and civil cases as provided for by law.

14. **Constables. Population of townships.** Constables, the following salaries which shall be paid monthly as salaries of the county officers are paid, and which shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of one thousand eight hundred and more, one hundred dollars; in townships having a population of one thousand five hundred and less than one thousand eight hundred, eighty dollars; in townships having a population of one thousand and less than one thousand five hundred, fifty dollars; in townships having a population of eight hundred and less than one thousand, thirty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population of less than five hundred, ten dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions. For the purpose of this section, the basis of calculation for fixing the compensation of justices and constables above mentioned, the population of the different townships of the county shall always be based upon the figures as shown by the last United States census; provided, however, that whenever the census of any township or townships shall have been taken under the provisions of this title, said census may become the basis of calculation.

15. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum for all services rendered including mileage and including services as road commissioners; provided, that

when required to go on business to any point outside of said county they shall be allowed actual expenses.

16. Board of education. Each member of the county board of education shall receive ten cents per mile for traveling from his or her residence to the county seat; provided, that mileage be not allowed for more than two meetings in any one month.

17. Time in effect. Salaries full compensation. Sections one, two, three, four, five, six, seven, eight, eleven, twelve, thirteen and the provisions of section fourteen relating to townships having a population of one thousand eight hundred and more shall go into effect ninety days after final adjournment of the legislature.

The salaries herein allowed are in full compensation for all duties performed by either principals or their deputies and all fees of every kind collected by each officer or his deputy except the assessor and his deputies, as provided in section seven of this act, shall be paid into the county treasury as provided by law except that the county clerk, sheriff, assessor, coroner, and constables, shall each be allowed the fees and commissions as provided for in subdivisions one, two, seven, nine, and fourteen, respectively, of this act. [Amendment approved May 27, 1919, Stats. 1919, p. 1005.]

This section was also amended in 1917. See Stats. 1917, p. 1137.

§ 4248. Counties of nineteenth class, salaries of officers. Butte, counties of the nineteenth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. County clerk. The county clerk, four thousand five hundred dollars per annum; provided, that in years when a great register of voters is required by law to be made, the county clerk shall receive in addition to his regular salary the sum of one thousand two hundred dollars for such service. The said clerk may appoint one chief deputy clerk, whose said office of chief deputy clerk is hereby created. The salary of such chief deputy clerk is hereby fixed at one thousand two hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

2. Sheriff. The sheriff, six thousand dollars per annum.

3. Recorder. The recorder, three thousand two hundred dollars per annum. The recorder shall also be allowed two copyists, to be appointed by himself, at a salary of seventy-five dollars per month, to be paid at the same time and in the same manner as the salary of county officers is paid.

4. Auditor. The auditor, one thousand five hundred dollars per annum.

5. Treasurer. The treasurer, two thousand four hundred dollars per annum.

6. Tax collector. The tax collector, three thousand dollars per annum.

7. Assessor. The assessor, three thousand five hundred dollars per annum, and the fees and commissions now or hereafter allowed by law.

The assessor shall also be allowed the following deputies, to be appointed by him, viz: One chief deputy assessor, which office is hereby created, at a salary of two thousand one hundred dollars per year; and four deputy assessors. Each of such deputy assessors shall receive a monthly compensation of one hundred dollars, for the months of March, April, May and June of each year, the salary of such deputies to be paid in the same manner, and out of the same fund as the assessor, upon the presentation of a certificate that services have been performed, and signed by the assessor. The salary of the chief deputy assessor shall be paid by the said county, in monthly installments, at the same time, manner and out of the same fund as the county assessor is paid.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum; assistant district attorney, one thousand five hundred dollars per annum; provided, that in counties of this class the district attorney may appoint a stenographer, which office of stenographer to the district attorney is hereby created, and such stenographer shall receive as compensation for his or her services the sum of six hundred dollars per annum, to be paid in equal monthly installments in the same manner, at the same time and out of the same fund as the salary of other county officers is paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum, and his actual traveling expenses when visiting schools, not to exceed ten dollars per district; provided, that the said superintendent of schools may appoint one deputy superintendent of schools, which office of deputy superintendent of schools is hereby created, and such deputy shall receive compensation for his or her services the sum of seven hundred twenty dollars per annum, to be paid in equal monthly installments in the same manner, at the same time and out of the same fund as the salary of other county officers is paid.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Township officers.** In counties of this class the township officers shall receive the following compensation, to wit:

(a) In townships having a population of four thousand five hundred, or more, each justice of the peace shall receive a salary of one hundred fifty dollars per month, and each constable a salary of ninety dollars per month.

(b) In townships having a population of two thousand, or more, and less than four thousand five hundred, each justice of the peace shall receive a salary of sixty dollars per month, and each constable a salary of sixty dollars per month.

(c) In townships having a population of one thousand nine hundred twenty-five or more, and less than two thousand, each justice of the peace shall receive a salary of forty-five dollars per month, and each constable a salary of fifty dollars per month.

(d) In townships having a population of one thousand eight hundred or more, and less than one thousand nine hundred twenty-five, each justice of the peace shall receive a salary of thirty-two dollars and cents per month, and each constable a salary of forty dollars per month.

(e) In townships having a population of seven hundred thirty more, and less than one thousand eight hundred, each justice of the peace shall receive a salary of twenty dollars per month, and each constable a salary of twenty-five dollars per month.

(f) In townships having a population of less than seven hundred thirty, each justice of the peace shall receive a salary of five dollars per month, and each constable a salary of five dollars per month.

The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in criminal cases; provided, that each constable shall be allowed and paid the actual expense of transporting prisoners, after conviction, to the county jail, and said expense shall be audited and allowed by the board of supervisors and paid out of the county treasury.

Said justices of the peace and constables may receive and retain for their own use such fees as are now or may hereafter be allowed by law for all services rendered by them in civil actions.

The salaries of township officers as herein provided for shall be paid in the same manner, at the same time, and out of the same funds as the salaries of county officers are paid.

For the purpose of this subdivision the population of the several townships is hereby determined to be the population of said townships as shown by the federal census taken in the year A. D. nineteen hundred and ten.

14. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum, and mileage when acting as commissioner, twenty-five cents per mile one way; provided, the amount of mileage shall not exceed the sum of three hundred dollars in one year.

15. **Board of education.** Members of the board of education, each a sum of five dollars per day for actual service, together with mileage at ten cents per mile.

16. **Jurors.** In counties of this class grand jurors and trial jurors in criminal cases in the superior court shall each receive for each day of attendance the sum of three dollars, and the mileage allowed by law.

17. **In effect, when.** Sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen hereof shall become operative as soon as this act takes effect, and shall apply to incumbents in office. [Amendment approved May 28, 1917, p. 1245.]

§ 4249. **Counties of twentieth class, salaries of officers.** San M. In counties of the twentieth class, the county and township officers shall receive as full compensation for the services required of them by law, or by virtue of their office, the following salaries and fees, to be paid by the county:

1. **County clerk.** The county clerk, three thousand dollars per annum, and such fees as are now, or may be hereafter allowed by law, for services rendered, and a new great register of voters is required by law.

shall receive, in addition thereto, ten cents per name for each person registered. He may appoint one deputy who shall receive a salary of one thousand eight hundred dollars per annum; one deputy who shall receive a salary of one thousand five hundred dollars per annum; one deputy who shall receive a salary of one thousand two hundred dollars per annum; and one deputy who shall be a stenographer, at a salary of one thousand two hundred dollars per annum; and during any year when an official primary election is held in the county, he may appoint one additional deputy, to serve for a period of four months only, at a monthly salary of seventy-five dollars. The deputies, clerks and stenographer herein provided for shall be paid by the county at the same time and in the same manner and out of the same fund as the county clerk is paid. In any year when a new registration of voters is required by law, he may appoint such number of deputies as may be necessary for the convenient registration of voters in their respective precincts, such deputyships and offices being hereby created. Each of said deputies shall be paid by the county the sum of ten cents per name for each elector registered by him. Said compensation to be paid out of the general fund of the county, on the presentation and filing with the board of supervisors of the county, of a duly verified claim therefor, approved by the county clerk. On and after January 6, 1919, all fees, commissions and perquisites from whatever source received and collected by the county clerk, except the said sum of ten cents per name received by him for each person registered, shall be paid into the county treasury, and shall belong to the county.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum; provided, there shall be and there hereby is allowed to the sheriff the following deputies, which offices are hereby created, who shall be appointed by the sheriff, and shall be paid salaries as follows: One chief deputy at a salary of one hundred fifty dollars per month, one deputy at a salary of one hundred twenty-five dollars per month, and one deputy to act as jailer at a salary of one hundred twenty-five dollars per month. The salaries of the deputies and employees herein provided for shall be paid by the county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the sheriff is paid. In criminal cases, and actions in which the county is interested, the sheriff shall receive only actual expenses incurred and no more. All claims against the county shall be itemized and sworn to by the sheriff or chief deputy, and filed with the board of supervisors monthly before the tenth day of each month. Expense accounts to be sworn to and filed as separate claims. A monthly statement of all fees collected from whatever source derived, duly subscribed and sworn to by the sheriff or chief deputy shall be filed with the county treasurer on or before the tenth day of each month. The board of supervisors may allow the sheriff a sum not to exceed thirty-seven and one-half cents per day for feeding each prisoner committed to his custody. Prisoners shall be fed three meals each day. The changes in this subdivision made shall apply to the incumbent and shall be in lieu of all fees, commissions, and mileage.

3. **Recorder.** The recorder, three thousand five hundred dollars per annum; and said recorder may appoint two deputy recorders, one of

whom shall receive a salary of one thousand five hundred dollars annum, and one who shall receive a salary of nine hundred dollars annum. He may appoint such copyists as may be required for recording of all papers, notices or documents in his office, except maps or plats, who shall receive for their services the sum of six cents folio; and for copies of any paper or record six cents per folio. The salaries and compensation of all deputies and copyists herein provided for shall be paid by the county in monthly installments out of the same fund as the recorder is paid. All fees, commissions and perquisites collected by the recorder, from whatever source received, shall be paid into the county treasury. The recorder shall file monthly, on or before the tenth day of each month, with the county auditor, a verified statement showing in detail the fees received by him, and the amounts paid to copyists or other employees in his office, and the names of the persons to whom the same were paid.

4. **Auditor.** The auditor, three thousand dollars per annum. He may appoint one deputy, who shall receive a salary of one thousand five hundred dollars per annum; and one clerk at a salary of one hundred dollars per month; and one copyist for the months of September and October in each year, at a salary of one hundred dollars per month. The deputy, clerk and copyist herein provided for shall be paid by the county in monthly installments in the same manner and out of the same fund as the auditor is paid.

5. **Treasurer.** The treasurer, three thousand dollars per annum.

6. **Tax collector.** The tax collector, three thousand five hundred dollars per annum. He may appoint one deputy, which office is hereby created, at a salary of one thousand five hundred dollars per annum; and four clerks, for four months in each year, at a salary of sixty dollars per month; he may also appoint one copyist, at a salary of sixty dollars per month for four months, and three indexers, at a salary of seventy-five dollars each per month for four months in each year, whose duty it shall be to compile an index to the assessment-rolls of the county, and of each sanitary district, said index to be a public record and to be kept in the office of the tax collector for public use. The deputy, clerks and indexers to be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid. All fees, perquisites and commissions from whatever source derived, collected by the collector, shall be paid into the county treasury, and shall belong to the county.

7. **Assessor.** The assessor, four thousand dollars per annum. In all counties of this class there shall be and there hereby is allowed to the assessor the following clerks, deputies and employees, who shall be appointed by the assessor, and shall be paid salaries as follows: One chief deputy assessor at a salary of one thousand five hundred dollars per annum; one deputy assessor at a salary of one hundred dollars per month; and such additional field deputy assessors and clerks as the assessor may appoint at a salary not to exceed five dollars per month each; provided, however, that the total amount of salary and compensation paid to such additional deputies and clerks who receive a diem shall not exceed the sum of three thousand dollars per annum.

Said additional deputies and clerks to be paid by the county on the presentation and filing with the board of supervisors of duly verified claims, showing the services rendered, approved by the assessor. The salaries of all deputies, clerks and employees shall be paid by the county, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. The assessor shall receive no compensation or commissions for the collection of personal property taxes, or compiling the military roll, and all commissions, perquisites and fees from whatever source received, collected by him, shall be paid into the county treasury, and shall belong to the county. The changes herein made are intended to place the office of the assessor on a fixed salary basis, in lieu of the assessor's present compensation, fees and commissions allowed him by law, and shall apply to the incumbent.

8. District attorney. The district attorney, three thousand dollars per annum; and said district attorney may appoint a stenographer, which office is hereby created, who shall receive a salary of seventy-five dollars per month; provided, however, that such stenographer shall receive a salary of one hundred dollars per month in case such stenographer shall perform all the services required in the county as official reporter in all preliminary hearings in felony cases. Said stenographer shall be paid by the county, at the same time and in the same manner and out of the same fund as the district attorney is paid. The district attorney shall be allowed, in addition to the monthly salary herein allowed, the sum of sixty dollars per month, which shall be in full for all his traveling and other personal expenses in criminal cases and civil actions in which the county is interested, as provided for in subdivision two of section four thousand three hundred seven of the Political Code.

9. Coroner. The coroner, such fees as are now or may be hereafter allowed by law.

10. Public administrator. The public administrator, such fees as are now or may be hereafter allowed by law.

11. Superintendent of schools. The superintendent of schools, two thousand seven hundred dollars per annum. In counties of this class the superintendent of schools shall receive his actual and necessary traveling expenses for visiting and examining schools and school properties of the county and in performing such other duties as are incident to the full discharge of the requirements of the office of superintendent of schools.

12. Surveyor. The surveyor shall receive two thousand four hundred dollars per annum for all work performed for the county, and, in addition thereto, actual traveling and other necessary expenses incurred in connection with field work. Whenever the surveyor is directed by the board of supervisors or assessor to plat, trace or otherwise prepare maps, plats or block-books for the use of the county assessor or said board, he shall be allowed only the actual cost of preparing the same.

13. Justices of peace. Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of the county offices are paid, which shall be in full for all services rendered by them,

and of all fees. In townships having a population of three thousand five hundred or more, one hundred dollars per month. In townships having a population of not less than one thousand five hundred nor more than three thousand five hundred, seventy-five dollars per month. In all townships having a population less than one thousand five hundred, forty dollars per month. All fees collected by justices of the peace shall be paid into the county treasury, and shall be paid to the county. The provisions of this subdivision shall apply to incumbents.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases. In townships having a population of three thousand five hundred or more, one hundred ten dollars per month; in townships having a population of not less than one thousand five hundred nor more than three thousand five hundred, one hundred dollars per month; in all townships having a population of less than one thousand five hundred, seventy-five dollars per month. In addition to the monthly salary allowed him, each constable may collect and retain for his own use such fees as he now or may be hereafter allowed by law for all services performed by him in civil actions; and he shall also be allowed his actual and necessary expenses incurred in executing any warrant outside of his county issued by a magistrate or justice of his county. Constables shall be allowed all necessary expenses actually incurred in arresting and conveying prisoners to the county jail, which said expenses shall be audited and allowed by the board of supervisors, and paid out of the county treasury.

15. **Board of education.** Each member of the board of education shall receive five dollars per day as compensation for his services while in actual attendance upon said board, and mileage at the rate of two cents per mile one way only, from his residence to the place of meeting of said board. The secretary of said board of education shall receive five dollars per day for his services for the actual time that the board may be in session. Said compensation of the members of the board, and of said secretary, shall be paid out of the same fund as the salary of the superintendent of schools is paid. Claims for such services and mileage shall be presented to the board of supervisors, and shall be allowed at the rate above named, in the same manner as claims against the county are allowed. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy of this code.

16. **Supervisors.** Each supervisor, one thousand five hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; provided, that when a supervisor is also road commissioner he shall receive in addition to the twenty cents per mile allowed to him by law as such road commissioner his actual traveling expenses, the total mileage and expenses not in any one year to exceed the sum of three hundred dollars. The changes as to salary made in this subdivision shall not apply to incumbents.

17. **Expenses of justices of peace.** In townships having a population of three thousand five hundred or more, justices of the peace shall

allowed for their office rent, and expenses, the sum of forty dollars each per month, in addition to the monthly salaries herein allowed. In townships having a population of less than three thousand five hundred, justices of the peace shall be allowed for their office rent, and expenses the sum of twenty-five dollars each per month in addition to the monthly salaries herein allowed. Each justice of the peace must pay into the county treasury monthly, all fees and fines collected by him; and he must keep a book open for the inspection of the public, during office hours, in which must be entered at once and in detail the amount of all fees and fines collected by him. The auditor must withhold warrants for salary and office rent until a sworn statement has been filed with him, of all cases tried, and fees and fines collected; and the same are paid into the county treasury. No justice of the peace shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undecided, that has been submitted to him for decision for a period of thirty days; said affidavit to be filed with the auditor of the county.

18. **Jurors.** In counties of this class, grand jurors and trial jurors in the superior court shall each receive for each day's attendance, per day, the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat, in going only, per mile, the sum of twenty cents; such mileage to be allowed but once during each session such jurors are required to attend.

19. **Jail matron.** In counties of this class there shall be appointed by the sheriff a suitable woman as jail matron, who shall have care of female prisoners confined in the county jail. She shall be paid a salary of fifty dollars per month, to be paid by the county in monthly installments at the same time, in the same manner, and out of the same fund that the salary of the sheriff is paid.

20. **Application.** The changes made in this act shall apply to the incumbents unless otherwise herein provided. [Amendment approved May 3, 1919; Stats. 1919, p. 980.]

This section was also amended in 1917. See Stats. 1917, p. 1131.

§ 4249a. **Counties of twentieth class, salaries of jurors. San Mateo.** In counties of this class, grand jurors and trial jurors in the superior court shall each receive for each day's attendance, per day, the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat, in going only, per mile, the sum of twenty cents; such mileage to be allowed but once during each session such jurors are required to attend. [New section added April 4, 1919; Stats. 1919, p. 29.]

§ 4250. **Counties of twenty-first class, salaries of officers. Santa Cruz.** In counties of the twenty-first class the county and township officers shall receive, as full compensation for the services required of them by law or by virtue of their offices, the following fees and salaries:

1. **County clerk.** County clerk, three thousand five hundred dollars per annum, and shall receive in addition the sum of six hundred dollars a year for every year that an election is held throughout the state of

California; he also shall receive in addition the sum of ten cents name for each voter registered in the county in and for which county clerk is elected, which shall be in full for all services required in registering voters and making up the great register, and the performing of all other acts incident to or pertaining to elections; provided that in counties of this class there shall be and is hereby allowed county clerk two copyists and index clerks who shall be appointed the county clerk, one of whom shall be paid a salary of nine hundred dollars per annum and one of whom shall be paid a salary of one thousand two hundred dollars per annum, and whose salaries shall be paid in monthly installments in the same manner and out of the same fund as the salary of the county clerk is paid.

It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation of the officer, and it is intended that the same shall apply immediately to the present incumbents.

2. **Sheriff.** Sheriff, three thousand dollars per annum; provided, there shall be and there is hereby allowed to said sheriff an undersheriff who shall receive a salary of one thousand seven hundred dollars per annum, and one deputy sheriff, who shall act as night jailer, salary of five hundred dollars per annum, and two deputy sheriffs shall receive salaries of one hundred eighty dollars each per annum. Said undersheriff and the said deputies to be appointed by the sheriff and the salaries of whom shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid; and provided, further that in addition thereto, the sheriff shall receive and retain for his use and benefit all of the fees, per diem, mileage and expenses which are now or which may hereafter be allowed by law; and the fees and commissions for the service of all papers whatsoever issued by the court in the state outside of the county in and for which the sheriff is elected. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation of the officer, and it is intended that the same shall apply immediately to the present incumbent.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum; provided, however, that in counties of this class the recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office not exceeding seven cents per folio for each paper or document so recorded; provided, further, that said recorder shall file monthly, with the county auditor, a verified statement showing in detail the persons and the amounts paid to him for such recording.

4. **Auditor.** The auditor, two thousand seven hundred fifty dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed the auditor such assistants as he may require, whose compensation shall not exceed the sum of two dollars and fifty cents per day for each day actually employed, and whose total compensation shall not exceed the sum of one hundred fifty dollars per annum in the aggregate for all assistants employed; provided, further that the auditor shall file with the county clerk a verified statement showing in detail the amounts paid and the persons to whom such

pensation has been paid, as aforesaid. The assistants named in this paragraph shall be appointed by the auditor and paid by the county at the same time and in the same manner and out of the same fund as the salary of the auditor is paid.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum; provided, further, that the treasurer shall receive and retain for his own use the commission on all inheritance taxes collected by him in accordance with law.

6. **Tax collector.** The tax collector, two thousand seven hundred fifty dollars per annum; provided, that in counties of this class the tax collector shall be allowed to appoint one deputy, which deputy shall be paid a salary of one thousand twenty dollars per annum, and the tax collector shall be allowed such other assistants as he may require; provided, further, that such assistants shall receive as compensation not to exceed two dollars and fifty cents per day for each day actually employed. The compensation of such assistants shall not in the aggregate exceed the sum of three hundred dollars in any one year; and provided, further, that the tax collector shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom such compensation is paid. The salaries of said deputy and other assistants shall be paid by said county in monthly installments at the same time, in the same manner and out of the same fund as the salary of the tax collector is paid.

It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation of the officer, and it is intended that the same shall apply immediately to the present incumbents.

7. **Assessor.** The assessor, three thousand dollars per annum; provided, that in counties of this class the assessor shall be allowed one office deputy at a salary of one thousand twenty dollars per annum; one draftsman at a salary of one thousand two hundred dollars per annum; one deputy for five months in the year at a salary of one hundred dollars per month; one copyist for five months in the year at a salary of forty dollars per month; one deputy for five months in the year at a salary of one hundred dollars per month; one deputy for three months in the year at a salary of one hundred dollars per month; and one deputy for four months in the year at a salary of one hundred dollars per month; and provided, further, that all of said deputies, copyists and draftsmen herein provided for shall be appointed by the assessor and shall be paid by the county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation for the office, and it is intended that the same shall apply immediately to the present incumbents.

8. **District attorney.** The district attorney, two thousand dollars per annum; provided, that in counties of this class there shall be and it is hereby allowed to the district attorney, one deputy, to be appointed by the district attorney and who shall be regularly admitted to practice before the courts of the state of California. Said deputy shall receive a salary of six hundred dollars per annum, which salary shall be paid

by said county in equal monthly installments at the same time and the same manner and out of the same fund as the salary of the district attorney is paid. The district attorney shall be allowed in addition the monthly salary herein allowed the sum of eighty-five dollars per month, which shall be in full for all office stenographic services required by said district attorney in criminal actions and in civil actions and other matters in which the county is interested. It is hereby found a fact that the changes provided for in this section do not work an increase in compensation of the officer and it is intended that the same shall apply immediately to the present incumbent.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, that in counties of this class there shall be and there is hereby allowed to the superintendent of schools, a clerk which office is hereby created, at a salary of one thousand twenty dollars per annum, and who shall be appointed by the superintendent of schools. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid. It is hereby found a fact that the changes provided in this section do not work an increase in compensation of the officer, and it is intended that the same shall apply immediately to the present incumbent.

12. **Surveyor.** The county surveyor for all services required of him as county surveyor, and also for all services which may be required of him as a road engineer, shall receive two thousand four hundred dollars per annum, and necessary cost of transportation to and from and necessary expenses in the field, while engaged on public work, and he is hereby required to devote all his time to the county work.

13. **Supervisors.** Board of supervisors, each member of the board of supervisors one hundred twenty-five dollars per month and no mileage which shall be in full for all services and expenses incurred with the county; provided, that whenever it shall be necessary for any member of the board of supervisors to leave the county in and for which he is elected for the purpose of performing any of his duties, that then and in that event, said supervisor shall be allowed his actual expenses.

14. **Classification of townships. Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, judicial townships in this class of counties are hereby classified according to their population as follows: Townships containing a population of ten thousand or more shall belong to and be known as townships of the first class; townships containing a population of more than ten thousand and more than six thousand shall belong to and be known as townships of the second class; townships containing a population of less than six thousand and more than four thousand shall belong to and be known as townships of the third class; townships containing

taining a population of less than four thousand and more than two thousand shall belong to and be known as townships of the fourth class; townships containing a population of less than two thousand shall belong to and be known as townships of the fifth class; the population of the several judicial townships shall be determined for the purpose of this and the succeeding subdivisions by multiplying by three the total number of names registered as voters in such townships as shown by the complete index to great register as compiled and certified by the county clerk of said class of counties in October, A. D. 1912.

15. Justices of peace. Constables. From and after January 4, 1915, justices of the peace of townships in said county shall receive the following salaries, which shall be paid monthly in the same manner as the salaries of the county officers are paid, out of the salary fund of the county, which shall be in full for all services rendered by them in criminal and civil cases; provided, however, that if two justices of the peace shall be elected and qualify in any one township, then the said justices shall each receive one-half of the salaries therein provided for, to wit: In townships of the first class, two hundred dollars per month; in townships of the second class, one hundred twenty-five dollars per month; in townships of the third class, fifty dollars per month; in townships of the fourth class, thirty-five dollars per month; in townships of the fifth class, twenty-five dollars per month. All fees fixed and provided by law and collected by any justice of the peace shall be paid into the county treasury at the end of each month. Justices of the peace in the first and second classes shall be allowed their actual office rent, not to exceed the sum of fifteen dollars each, for any one month.

Constables shall receive the following fees and salaries which shall be paid monthly and in the same manner as the salaries of the county officers are paid, out of the salary fund of the county, which shall be in full for all services of legal process by them in criminal actions, to wit: In townships of the first class, seventy-five dollars per month; in townships of the second class, seventy-five dollars per month; in townships of the third class, forty dollars per month; in townships of the fourth class, twenty-five dollars per month; in townships of the fifth class, fifteen dollars per month; provided, that in addition to the salaries herein allowed, each constable shall be paid out of the general fund of the county for traveling expenses incurred for the service of a warrant of arrest, or any other process, in a criminal case (where said service is in fact made), his actual expenses each way; for each mile traveled outside of his county, both going to and returning from the place of arrest or other service of process, his actual expenses each way; for transporting prisoners to the county jail, a constable shall be allowed his actual expenses each way, which said actual expenses are hereby defined to be the actual cost of transportation of said constable or his prisoner or prisoners. In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for services rendered by him in civil cases. It is hereby found as a fact that the changes provided in this section do not work an increase in compensation of the officer, and it is intended that the same shall apply immediately to the present incumbent.

16. Official reporter. The official reporter of the superior court shall receive the fees allowed by law.

17. **Salaries shall be in full compensation. Exceptions.** In fixing the compensation of the above-named officers in the amounts hereinabove specified, it is hereby expressly provided that the salaries and fees above provided shall be in full compensation of all services of every kind and description rendered by the officers named herein, either as officers or ex-officio officers, their deputies and assistants; and it is hereby further expressly provided, that all of the fees, commissions, per diem and expenses provided for in section four thousand two hundred ninety of the Political Code of the state of California, and all other moneys coming into the hands of the county and township officers, no matter from what source derived or received, shall belong to and be the property of the county, in counties of this class, and shall be paid into the county treasury by said officer at the same time and in the same manner that other moneys are required by law to be paid into the county treasury by him; save and except, however, that the provisions of this subdivision shall not apply to the offices of sheriff, recorder, treasurer, district attorney and superintendent of schools, and they are expressly exempted from the provisions of this subdivision, and as to said offices herein last named, to wit, sheriff, recorder, treasurer, district attorney and superintendent of schools, they shall receive the salaries, fees and commissions provided for by law, and as provided for in subdivisions two, three, five, eight and eleven of this act. [Amendment approved May 27, 1919; Stats. 1919, p. 1034.]

This section was also amended in 1917. See Stats. 1917, p. 133.

§ 4251. Counties of twenty-second class, salaries of officers. Marriage. In counties of the twenty-second class the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum, and when a new register of voters is required by law to be made, he shall receive in addition, fifteen cents per name for each voter registered, which shall be in full for all services required in registering voters and making the great register; provided, that in counties of this class there shall be and is hereby allowed to the county clerk, one deputy, who shall be appointed by said county clerk, who shall be paid a salary of one hundred fifty dollars per month, and one deputy who shall be appointed by said county clerk, who shall be paid a salary of one hundred twenty-five dollars per month, said salaries of said deputies to be paid by said county monthly at the same time and in the same manner and out of the same fund, as the salary of the county clerk is paid.

2. **Sheriff.** The sheriff, four thousand five hundred dollars per annum, and also all fees for service in actions arising out of his county; provided, that in counties of this class there shall be and is hereby allowed to the sheriff one deputy, who shall be appointed by said sheriff, who shall be paid a salary of one hundred fifty dollars per month, said salaries to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby

allowed to the recorder, one deputy, who shall be appointed by said recorder, who shall be paid a salary of one hundred fifty dollars per month, and one deputy, who shall be appointed by the recorder, who shall be paid a salary of one hundred dollars per month and two copyists who shall be appointed by said recorder, who shall be paid a salary of ninety dollars a month each, said salaries of said deputies and of said copyists to be paid by said county, monthly, at the same time and in the same manner and out of the same fund, as the salary of the recorder is paid.

4. **Auditor.** The auditor, three thousand dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the auditor, clerks and employees, who shall be appointed by said auditor, who shall be paid salaries as follows: One deputy auditor at a salary of one hundred fifty dollars per month and a sum not to exceed six hundred dollars in any one year for such additional clerk hire as may be necessary, said salaries of the clerks and employees herein provided for shall be paid by said county monthly at the same time and in the same manner and out of the same fund, as the salary of the auditor is paid.

5. **Treasurer.** The treasurer, three thousand dollars per annum; and such fees as are now or may hereafter be allowed by law.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the tax collector, a deputy, who shall be appointed by said tax collector, who shall be paid a salary of one hundred fifty dollars per month, said salary to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, further, that in counties of this class there shall be and is hereby allowed to the tax collector, a deputy for the period of time between the first day of April and the thirty-first day of December, both days inclusive of each fiscal year. Said deputy to be appointed by said tax collector and shall be paid a salary of one hundred dollars per month during the period of time said deputy shall be employed, to be paid by said county monthly at the same time and in the same manner and out of the same funds as the salary of the tax collector is paid; provided, further, that in counties of this class there shall be and is hereby allowed to the tax collector a copyist for the period of time embraced between the first day of August and the thirty-first day of December, both dates inclusive, in each year. Said copyist shall be appointed by said tax collector, and shall be paid a salary of ninety dollars per month during the period of time said copyist shall be employed, to be paid by said county monthly at the same time and in the same manner and out of the same fund as the salary of the tax collector is paid; provided, further, that said tax collector shall be entitled to receive and retain for his own use ten per centum only of all licenses collected by him.

7. **Assessor.** The assessor, four thousand dollars per annum, and also such fees and commissions as are allowed by law; provided, that in counties of this class there shall be and is hereby allowed to the assessor, a deputy, who shall be appointed by said assessor who shall be paid a salary of one hundred fifty dollars per month, to be paid by said

county monthly at the same time and in the same manner and out of the same fund, as the salary of the assessor is paid; provided, further, that in counties of this class there shall be and is hereby allowed to the assessor, a deputy who shall be appointed by said assessor, who shall be paid a salary of one hundred twenty-five dollars per month, to be paid by said county monthly, at the same time, and in the same manner and out of the same fund as the salary of the assessor is paid; and provided, further, that in counties of this class there shall be and is hereby allowed to the assessor, a copyist, who shall be appointed by said assessor from the first day of February to the thirty-first day of July, inclusive, during each year. Said copyist shall be paid a salary of ninety dollars per month, to be paid by said county monthly, at the same time, and in the same manner and out of the same fund as the salary of said assessor is paid; provided, further, that said assessor shall be entitled to receive and retain for his own use six per cent only in personal property tax collected by him as authorized by section three thousand eight hundred twenty of the Political Code of the state of California.

8. District attorney. The district attorney, three thousand dollars per annum; provided, that in counties of this class, the district attorney may appoint a deputy which office of deputy district attorney is hereby created; said deputy to be employed at such times and to receive a salary not to exceed the sum of one hundred fifty dollars per month, the board of supervisors may fix by resolution; provided, further, that said district attorney may appoint a stenographer at a salary of ninety dollars per month. Said deputy and said stenographer shall be paid at the same time and out of the same fund as other county officers are paid.

9. Superintendent of schools. The superintendent of schools, four thousand four hundred dollars per annum and actual traveling expenses when visiting schools of his county; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools, a deputy, who shall be appointed by said superintendent of schools and who shall be paid a salary of one hundred fifty dollars per month, at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

10. Coroner. The coroner, such fees as are now or may be hereafter allowed by law.

11. Public administrator. The public administrator, such fees as are now or may be hereafter allowed by law.

12. Surveyor. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Classification of townships. Justices of peace. For the purpose of fixing the compensation of justices of the peace and constables according to their duties, townships in counties of this class are hereby classified according to their population as follows: Townships having a population of ten thousand or more shall belong to and be known as townships of the first class; townships having a population of less than ten thousand and more than five thousand shall belong to and be known as townships of the second class; townships having a population of less than five thousand and more than one thousand shall belong to and be known as townships of the third class.

known as townships of the third class; townships having a population of less than one thousand and more than nine hundred shall belong to and be known as townships of the fourth class; townships having a population of less than nine hundred shall belong to and be known as townships of the fifth class. The population of the several townships shall be determined by the board of supervisors upon the enactment of this act and also at the time of the formation of any new township or townships for the purpose of this and the succeeding subdivisions by the last federal census taken during the year 1910. Justices of the peace shall receive the following salaries:

In townships of the first class the sum of one hundred fifty dollars per month;

In townships of the second class the sum of one hundred twenty-five dollars per month;

In townships of the third class the sum of thirty dollars per month;

In townships of the fourth class the sum of ten dollars per month;

In townships of the fifth class the sum of five dollars per month;

Said salaries shall be paid in the same manner, and out of the same fund as the salaries of county officers are paid, and shall be compensation in full for all services rendered. All fees received by justices of the peace shall be paid into the county treasury every month. Justices of the peace of the first and second classes shall be allowed their necessary office expenses not to exceed the sum of fifteen dollars per month; provided, further, that all justices of the peace shall be allowed their civil and criminal dockets and legal blanks at the expense of the county; provided, further, that the justices of the peace of the townships of the third class when in the trial of criminal cases it becomes necessary to rent a hall to conduct said trial, the said justices of the peace of said counties of the third class shall be allowed the rental paid therefor, but not to exceed the sum of three dollars for any one day; and provided, further, that said rental shall not exceed in any one month the sum of fifteen dollars.

14. Constables. Constables shall receive the following salaries:

In townships of the first class the sum of one hundred dollars per month. Said constables shall be entitled to receive and retain for their own use and benefit all fees collected for the service of civil processes.

In townships of the second class the sum of eighty dollars per month. Said constables shall be entitled to receive and retain for their own use and benefit all fees collected for the service of civil processes.

In townships of the third, fourth and fifth classes such fees as are now or may be hereafter allowed by law and in addition thereto three dollars per day for each day's actual attendance in court during a jury trial therein or preliminary examination for felony; provided, that no constable shall receive more than three dollars for any one day's attendance on any court.

15. Supervisors. Each member of the board of supervisors after the period beginning with the date upon which this act becomes effective and during their term of office, for which they shall have been elected seventy-five dollars per month, and ten cents per mile while traveling from his residence to the county seat, in full payment for services as member of the board of supervisors, as member of the board of equalization and as road commissioner, each member of the board of super-

visors elected or appointed after this act becomes effective seventy dollars per month and mileage at the rate of ten cents per mile traveling to and from his residence to the county seat and also age for his services as road commissioner at the rate of twenty per mile one way, for the distance actually traveled in the discharge of his duties as road commissioner; provided, that such mileage as commissioner shall not in any one year exceed the sum of three hundred dollars.

16. Board of education. Official reporter. Each member of the board of education including the secretary, five dollars per day when the board is in session and ten cents per mile for traveling to and from his residence to the county seat at each session, unless otherwise provided by law.

In counties of this class, the official phonographic reporter of the superior court shall receive the sum of one hundred fifty dollars per month as compensation for the reporting of criminal cases both in the superior court and justice's court in the county, and for the transcription of the shorthand notes of such cases, he shall receive fifteen cents per folio of one hundred words for the original and seven and one-half cents per folio for each copy thereof as compensation for reporting for the transcription of his shorthand notes. In civil cases he shall receive the fees now or hereafter authorized by law; provided, that he shall receive from the county no fees for the county's share of the cost of reporting in any civil cases in which the county is a party. The salary of the reporter shall be paid out of the county treasury in the same manner as other county officers are paid. [Amendment approved May 27, 1919; Stats. 1919, p. 964.]

This section was also amended in 1917. See Stats. 1917, p. 1003.

§ 4252. Counties of twenty-third class, salaries of officers. Month.

In counties of the twenty-third class, the county and township officers shall receive as compensation for services required of them by law by virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, three thousand dollars per annum; provided, that he shall have power to appoint two deputies at a salary of one thousand five hundred dollars each per annum, payable at the same time and in the same manner as that of other county officers; provided, further, that in every even-numbered year he shall have power to appoint one deputy at a salary of six hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and further provided, that he shall receive six hundred dollars per annum for compiling a great register and services performed in preparation for any and all elections; which shall be in full for all services required in registering voters and for all services performed in preparation for elections. The county clerk shall also receive and retain, for his own use and benefit, all fees and commissions which are, or which may hereafter be allowed by law.

2. Sheriff. The sheriff, three thousand five hundred dollars per annum; provided, that he shall have the power to appoint three deputies, which offices are hereby created, at a salary of one thousand five hundred dollars each per annum, payable at the same time and in the same manner as that of other county officers. The sheriff shall also receive

and retain in all civil cases for his own use and benefit, fees, commissions and mileage which now are or which may hereafter be allowed by law; and also all expenses incurred in the pursuit of criminals or transacting any criminal business. The sheriff shall also receive and retain for his own use and benefit mileage and fees for the service of process or papers issued by any court in the state.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum; provided, that he shall have the power to appoint one deputy at a salary of one thousand two hundred dollars per annum, and one deputy at a salary of one thousand eighty dollars per annum, payable at the same time and in the same manner as that of other county officers.

4. **Auditor.** The county auditor, two thousand four hundred dollars; provided, that he shall have the power to appoint one deputy at a salary of one thousand two hundred dollars per annum, and one deputy at a salary of nine hundred dollars per annum; and provided, that in counties of this class there shall be and hereby is allowed to the county auditor, such additional assistants as the auditor may require during the months of July, September and December of each year, and whose compensation in the aggregate shall not exceed two hundred dollars in any one year.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum; provided, that he shall have power to appoint one deputy, which office is hereby created, at a salary of one thousand two hundred dollars per annum, payable at the same time and in the same manner as that of other county officers. The treasurer shall receive and retain for his own use the fees and commissions now or hereafter to be allowed him by law.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum; provided, he shall have power to appoint one deputy, which office is hereby created, at a salary of one thousand two hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and provided, further, he shall have power to appoint one deputy during the months of August, September, October, November and December of each year, which office is hereby created, at a salary of seventy-five dollars per month, payable at the same time and in the same manner as that of other county officers.

7. **Assessor.** The assessor, four thousand two hundred dollars per annum; provided, that he shall have power to appoint one deputy, which office is hereby created, at a salary of one thousand two hundred dollars per annum, payable at the same time and in the same manner as that of other county officers, and said assessor shall also receive the commissions on the amount of personal property tax as is provided in and by section four thousand two hundred ninety of the Political Code and five cents per name for military roll.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum, and his actual traveling expenses when prosecuting criminals, within the county; provided, that he shall have power to appoint two deputies, which offices are hereby created, one of said deputies to receive a salary of one thousand five hundred dollars per annum, and the other deputy to receive a salary of one thousand two hundred dollars per annum; the salary of each of said deputies to be

payable in the same manner and at the same time as that of other county officers.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum, and his actual traveling expenses when visiting schools of the county; provided, that he shall have the power to appoint one deputy, which office is hereby created, at a salary of one thousand five hundred dollars per annum, payable at the same time and in the same manner as that of other county officers; and provided, that he shall not receive in any one year of his term of office, compensation for his services as secretary of the county board of education, in excess of two hundred dollars.

12. **Surveyor.** The surveyor, one thousand eight hundred dollars per annum, for all work performed for the county, and in addition thereto his actual necessary traveling and other expenses incurred in connection with field work, and cost of preparing maps, plats, block-books and tracings for the assessor when directed by him.

13. **Justices of the peace.** The justices of the peace shall receive the following monthly salaries to be paid each month as the salaries of the county officers are paid, which shall be in full for all services rendered by them: (1) In townships having a population of five thousand or more, one hundred thirty dollars per month; provided, that where there is now or may be hereafter created in such township more than one justice of the peace, the monthly salary of said two justices shall be each one hundred dollars per month; (2) in townships having a population of two thousand five hundred and less than five thousand, sixty-five dollars per month; (3) in townships having a population of one thousand five hundred and less than two thousand five hundred, sixty dollars per month; (4) in townships having a population of one thousand and less than one thousand five hundred, forty-five dollars per month; (5) in townships having a population of five hundred and less than one thousand, thirty-five dollars per month; (6) and in townships having a population of less than five hundred, thirty dollars per month. Each justice must pay into the county treasury once a month all fees and fines collected by him.

14. **Constables.** The constables shall receive the following salaries to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases and in all other criminal matters: (1) In townships having a population of five thousand or more, seventy-five dollars per month; (2) in townships having a population of two thousand five hundred, and less than five thousand, fifty dollars per month; (3) in townships having a population of one thousand five hundred or less than two thousand five hundred, forty-five dollars per month; (4) in townships having a population of one thousand and less than one thousand five hundred, thirty-five dollars per month; (5) in townships having a population of five hundred and less than one thousand, thirty dollars per month; (6) in townships having a population of less than five hundred, twenty dollars per month;

provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for necessary traveling expenses in his own district, for the service of a warrant of arrest or any other process in a criminal case, or other criminal matters, when such service is in fact made, both going and returning, ten cents per mile; for each mile traveled out of his county, both going and returning from the place of arrest in the service of process, five cents per mile; and for transporting persons to the county jail, ten cents per mile each way. In addition to the monthly salary allowed him herein each constable shall receive for his own use, the fees in civil cases, which now or may hereafter be allowed by law.

15. Supervisors. The supervisors, each, the sum of one thousand two hundred dollars per annum, and twenty cents per mile for all distances actually traveled, in the performance of his duty as road commissioner, not to exceed two hundred dollars per annum, together with mileage at the rate of twenty cents per mile, in going only, from his place of residence to the county seat at each session of the board.

16. Phenographic reporter. In counties of this class the official phenographic reporter of the superior court shall receive as compensation for his services the fees and compensation now or hereafter provided by law, and in addition thereto shall receive five dollars per day when not actually engaged in reporting in said court, but when in attendance on court in compliance with and as provided by section two hundred seventy-one of the Code of Civil Procedure, the said per diem of five dollars to be paid in the same manner as provided in criminal cases.

17. Population of townships. For the purpose of subdivisions thirteen and fourteen of this section, the population of the several townships shall be ascertained and determined by the board of supervisors by multiplying by three and one-half, the vote cast for presidential electors in each township at the next preceding election therefor. [Amendment approved April 4, 1919; Stats. 1919, p. 25.]

This section was also amended in 1917. See Stats. 1917, p. 66.

§ 4252a. Counties of twenty-third class, salaries of jurors. Monterey. In counties of the twenty-third class, grand jurors and trial jurors in the superior court shall receive for each day's attendance, three dollars, and for every mile actually traveled in attending court as such juror, in going only, fifteen cents. [New section added April 6, 1917; Stats. 1917, p. 70.]

§ 4254. Counties of twenty-fifth class, salaries of officers. Stanislaus. In counties of the twenty-fifth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. County clerk. The county clerk, two thousand seven hundred dollars per annum, and registration fees; all other fees of the clerk's office to be paid into the county treasury; provided, that in counties of this class there shall be a chief deputy clerk who shall be paid a salary of one thousand eight hundred dollars per annum in equal monthly installments; said chief deputy, in addition to his other duties, to prepare all deeds for the county without extra cost to the county.

One deputy for each department of the superior court in this class of counties who shall receive a salary of one thousand three hundred eighty dollars each per annum, to be paid in equal monthly installments; also one deputy clerk who shall be paid one thousand dollars per annum to be paid in equal monthly installments; and also a stenographer a salary of fifty dollars per month for one month preceding an election where a register of voters is required; the salaries of said deputy clerk to be paid at the same time, and in the same manner, and out of the same fund as the salary of the county clerk, the clerk also to receive ten cents a name for each person registered, which shall be allowed by the board of supervisors of the county. He shall also be allowed not to exceed ten deputies for the purpose of registering electors, and shall be paid not to exceed five cents for each elector registered; and any of such deputies as are required to work in the office shall receive not to exceed two dollars and fifty cents per day for the time so employed. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

2. **Sheriff.** The sheriff, three thousand dollars per annum and mileage for the service of papers or process coming from courts other than those of his own county; provided, that in counties of this class there shall be one chief deputy sheriff at one thousand eight hundred dollars per annum, to be paid in equal monthly installments; and four deputy sheriffs at one thousand three hundred eighty dollars per annum, to be paid in equal monthly installments. The sheriff may also, with the consent of the superior judge, when necessary for the care of the jury, appoint a woman as deputy sheriff who shall be paid a per diem of five dollars when actually engaged in the performance of her duties. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbent.

3. **Recorder.** The recorder, two thousand two hundred dollars per annum; and said recorder shall collect and pay into the county treasury for the use and benefit of the county the fees required by law to be collected; provided, that in counties of this class there shall be one chief deputy recorder who shall receive a salary of one thousand eight hundred dollars per annum, one indexing deputy recorder who shall receive a salary of one thousand three hundred eighty dollars per annum, three copyists who shall each receive a salary of one thousand dollars per annum, and such copyists, not exceeding three in number, as may be necessary to perform the duties of the office, at a compensation of five cents per folio, the salaries of said recorder, deputies and copyists shall be paid in equal monthly installments by the county. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be one deputy auditor who shall receive a salary of one thousand eight hundred dollars per annum, and one deputy auditor who shall receive a salary of one thousand dollars per annum. The auditor may also be allowed, by the board of supervisors, a sum not exceeding six hundred dollars per

num for additional clerical help when, in the opinion of the board of supervisors, such assistance is necessary. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

5. **Treasurer.** The treasurer, one thousand eight hundred dollars per annum and the fees and commissions now or hereafter allowed by law.

6. **Tax collector.** The tax collector, one thousand two hundred dollars per annum, and the fees and commissions now or hereafter allowed by law; provided, that in counties of this class, there shall be one deputy tax collector who shall receive a salary of one thousand eight hundred dollars per annum, to be paid in equal monthly installments at the same time and out of the same fund as the salary of the tax collector; also provided, that in counties of this class there shall be one deputy tax collector for not exceeding four months in each year at a salary of one hundred fifteen dollars per month, also one deputy tax collector for not exceeding six months in each year, at one hundred fifteen dollars per month, said salaries to be paid by the county out of the same fund as the tax collector's. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

7. **Assessor.** The assessor, two thousand six hundred dollars per annum, and the fees and commissions now or hereafter allowed by law; provided, that in counties of this class there shall be allowed two deputies who shall be appointed by the assessor, one to receive a salary of one thousand eight hundred dollars per annum and one to receive a salary of one thousand three hundred eighty dollars per annum in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the assessor is paid. It shall be the duty of said deputies, among other things, to make and correct all necessary plats, maps, and block-books for the assessor's office; provided, also, that for each name upon the assessment-roll, representing one or more statements in excess of four thousand five hundred, the assessor shall receive fifty cents. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

8. **District attorney.** The district attorney, two thousand six hundred dollars per annum; provided, that in counties of this class there shall be one deputy district attorney at a salary of one thousand three hundred dollars per annum, and one deputy district attorney at a salary of nine hundred dollars per annum to be paid in equal monthly installments by the county. In addition, the district attorney shall be allowed one stenographer who shall be paid a salary of nine hundred dollars per annum, to be paid in equal monthly installments by the county. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** -The public administrator, such fees as now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum. He shall also be allowed his actual traveling expenses when visiting the schools of the county, which expenses shall not exceed the sum of one thousand dollars in any one year. He shall receive five dollars per day for his services while serving as secretary of the board of education. The superintendent of schools shall be allowed one deputy, to be appointed by the principal, who shall receive as salary one thousand eight hundred dollars per annum; also one deputy, who shall receive a salary of one thousand three hundred eighty dollars per annum; one deputy for not exceeding three months in each year, at a salary of one hundred dollars per month; said salaries of deputies to be paid in equal monthly installments, at the same time in the same manner, and out of the same fund as the salary of the superintendent of schools is paid. It is hereby found as a fact that the changes provided for in this section do not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

12. **Surveyor.** The surveyor shall receive three thousand dollars per annum, and in addition thereto, all actual traveling and other necessary expenses incurred in connection with field work. He shall have one deputy county surveyor at a salary of one thousand eight hundred dollars per annum, and one draftsman at a salary of one thousand five hundred dollars per annum, said deputy and draftsman to be appointed by the principal and paid at the same time and in the same manner as the county surveyor. It shall be the duty of the surveyor among other things, to make all necessary county and road maps, and all necessary plans and specifications for bridge work and county buildings; provided, however, that when in the judgment of the board of supervisors of the county, it is necessary to employ additional assistance for the performance of said work, other than with regard to roads, the board of supervisors may allow the necessary actual expense thereof. Also to prepare all maps or plats necessary to accompany reports made by him on road work, and prepare and keep all the necessary and proper records in his office; provided, he shall receive nothing for preparing any map or plat necessary to accompany reports made by him on road work, nor for preparing and keeping the proper records in his office. He shall at all times be subject to the orders of the board of supervisors. The office of the county surveyor shall be kept open for the accommodation of the public, with the surveyor, a deputy, or a competent clerk in charge from nine o'clock A. M. until five o'clock P. M., the same as other county offices. The county surveyor shall be allowed the services of a competent clerk, to be appointed by the principal, and receive a salary of one thousand dollars per annum, to be paid out of the same fund, at the same time and in the same manner as other county officers are paid. Such compensation and salaries as above set forth shall be in full for all services as such county surveyor, and all fees and compensation received or collected by him for services other than for the county, shall be paid into the county treasury. It is hereby found as a fact that the changes provided for in this section do not work an

increase in compensation and it is intended that the same shall apply immediately to the present incumbents.

13. Classification of townships. For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population, as shown by the total number of registered voters, in each township, at the next preceding general election, prior to the fixing of the classification, the said population to be determined by multiplying the said total number of registered voters by three and one-half; townships having a population of fifteen thousand and more shall belong to and be known as townships of the first class; townships having a population of eight thousand and less than fifteen thousand shall belong to and be known as townships of the second class; townships having a population of three thousand and less than eight thousand shall belong to and be known as townships of the third class; townships having a population of one thousand and less than three thousand shall belong to and be known as townships of the fourth class; townships having a population of less than one thousand shall belong to and be known as townships of the fifth class; provided, that the board of supervisors of the county may, prior to any general election, consolidate two or more of such townships into one.

13a. Justices of peace. Justices of the peace shall receive the following monthly salaries, to be paid each month as county officers are paid, which shall be in full compensation for all services rendered by them, to wit: In townships of the first class, one hundred forty dollars per month; in townships of the second class, eighty dollars per month; in townships of the third class, fifty-five dollars per month; in townships of the fourth class, thirty dollars per month; in townships of the fifth class, twenty dollars per month. Each justice must pay into the county treasury once a month all fees and fines collected by him. Justices of the peace of the first class are required to keep their offices open from nine o'clock A. M. until five o'clock P. M. In townships of the first, second and third classes the board of supervisors shall furnish adequate office room, in all other townships all justices shall be allowed not to exceed five dollars per month for office rent. These salaries shall also apply to incumbents.

14. Constables. Constables shall receive the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full compensation for all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred twenty-five dollars; in townships of the second class, one hundred dollars; in townships of the third class, eighty dollars; in townships of the fourth class, sixty dollars; in townships of the fifth class, forty dollars. In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use, such fees as are now allowed or may hereafter be allowed by law, for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which expenses shall be audited and allowed by the board of supervisors, and paid out of the county treasury; provided, further, that when a constable is required to go out of his own county to serve a warrant of arrest or any other papers in a criminal case, he shall be allowed all necessary

expenses actually incurred in arresting and conveying prisoners to court or to prison, which expenses shall be audited by the board of supervisors. These salaries shall also apply to incumbents.

15. Supervisors. Supervisors shall receive the sum of seven hundred and twenty dollars per annum, each, and mileage at the rate of ten cents per mile for each mile traveled in coming to and from the meetings of the board; provided, that only one mileage at any one session of the board shall be allowed. They shall act as road commissioners in their respective districts, and shall therefor receive for their services as such road commissioners the sum of three hundred dollars per annum, and mileage at the rate of fifteen cents per mile each, one way, for all distances actually traveled by them in the discharging of their duties as such road commissioners; provided, that said expense as road commissioners shall not exceed the sum of seven hundred eighty dollars per annum for any of the commissioners. The change in compensation hereby made is not an increase in compensation of a county officer and shall become operative as soon as this act takes effect.

15a. Librarian. There is created for counties of the twenty-fifth class a county librarian, who shall be appointed by the board of supervisors for a term of four years and shall receive a salary of one thousand eight hundred dollars per annum, to be paid at the time and in the manner as other county officers.

16. Witnesses. Witnesses in criminal cases and in cases of dependent and delinquent persons shall receive two dollars per day, and ten cents per mile for each mile actually traveled, one way only. The court shall make an order directing the auditor to draw his warrant on the county treasury for the amount due, and the treasurer shall pay the same. The court may disallow any fee to a witness unnecessarily subpoenaed.

17. Jurors. Time in effect. Jurors in a county of this class, both grand and petty jurors in the superior court, shall each receive for each day's attendance, per day, the sum of three dollars, and for each mile actually and necessarily traveled from their residence to the county seat in going only, the sum of twenty cents per mile, such mileage to be allowed but once during each session such jurors are required to attend. The court shall make an order directing the auditor to draw his warrant on the county treasury for the amount due, and the treasurer shall pay the same.

This act to go into effect immediately, and apply to all present incumbents, except as hereinbefore provided and excepted. [Amendment approved May 27, 1919; Stats. 1919, p. 1057.]

This section was also amended in 1917. See Stats. 1917, p. 1574.

§ 4255. Counties of twenty-sixth class, salaries of officers. Napa. In counties of the twenty-sixth class, the county and township officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. County clerk. The county clerk, three thousand dollars per annum, and five hundred dollars additional per annum for compiling the great register of the county. In counties of this class the county clerk may appoint a deputy county clerk, which office of deputy county clerk is hereby created, and said deputy county clerk shall receive as compensa-

tion for all services performed as such, the sum of nine hundred dollars per annum, to be paid out of the county treasury in equal monthly installments, at the time, in the same manner and out of the same fund as salaries of county officers are paid. The county clerk may appoint such number of deputies as may be necessary for the convenient registration of electors in their respective precincts or townships, and each such registration deputy shall receive as compensation for all services performed as such the sum of ten cents per name for each elector registered by him, to be paid monthly, at the same time, in the same manner and out of the same fund as salaries of county officers are paid; provided, that each such registration deputy, when so appointed, shall, prior to the drawing of any warrant for such compensation, first file with the auditor a statement, verified by the oath of such registration deputy, and approved in writing by the county clerk, showing the number of electors so registered by him during the period covered by such statement. The county clerk shall also receive and retain for his own use such fees as are now or may hereafter be allowed by law for issuing hunting and fishing licenses, for the naturalization of persons desiring to become citizens and such other fees of similar character as are now or may hereafter be allowed by law for the performance of any service rendered by the county clerk other than in his official character as county clerk. All other fees or commissions shall be collected by the county clerk and shall be paid by him into the county treasury and no part thereof shall be retained by him as a part of his compensation.

2. Sheriff. Expenses of sheriff. The sheriff, four thousand five hundred dollars per annum. In counties of this class the sheriff may appoint an under-sheriff, which office of under-sheriff is hereby created, and said under-sheriff shall receive as compensation for all services performed as such the sum of one thousand five hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner and out of the same fund as salaries of county officers are paid. In counties of this class the sheriff shall be allowed such sum as the board of supervisors shall fix for the board of prisoners confined in the county jail, and his actual necessary expenses for pursuing, searching for and arresting criminals and persons charged with being insane, and for conveying prisoners and persons charged with being insane to court and to prison or other place of confinement or detention and to and from state prisons, state hospitals and other institutions, and his actual necessary expenses for keeping, preserving and selling property seized, held or sold on attachment, execution or other process, and for the service and posting of all process papers and notices required by law to be served or posted by the sheriff. All such actual necessary expenses and said sum for the board of prisoners shall be a proper legal charge against the county and shall be allowed, audited and paid out of the county treasury in the same manner as other county charges are allowed, audited and paid. The sheriff shall collect from the state all per diem and expenses incurred in conveying prisoners and persons adjudged insane, to and from state prisons, state hospitals and other institutions and pay the same, when so collected, into the county treasury, and the same and all other fees, commissions and compensations other than as hereinabove provided, which, in other counties of other classes, are allowed by law to the

sheriff, as a part of his compensation shall be paid into the county treasury, and no part thereof shall be retained by him as part of his compensation.

3. **Recorder.** The recorder, two thousand dollars per annum; provided, that in counties of this class the recorder may appoint a deputy, which office is hereby created, and said deputy county recorder shall receive as compensation for all services performed as such the sum of seven hundred and twenty dollars per annum, payable out of the county treasury in equal monthly installments, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. The recorder may employ as many copyists as may be required, who shall receive as compensation, the sum of five cents per folio for recording any instrument or notice, except maps or plats, and for making copies of any records or papers, five cents per folio. The salaries of such copyists shall be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid; provided, that the recorder shall file monthly with the auditor a verified statement showing in detail the persons employed as copyists and the amount due to each for such copying. All fees, commissions or other compensation allowed by law to the recorder in other counties of other classes, as a part of his compensation, shall be paid into the county treasury and no part thereof shall be retained by him as a part of his compensation.

4. **Auditor.** The auditor, one thousand five hundred dollars per annum; provided, that in counties of this class the auditor may appoint a deputy, which office of deputy auditor is hereby created; said deputy auditor shall receive as compensation for all services performed as such, the sum of six hundred dollars per annum, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. In counties of this class the auditor may appoint additional deputies, to serve during the month that installments of taxes on real property are due and payable but not delinquent, and such deputy auditors shall receive as compensation for all services performed as such the sum of three dollars per day for each day actually employed, and the total compensation, in the aggregate, shall not exceed the sum of two hundred twenty-five dollars per annum for all additional deputies employed. Such compensation shall be paid out of the county treasury, at the same time and out of the same fund as salaries of county officers are paid. This subdivision of this section shall not go into effect or be in force until the expiration of the term of office of the present incumbent.

5. **Treasurer.** The county treasurer, two thousand dollars per annum; provided, that in counties of this class the treasurer may appoint a deputy, which office of deputy treasurer is hereby created, and the said deputy treasurer shall receive as compensation for all services performed as such the sum of six hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. All fees, commissions or other compensation allowed by law to the treasurer in other counties of other classes shall be collected by the treasurer and be by him paid into the county treasury and no part thereof shall be retained by him as a part of his compensation.

6. **Tax collector.** The tax collector, two thousand dollars per annum; provided, that in counties of this class the tax collector may appoint a deputy tax collector, which office of deputy tax collector is hereby created, and said deputy tax collector shall receive as compensation for all services performed as such, the sum of seven hundred fifty dollars per annum, to be paid out of the county treasury, in equal monthly installments, in the same manner, at the same time and out of the same fund as salaries of county officers are paid. In counties of this class the tax collector may appoint a cashier, which office of cashier to the tax collector is hereby created, and said cashier shall receive as compensation for all services performed as such the sum of four dollars per day for each day actually employed as such, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid; provided, that such cashier shall be paid for not to exceed one hundred days in any one calendar year. All fees, commissions or compensation allowed by law to the tax collector in other counties of other classes shall be collected by the tax collector and be by him paid into the county treasury, and no part thereof shall be retained by him as a part of his compensation.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum; provided, in counties of this class the assessor may appoint a chief deputy assessor, which office of chief deputy assessor is hereby created, and said chief deputy assessor shall receive as compensation for all services performed as such the sum of one thousand two hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner, and out of the same fund as salaries of county officers are paid. The assessor may also appoint one copyist, which office of copyist is hereby created, to serve for not more than ninety days in any one year, and said copyist shall receive as compensation for all services performed as such the sum of four dollars per day for each day actually and necessarily employed as such, and also five field deputies, which office of field deputies are hereby created, to serve for not exceeding seventy-five days in any one year, and said field deputy assessors shall receive as compensation for all services performed as such the sum of five dollars per day for each day actually and necessarily employed as such, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid; providing, that each field deputy, when so employed, shall file with the auditor a statement verified by the oath of such field deputy and approved by the assessor, showing the number of days actually and necessarily employed in the performance of the duties of such employment during the period covered by said statement before any warrant for the payment of such compensation shall be drawn by the auditor. All commissions, fees or compensation for the collection of taxes on personal property, for the collection of poll taxes and road poll taxes, and for services in making out the roll of persons subject to military duty, and all other fees or commissions shall be collected by the assessor and by him paid into the county treasury, and no part thereof shall be retained by him as a part of his compensation.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum. In counties of this class the district attorney

may appoint a deputy attorney, which office of deputy district attorney is hereby created, and said deputy district attorney shall receive as compensation for all services performed as such the sum of one thousand five hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner and out of the same fund that salaries of county officers are paid. The district attorney may also appoint a stenographer for service in his office, which office of stenographer to the district attorney is hereby created, and said stenographer shall receive as compensation for all services performed as such the sum of six hundred dollars per annum, to be paid out of the county treasury, in equal monthly installments, at the same time, in the same manner and out of the same fund that salaries of county officers are paid.

9. **Coroner.** The coroner, nine hundred dollars per annum. In counties of this class the coroner shall be allowed his actual traveling expenses in the performance of his official duties in the county when called away from the county seat, which are hereby declared to be a proper legal charge against the county, and shall be allowed, audited and paid out of the county treasury in the same manner as other county charges are allowed, audited and paid. All fees, commissions or other compensations allowed by law to the coroner in other counties of other classes as a part of his compensation shall be paid into the county treasury and no part thereof shall be retained by him as a part of his compensation; provided, that this subdivision of this section shall not go into effect or be in force until the expiration of the term of office of the present incumbent.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand six hundred dollars per annum and actual necessary traveling expenses when visiting schools of the county. The superintendent of schools may appoint a deputy superintendent of schools, which office of deputy superintendent of schools is hereby created and said deputy superintendent of schools shall receive as compensation for all services performed as such the sum of nine hundred dollars per annum, to be paid out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid.

12. **Surveyor.** The surveyor, one thousand dollars per annum, for all work performed for the county and in addition thereto his actual necessary traveling expenses incurred in connection with field work, and also actual necessary expenses incurred in such field work and actual necessary expenses and costs of supplies in preparing maps, tracings, plats, diagrams for the county assessor or other county officer, when directed by him or them to prepare the same; provided, that whenever it is necessary to furnish, or otherwise make the county assessor a new and complete set of block-books, the board of supervisors may employ a competent draftsman for the purpose of making such block-books, who shall receive a salary of eight dollars per day for each day actually and necessarily employed, or contract with some other competent person for the making thereof. All of such expenses and costs shall be proper legal charges against the county and shall be allowed, audited

and paid out of the county treasury, in the same manner that other county charges are allowed, audited and paid. All fees, commissions or other compensation allowed to the surveyor in other counties of other classes, except fees or charges for surveys made for private persons and not directed by the board of supervisors or county officers for county uses or purposes, shall be collected by the surveyor and by him paid into the county treasury and no part thereof, except such fees or charges for such private surveys, shall be retained by him as part of his compensation.

13. Classification of townships. For the purpose of regulating the compensation of justices of the peace and constables, townships in counties of this class are hereby classified according to their population, as shown by the federal census of one thousand nine hundred ten as follows: Townships having a population of five thousand, or more, shall belong to and be known as townships of the first class; townships having a population of three thousand, and less than five thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand, and less than three thousand, shall belong to and be known as townships of the third class; and townships having a population of less than one thousand shall belong to and be known as townships of the fourth class.

14. Justices of peace. Justices of the peace shall receive the following salaries, which shall be paid monthly, out of the county treasury, in the same manner, at the same time and out of the same fund as salaries of county officers are paid, to wit:

1. In townships of the first class, one hundred dollars per month.
2. In townships of the second class, seventy dollars per month.
3. In townships of the third class, forty dollars per month.
4. In townships of the fourth class, twenty-five dollars per month.

In addition to the said monthly salaries herein provided for, each justice of the peace may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions or proceedings.

Justices of the peace, in townships of the first class, shall be allowed their actual office rent and necessary incidental expenses, not to exceed the sum of twenty-five dollars for any one month.

15. Constables. Constables shall receive the following salaries, which shall be paid monthly, out of the county treasury, at the same time, in the same manner and out of the same fund that salaries of county officers are paid, and which shall be in full of all services rendered by them in criminal cases, to wit:

1. In townships of the first class, seventy-five dollars per month.
2. In townships of the second class, fifty-five dollars per month.
3. In townships of the third class, thirty dollars per month.
4. In townships of the fourth class, twenty dollars per month.

Fees. In addition to said monthly salaries each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions or proceedings, and shall also be allowed all necessary expenses actually incurred in arresting and pursuing criminals and in conveying prisoners to court or to prison, which said actual necessary expenses shall be

allowed, audited and paid out of the county treasury, in the same manner other county charges are allowed, audited and paid.

16. **Supervisors.** Each member of the board of supervisors shall receive one thousand two hundred dollars per annum, payable in equal monthly installments and which shall be in full for all services rendered as supervisors.

17. **Jurors.** In counties of this class the fees of grand jurors and trial jurors, in the superior court, in civil and criminal actions and in all special proceedings, shall be three dollars a day for each day's attendance, and mileage, to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, or in attending sessions of the grand jury, in going only.

In criminal actions such fees and mileage of such trial jurors shall be paid by the treasurer, out of the general funds of the county, upon warrants drawn by the auditor, who shall draw such warrants upon the written order of the judge of the superior court in which said juror was in attendance, and the treasurer shall pay all such warrants. [Amendment approved May 3, 1919; Stats. 1919, p. 1112.]

This section was also amended in 1917. See Stats. 1917, p. 1119.

§ 4256. **Counties of twenty-seventh class, salaries of officers. San Luis Obispo.** In counties of the twenty-seventh class, the officers, their clerks, deputies, stenographers and assistants, shall receive, as compensation for the services required of them by law or by virtue of their offices or appointments the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand six hundred dollars per annum and such fees as are now or may hereafter be allowed by law; and provided, that in counties of this class, there shall be, and is hereby allowed to the county clerk one deputy who shall be appointed by said county clerk, who shall be paid a salary of one thousand eight hundred dollars per annum, and one deputy, who shall be appointed by said county clerk, and who shall be paid a salary of one thousand two hundred dollars per annum, which salary of said deputies herein provided for shall be paid out of the same fund, at the same time and in the same manner as the salaries of other county officers are paid; provided, further, that in any year when a registration of voters is required by law, the county clerk may appoint such number of deputies as may be necessary for the convenient registration of voters in their respective precincts, and that each of said deputies so appointed for such purpose shall receive as compensation therefor the sum of ten cents for each elector registered by each of said deputies, said compensation to be paid out of the general fund of the county on presentation and filing with the board of supervisors of said county a duly verified claim therefor approved by said county clerk.

2. **Sheriff.** The sheriff, five thousand five hundred dollars per annum.

3. **Recorder.** The recorder, two thousand dollars per annum and six cents for each folio recorded.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum, and he may also appoint a deputy, which office of deputy auditor is hereby created, whose salary shall be one thousand five hundred dol-

lars per annum, payable at the same time, out of the same fund and in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand seven hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum; and provided, that in counties of this class, there shall be, and is hereby allowed to the tax collector a deputy, who shall be appointed by said tax collector, who shall be paid a salary of one thousand two hundred dollars per annum, which said salary shall be paid at the same time, in the same manner, and out of the same fund as the salaries of other county officers are paid; provided, further, that in counties of this class there shall be and is hereby allowed to the tax collector one deputy for the period of time embraced between the first day of October and the thirty-first day of December in each fiscal year, which said deputy shall be appointed by said tax collector, and shall be paid a salary of seventy-five dollars per month during the period of time said deputy shall be employed and which salary shall be paid at the same time, in the same manner and out of the same fund as the salaries of other county officers are paid.

7. **Assessor.** The assessor, four thousand dollars per annum, and such fees and commissions as are now or may hereafter be allowed by law; and provided, that in counties of this class there shall be and there is hereby allowed the assessor, a deputy, who shall be appointed by said assessor and who shall receive a salary of one thousand eight hundred dollars per annum, payable out of the same fund and in the same manner as the salaries of county officers are paid; provided, further, that in counties of this class there shall be and there is hereby allowed the assessor, two copyists for a period not exceeding four months in any one year, at a salary of sixty dollars each per month.

8. **District attorney.** The district attorney, two thousand seven hundred fifty dollars per annum; he may also appoint an assistant district attorney, which office is hereby created, whose salary shall be sixteen hundred dollars per annum; and in counties of this class he may also appoint a clerk, who shall be a stenographer, which office of clerk to the district attorney is hereby created, whose salary shall be twelve hundred dollars per annum; the salaries of said assistant district attorney and clerk shall be payable as the salaries of other county officers.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum; and actual traveling expenses when visiting the schools of his county, and one deputy, at a salary of one thousand two hundred dollars per annum.

12. **Surveyor.** The surveyor, one thousand five hundred dollars per annum, for all work performed for the county; provided, that in counties of this class there shall be and hereby is allowed to the surveyor one assistant to be appointed by the surveyor, whose salary shall be nine hundred dollars per annum, payable at the same time, out of the same

fund and in the same manner as the salary of the surveyor is paid; and in addition thereto the surveyor shall be allowed actual traveling and other necessary expenses, incurred in connection with field work; provided, that whenever the surveyor is directed by the assessor to plat, trace or otherwise prepare maps, plats, or block-book for the use of the county assessor he shall be allowed only the actual cost of preparing the same.

13. **Justices of peace.** Justices of the peace in counties of this class shall receive the following monthly salaries to be paid each month in the same manner, at the same time and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than five thousand, one hundred fifty dollars per month; in townships having a population of more than two thousand five hundred and less than five thousand, seventy-five dollars per month; in townships having a population of more than one thousand and less than two thousand five hundred, thirty-five dollars per month; in townships having a population of more than five hundred and less than one thousand, twenty-five dollars per month; in townships having a population of less than five hundred, ten dollars per month. The board of supervisors of such counties shall furnish and maintain for the use of justices of the peace in townships having a population of two thousand five hundred or more, an office suitable for use as a courtroom, equipped with the necessary furniture for the proper and convenient conduct of business therein. The board of supervisors of such counties shall furnish and supply to the justices of the peace of the various townships in such counties the codes of this state and amendment thereto, and all necessary stationery, legal blanks and forms for the proper and convenient conduct of business.

14. **Constables.** The constables shall receive the following salaries to be paid each month as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases, and in all other criminal matters: In townships having a population of more than five thousand, one hundred dollars per month; in townships having a population of more than two thousand five hundred and less than five thousand, seventy-five dollars per month; in townships having a population of more than one thousand and less than two thousand five hundred, thirty-five dollars per month; in townships having a population of more than five hundred and less than one thousand, twenty-five dollars per month; in townships having a population of less than five hundred, ten dollars per month; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses in his own district, for the service of a warrant of arrest or any other process in a criminal case, or other criminal matters (when such service is in fact made) both going and returning, ten cents per mile; for each mile traveled out of his county, both going to and returning from the place of arrest in the service of process five cents per mile, and for transporting persons to the county jail ten cents per mile each way. In addition to the monthly salary allowed him herein each constable shall receive for his own use, the fees in civil cases, which are now or may hereafter be allowed by law.

15. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum, payable in monthly installments,

and for serving as road commissioner two hundred dollars per annum; also each shall be allowed paid his actual necessary traveling expenses incurred by him while engaged in the county business outside of his district whether within or without the boundaries of his county, also his actual necessary expenses in attending the annual state convention of members of county boards of supervisors; provided, that the expense of each member attending such convention shall not exceed forty dollars in any one year; also each supervisor shall be allowed and paid his traveling expenses, while supervising the roads of his district, at the rate of twenty cents per mile for each mile so traveled; provided, that the amount so allowed and paid shall not exceed the sum of seventy-five dollars in any one month.

16. Official reporter. In counties of this class the official phonographic reporter of the superior court shall receive as compensation for his services the fees and compensation now or hereafter provided by law, and in addition thereto shall receive five dollars per day when not actually engaged in reporting in said court, but when in attendance on said court in compliance with and as provided by section two hundred seventy-one of the Code of Civil Procedure, the said per diem of five dollars to be paid in the same manner as provided in criminal cases.

17. Time when act becomes operative. It is intended by this amendment that the increase of compensation hereby made for the district attorney and for each of the offices of the several members of the board of supervisors in counties of this class shall become operative as to each of said offices only upon expiration of its current term; but the provisions herein made for expenses of each member of such boards of supervisors and also the provisions increasing the salary of the deputy of the county clerk and the salary of the deputy of the assessor and the salary of the assessor's copyists and the salary of the assistant district attorney and the salary of the clerk to the district attorney shall become operative at the expiration of ninety days after the final adjournment of the present session of this legislature. [Amendment approved May 27, 1919; Stats. 1919, p. 1303.]

This section was amended twice at the legislative session of 1919. The other amendment is in the same language and can be found on page 1151 of the Statutes of 1919. This section was also amended in 1917. See Stats. 1917, p. 1038.

§ 4256a. Fees of jurors, counties of twenty-seventh class. San Luis Obispo. In counties of the twenty-seventh class the fees and mileage of jurors shall be as follows: Grand jurors and trial jurors whenever summoned to attend before the superior court shall be paid three dollars per day for each day's attendance, and mileage, to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending said court or in attending sessions of the grand jury, in going only. The court shall make an order directing the auditor to draw his warrant on the county treasurer for the amount due, and the treasurer shall pay the same; provided, however, that such jurors as shall be sworn to try issues in civil cases or special proceedings of a civil nature shall be paid as the court shall order except where otherwise provided by law. [New section added May 28, 1917; Stats. 1917, p. 1042.]

§ 4257. Counties of twenty-eighth class, salaries of officers. Shasta. In counties of the twenty-eighth class the county and township officers

shall receive as compensation for the services required of them by law or by virtue of their offices the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum, and when a new great register of voters is required by law to be made, he shall receive three hundred dollars additional, which shall be in full for all services required in registering voters and making the great register; provided, that in counties of this class there shall be and is hereby allowed to the county clerk, a deputy who shall be appointed by said county clerk, who shall be paid a salary of one thousand two hundred dollars per annum, said salary to be paid in monthly installments at the same time, in the same manner, and out of the same fund as the county clerk is paid, said deputy to be in lieu of the deputy now allowed to the county clerk under subdivision nineteen of section four thousand two hundred fifty-seven of the Political Code of the state of California; provided, further, that it is expressly provided that in counties of this class where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the county clerk one additional deputy to act as courtroom clerk for each judge so appointed or elected, at a salary not exceeding one thousand two hundred dollars per annum for each of said deputies, to be paid at the same time and in the same manner as other county officers are paid.

2. **Sheriff.** The sheriff, five thousand one hundred dollars per annum, and he is hereby allowed, in addition thereto, one under-sheriff to be appointed by him, who shall receive one thousand two hundred dollars per annum, whose salary shall be paid by the county, in monthly installments, at the same time and in the same manner and out of the same fund as the sheriff is paid; provided, however, that said under-sheriff shall be in lieu of the deputy now allowed under subdivision nineteen of section four thousand two hundred fifty-seven of the Political Code of the state of California; provided, further, that in counties of this class where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county by reason of such increase one additional deputy to be appointed by the sheriff at a salary not exceeding one thousand two hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid.

Said sheriff shall also have for his own use all fees, commissions and mileage for the service of all papers served by him and issued without his county.

3. **Recorder.** The recorder, three thousand two hundred dollars per annum, in full of all services, including filing and recording, mining and other location notices.

4. **Auditor.** The auditor, two thousand dollars per annum, and he is hereby allowed one deputy to be appointed by him, who shall receive one thousand dollars per annum, whose salary shall be paid by the county, in equal monthly installments, at the same time and in the same manner as the auditor is paid. The county auditor shall charge and collect for the clerical service of making estimates of tax sales provided for

in section three thousand eight hundred seventeen of this code the sum of twenty-five cents for each tax sale if the property is delinquent for two years or less; the sum of fifty cents for each sale if the property is delinquent for more than two years. If said estimates are returned to the auditor and redemptions made within thirty days from date of issue and prior to the change of penalty, as provided for in section number three thousand eight hundred seventeen of this code, the amount charged for making said estimates shall be refunded to the redemptioner. If the redemption is not made as herein provided then the sum charged for making the estimate shall be paid into the county treasury.

5. Treasurer. The treasurer, two thousand four hundred dollars per annum; provided, that all commissions received by the treasurer on the collection of inheritance taxes shall be paid into the county treasury.

6. Tax and license collector. The tax and license collector, two thousand dollars per annum in full compensation for all services, save and except that he be allowed a deputy, to be appointed by him, for eight months of each year, at a compensation of seventy-five dollars per month; the salary of said deputy to be paid by the county; provided, that all commissions and fees heretofore retained by the tax and license collector shall be paid into the county treasury.

7. Assessor. The assessor, three thousand dollars per annum, and he is hereby allowed in addition thereto ten deputies, to be appointed by him, who shall each receive not to exceed four dollars per day while engaged in the performance of their duties; provided, that the amount paid for services of deputy assessors shall not exceed two thousand four hundred dollars in any one year; provided, that all commissions heretofore retained by the county assessor shall be paid into the county treasury.

8. District attorney. The district attorney, two thousand one hundred dollars per annum, and he is hereby allowed in addition thereto one deputy appointed by him, who shall receive nine hundred dollars per annum; provided, that the district attorney is entitled to receive and retain for his own use fifteen dollars to be taxed as costs for each suit brought under the provisions of article six, chapter one, title eight of part three of the Political Code.

9. Coroner. The coroner, such fees as are now or may be hereafter allowed by law.

10. Public administrator. Public administrator, such fees as are now or may be hereafter allowed by law.

11. Superintendent of schools. The superintendent of schools, one thousand eight hundred dollars per annum, and necessary expenses for traveling in visiting schools in the county, to be allowed by the supervisors of the county; and there shall be, and there is allowed to the superintendent in addition, a clerk or bookkeeper, who shall be appointed by the superintendent of schools, who shall be paid a salary of six hundred dollars per annum, said salary to be paid by such county in monthly installments at the time and in the same manner and out of the same fund as the salaries of county officers are paid.

12. **Surveyor.** The surveyor, ten dollars per day for all work performed for the county, and, in addition thereto, all necessary expenses and transportation for work performed in the field, which per diem and expenses shall be in lieu of all fees and per diem heretofore allowed by law.

13. **Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of one thousand nine hundred ten as follows: Townships having a population of three thousand and more shall belong to and be known as townships of the first class; townships having a population of two thousand five hundred and less than three thousand shall belong to and be known as townships of the second class; townships having a population of one thousand eight hundred and less than two thousand five hundred shall belong to and be known as townships of the third class; townships having a population of one thousand four hundred twenty-five and less than one thousand four hundred fifty shall belong to and be known as townships of the fourth class; townships having a population of one thousand four hundred fifty and less than one thousand eight hundred shall belong to and be known as townships of the fifth class, and townships having a population of less than one thousand four hundred twenty-five shall belong to and be known as townships of the sixth class.

14. **Justices of the peace.** Justices of the peace shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid, out of the general fund of the county and which shall be in full for all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred ten dollars per month; in townships of the second class, ninety dollars per month; in townships of the third class, seventy-five dollars per month; in townships of the fourth class, seventy-five dollars per month; in townships of the fifth class, fifteen dollars per month; and in townships of the sixth class, fifteen dollars per month. In addition to the monthly salaries herein allowed for services in criminal actions, cases and examinations, each justice of the peace may, for his own use, collect the following fees, and no other, in civil actions; provided, that the existing fee bill for the justices of the peace in counties of this class be repealed and the general fee bill of the state of California as provided for justices of the peace in section four thousand three hundred of the Political Code be substituted therefor.

15. **Constables.** Constables shall receive the following salaries, which shall be paid monthly, in the same manner as the salaries of county officers are paid out of the general fund of the county, and which shall be in full of all services rendered by them in criminal cases, to wit: In townships of the first class, one hundred dollars per month; in townships of the second class, seventy-five dollars per month; in townships of the third class, seventy-five dollars per month; in townships of the fourth class, seventy-five dollars per month; in townships of the fifth class, fifteen dollars per month; and in townships of the sixth class, fifteen dollars per month. In addition to the monthly salaries herein allowed for services in criminal actions, cases and proceedings, each

constable shall also be allowed all necessary expenses actually and properly incurred, in arresting and conveying prisoners to court or to prison, and also all necessary expenses actually incurred in the transportation of prisoners from prison to court, and the return of said prisoner to prison; and shall be allowed, also, for each mile actually traveled, both in going and coming in the service of subpoenas, in criminal actions, per mile, ten cents; which said expense and mileage shall be audited and allowed by the board of supervisors as other claims against the county are audited and allowed, and shall be paid out of the county treasury.

In addition to the monthly salaries herein allowed for services in criminal actions and cases, each constable may, for his own use, collect the following fees, and no others, in civil actions:

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when actually made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest, or for delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than one dollar and fifty cents per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint and subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, fifty cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, in civil actions, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in civil actions, in going only, twenty-five cents per mile; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage shall be charged, allowed, or paid in criminal or civil cases.

For each day's attendance in court, in civil cases, three dollars per day.

For executing a search warrant, two dollars; and for each mile necessarily traveled within his own county in executing a search warrant, both in going and returning from the place of search, fifteen cents; said fee and mileage to be paid by the party demanding the search.

For summoning a jury, in civil cases, two dollars, including mileage.

For commissions for receiving and paying over money on execution without levy, or when the goods or land levied on shall not be sold,

one per cent. The fees herein allowed for the levy of an execution, and for making or collecting the money on execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the sum herein directed to be paid.

16. When new township formed. Payment of fees. It is expressly provided that in counties of this class, where a township has been created, or may hereafter be created out of any township, the population of which is shown in the federal census of nineteen hundred ten, the population of the newly created township and the population of the township from which the newly created township was taken shall be separately ascertained and determined by the board of supervisors in the following manner: By appointing a suitable person in each of such townships to take said census, and said census shall be taken by said person so appointed of all the inhabitants of each of said townships; the full name of each person shall be fully written, the names alphabetically and regularly numbered in one complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the county clerk, and thereupon the same shall be the official census of said township or townships. The expense of taking said census shall be a county charge. From the taking of such census the salary of the justices of the peace and of the constables of the newly created township, and the township from which the newly created township was taken, shall be estimated and paid on the basis of the classification hereinbefore given under the federal census of nineteen hundred ten pro rata according to the population of the newly created and former township as shown by the census taken as hereinbefore provided to be ascertained and determined by the board of supervisors. County officers must, and township officers may, demand the payment of all fees in advance. Justices of the peace shall, on or before the first Monday of each month, pay into the county treasury all moneys collected by them on fines imposed and collected and all moneys belonging to the county coming from any source.

17. Supervisors. Each member of the board of supervisors, one thousand five hundred dollars per annum and ten cents per mile, one way between residence and county seat, in attending upon all regular, special or adjourned meetings of the board of supervisors; provided, that the chairman of the board of supervisors may receive twenty-five cents per mile, one way, between residence and the county seat, when attending at the county seat for the single purpose of counting the money in the county treasury as required by law. [Amendment approved May 28, 1917; Stats. 1917, p. 1016.]

§ 4258. Counties of twenty-ninth class, salaries of officers. Siskiyou. In counties of the twenty-ninth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, three thousand five hundred dollars per annum and such fees as are now or may be hereafter by law; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk, one clerk, which office is hereby created, at a salary of one hundred dollars per month and who shall be appointed

by the county clerk. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time, and in the same manner and out of the same fund as the salary of the county clerk is paid.

2. **Sheriff.** The sheriff, six thousand dollars per annum.

3. **Recorder.** The recorder, three thousand five hundred dollars per annum.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the auditor one clerk, which office is hereby created, at a salary of seventy-five dollars per month, and who shall be appointed by the auditor. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the auditor is paid.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum; provided, he shall have power to appoint one deputy at a salary of seventy-five dollars per month, payable at the same time and in the same manner as that of other county officers; and provided, further, that in counties of this class all the fees and commissions of every name and nature received by the tax collector shall be paid into the county treasury.

7. **Assessor.** The assessor, four thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the assessor one clerk, which office is hereby created, at a salary of one hundred dollars per month, and who shall be appointed by the assessor. The salary of said clerk herein provided for shall be paid by said county in monthly installments at the same time, and in the same manner, and out of the same fund as the salary of the assessor is paid. The assessor may also appoint five field clerks, which offices of field clerks are hereby created, to serve not exceeding sixty days in any one year, and said field clerks shall receive as compensation for all services performed as such, the sum of five dollars per day for each day actually and necessarily employed as such, to be paid out of the county treasury in the same manner, at the same time and out of the same fund as the salaries of the county officers are paid; provided, that each field deputy, when so employed, shall file with the auditor a statement verified by the oath of such field deputy and approved by the assessor, showing the number of days actually and necessarily employed in the duties of such employment during the period covered by said statement, before any warrant for the payment of such compensation shall be drawn by the auditor. All commissions, fees or compensation for the collection of taxes on personal property, for services in making out the roll of persons subject to military duty, and all other fees and commissions shall be collected by the assessor and by him paid into the county treasury and no part shall be retained by him as part of his compensation.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum, and he is hereby allowed in addition to one clerk to be appointed by him, who shall receive nine hundred dollars per annum, said salary to be paid in the same manner, at the same time, and out of the same fund as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand one hundred dollars per annum and actual traveling expenses when visiting schools of his county, and such per diem as he may now or hereafter be allowed by law for his services on the board of education; provided, that in counties of this class there is allowed to the superintendent of schools one clerk, whose office of clerk is hereby created, at a salary of seventy-five dollars per month, and who shall be appointed by the superintendent of schools. The salary of said clerk is to be paid at the same time, in the same manner, and out of the same fund as the salaries of the other county officers are paid.

12. **Surveyor.** The county surveyor, two thousand seven hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the surveyor one deputy, who shall be appointed by the surveyor of said county, and shall be paid a salary of one thousand five hundred dollars per annum; the salary of the surveyor shall be paid by such county in equal monthly installments at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid. The county surveyor shall make up all maps, plats and block-books required by the county assessor; he shall do all work for the county in which the county employs a surveyor or civil engineer; he shall have general advisory supervision over all road and bridge work for the county and shall file annually with the board of supervisors a statement, which shall be published as a part of the proceedings of said board, showing the cost of a road and bridge construction in the county, also the cost per mile of maintaining the different roads of the county for the preceding year; and provided, further, that when in the judgment of the board of supervisors of the county it is necessary to employ additional assistants for the performance of any of said work, the board of supervisors shall allow the necessary actual expense thereof; and provided, further, that said county surveyor shall be allowed all necessary transportation and expenses incurred by himself or deputies for work performed in the field; the salary of the deputy herein provided for shall be paid to said county in monthly installments at the same time and in the same manner and out of the same fund as other county officers are paid. The salary herein fixed for said surveyor shall be in lieu of all fees, commissions or compensation of whatsoever kind or nature for services performed by said surveyor for said county. All acts or parts of laws relative to such fees, commissions or compensation for work performed for counties of this class by such county surveyor are hereby repealed.

13. Justices of the peace. Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered in both civil and criminal cases: In townships where the population is three thousand five hundred, or more, seventy-five dollars per month, and said justice of the peace shall be furnished with offices and necessary supplies by the board of supervisors of said county; in townships where the population is two thousand five hundred, or more, and less than three thousand five hundred, fifty dollars per month; in townships where the population is one thousand five hundred, or more, and less than two thousand five hundred, thirty-five dollars per month; in townships where the population is one thousand, or more, and less than one thousand five hundred, twenty-five dollars per month; in townships where the population is less than one thousand, fifteen dollars per month; provided, that all fees and fines chargeable and collectible by justices of the peace in civil and criminal cases for services rendered by them shall be collected by them and by them paid monthly into the county treasury; provided, further, that for the purpose of this subdivision, the population of the several townships shall be ascertained by the board of supervisors, by multiplying the number of registered voters at the last general election of each township by three.

14. Constables. Constables, in townships having a population of two thousand or more, shall receive a monthly salary of fifty dollars per month; in townships having a population of one thousand or less than two thousand, shall receive a salary of forty dollars per month and in townships having a population of less than one thousand shall receive a salary of twenty dollars per month. Constables shall also receive actual traveling expenses in transporting prisoners to the county jail. The salaries of township officers, herein provided for, shall be paid monthly, in the same manner as the salaries of the county officers are paid, and shall be in full compensation for all services rendered by them in criminal cases.

15. Supervisors. The meetings of the board of supervisors shall be monthly and shall be held on the first Monday of each and every month. Each member of the board of supervisors is to receive a salary of one thousand two hundred dollars per annum and mileage at the rate of twenty cents per mile from his home to and from county seat.

16. Fees of jurors. Grand jurors and trial jurors in the superior court shall receive from each day's attendance per day the sum of three dollars. In justices' courts in civil and criminal cases, the jurors sworn to try the case shall receive for each day's attendance per day the sum of two dollars. All jurors shall receive for each mile actually and necessarily traveled from his residence to the place of service the sum of fifteen cents per mile; provided, that in justice courts mileage shall be allowed only to those sworn to try the case. [Amendment approved May 28, 1917; Stats. 1917, p. 1013.]

§ 4259. Counties of thirtieth class, salaries of officers. Ventura. In counties of the thirtieth class the county officers shall receive as compensation for the services required of them, by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand five hundred per annum; provided, that in counties of this class there shall be there hereby is, allowed to the county clerk the following deputies shall be appointed by the county clerk and who shall be paid salary as follows: One chief deputy clerk, at a salary of one hundred twenty dollars per month, one deputy clerk at a salary of one hundred dollars per month, and one stenographer at a salary of seventy-five dollars per month. The salaries of the deputies hereinabove provided for shall be paid by the county in monthly installments, at the time and in the manner, and out of the same fund as the salaries of other county officers are paid; provided, that there shall be and hereby is allowed to the county clerk for the making of a complete registration of voters and revising the same from time to time, as required by law, such additional deputy or deputies as he may require and whose compensation in the aggregate shall not exceed five hundred dollars in any one year; provided, further, that the county clerk shall file with the county auditor a certified statement showing in detail the amount and persons to whom said compensation is paid. Such salaries of such deputies shall be paid out of the same fund as the salaries of other county officers are paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the sheriff the following deputies, who shall be appointed by the sheriff and shall be paid salaries as follows, to wit: One under-sheriff at a salary of two hundred dollars per month, one deputy sheriff at a salary of one hundred dollars per month, and one deputy sheriff at seven dollars per month, who shall be head jailer at the county jail in said county; provided, that if the sheriff shall not be allowed the privilege of boarding the prisoners as heretofore provided, in this county the deputy who shall be head jailer shall receive the salary of one hundred dollars per month; said sheriff and his deputies shall be allowed their actual traveling expenses in the performance of their duties and no other fees or mileage of any nature or kind shall be allowed in civil or criminal matters; all fees of every nature and kind collected by the sheriff shall be turned into the county treasurer. The salaries of the deputies hereinbefore provided shall be paid in monthly installments out of the same fund as the salaries of other county officers are paid.

3. **Recorder.** The recorder, three thousand dollars per annum; provided, that in counties of this class, there shall be and there is allowed to the recorder two copyists who shall be appointed by the recorder of said county, each of whom shall be paid a salary of seventy-five dollars per month, which salaries shall be paid by said county in monthly installments, at the same time and in the same manner out of the same fund as the salaries of other county officers are paid.

4. **Auditor.** The auditor, one thousand eight hundred dollars per annum.

5. **Tax collector.** The tax collector, two thousand one hundred dollars per annum; provided, that in counties of this class, there shall be and there hereby is allowed to the tax collector a deputy to be appointed by the tax collector, who shall receive a salary of seventy-five

per month, which salary shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid.

6. **Assessor.** The assessor, three thousand six hundred dollars per annum; and said assessor may appoint one chief deputy, who shall receive a salary of one thousand two hundred dollars per annum, which salary shall be paid by the county in equal monthly installments; also, he may appoint other field deputies whose compensation in the aggregate shall not exceed two thousand dollars in any one year, payable to them in installments, at such time and in such amounts as may be designated by the assessor; provided, that the assessor shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom said compensation is paid. All of the salaries of the above deputies shall be paid in the same manner and out of the same fund as the salaries of other county officials are paid. All commissions or fees now or hereafter allowed by law shall be paid into the county treasury and no compensation shall be allowed the assessor for preparing the military roll of a county of this class. The office of the county assessor shall be kept open on each and every day, except Sundays and legal holidays, from nine o'clock A. M. to twelve o'clock M., and from one o'clock P. M. to five o'clock P. M. The changes provided in this section do not affect an increase in the compensation of a county officer and shall apply immediately to incumbents.

7. **Treasurer.** The county treasurer, two thousand one hundred dollars per annum; provided, that all commissions received by the treasurer on the collection of inheritance taxes shall be paid into the county treasury; provided, further, that in counties of this class the county treasurer may appoint a deputy or deputies whose compensation in the aggregate shall not exceed three hundred dollars in any one year, payable to them in installments at such times and in such amounts as may be decided by the county treasurer; provided, that said treasurer shall file with the county auditor a verified statement showing in detail the amounts and the persons to whom said compensation is paid. All of the salaries of such deputies shall be paid in the same manner and out of the same fund as the salaries of other county officials are paid.

8. **District attorney.** The district attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the district attorney a stenographer who shall be appointed by the district attorney, and whose salary is hereby fixed at the sum of nine hundred dollars per annum, which shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as is the salary of the district attorney; said stenographer shall not receive other compensation by reason of services as stenographic reporter in any action or proceeding wherein the fee or per diem of the stenographic reporter constitutes a charge against the county; and provided, further, that the district attorney in counties of this class shall devote his entire time to the duties of the office and shall not engage in private practice. The amendments provided for in this subdivision as to the district attorney shall take effect on the first Monday in January, 1923. The amendment provided for in this subdivision as to a stenographer for the office of district attorney shall apply immediately upon the taking effect of this act.

9. **Coroner.** The coroner, such fees as are now or may hereafter allowed by law.

10. **Public administrator.** Public administrator, such fees as are or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, thousand five hundred dollars per annum. His office shall be kept on all business days from nine A. M. to twelve M., and from one P. to five P. M. He shall be allowed his actual traveling expenses, visiting the schools of this county and such per diem as is now or hereafter be allowed by law for services as a member of the board of education; provided, that in counties of this class there be and there hereby is allowed to the superintendent of schools a deputy to be appointed by the superintendent of schools, who shall receive the county a salary of one thousand dollars per annum, which shall be paid by the county in equal monthly installments, and the said salary shall be paid at the same time and in the same manner out of the same funds as is the salary of the superintendent of schools.

12. **Surveyor.** The county surveyor, two thousand five hundred dollars per annum; provided, that if the county surveyor shall be appointed superintendent of the permanent highways in the county constructed under bond issue, under any statute of this state providing for appointment of such superintendent, then and in that event said county surveyor shall receive a salary of four thousand dollars per annum; said surveyor may appoint one chief deputy surveyor who shall receive a salary of one thousand eight hundred dollars per annum; also, the county surveyor may appoint another deputy or deputies, the compensation to said deputy or deputies in the aggregate not to exceed two hundred dollars in one year, payable to such deputy or deputies in installments, at such times and in such amounts as may be designated by the county surveyor; provided, that the county surveyor shall with the county auditor a verified statement showing in detail amounts and the persons to whom said compensation is paid; provided further, that in counties of this class there shall be and there hereby is allowed to the county surveyor a stenographer who shall be appointed by said county surveyor and whose salary is hereby fixed at the sum of nine hundred dollars per annum. The salary of said chief deputy surveyor and said stenographer shall be paid in the same manner and out of the same funds as the salaries of county officers are paid.

13. **Board of education.** In counties of this class, each member of the county board of education shall receive five dollars for each day the board of education is in session, not to exceed a total of three hundred fifty dollars per annum. In addition each member shall receive the same mileage as is allowed the members of the board of supervisors of said county. Compensation of the members of the county board of education shall be payable out of the same funds and in the same manner as is the salary of the county superintendent of schools.

14. **Justices of peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered in civil and criminal cases: In townships where the population is four thousand or more, one hundred fifty dollars per month, and said justices

the peace shall be furnished with offices and necessary supplies by the board of supervisors of said county; in townships where the population is two thousand and less than four thousand, eighty dollars per month; in townships where the population is one thousand and less than two thousand, forty dollars per month; in townships where the population is less than one thousand, twenty dollars per month; provided, that the justice of the peace shall, before receiving his monthly salary, file with the auditor a statement of all fines received, together with the treasurer's receipt for same; provided, further, that no justice of the peace shall hold the office of city recorder.

15. Constables. Constables shall receive the following monthly salaries to be paid each month as salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships where the population is four thousand or more, eighty dollars per month; in townships where the population is two thousand and less than four thousand, seventy dollars per month; in townships where the population is one thousand and less than two thousand, fifty dollars per month; in townships where the population is less than one thousand, twenty-five dollars per month. In addition to the monthly salary herein allowed, each constable may retain for his own use such fees as are now or may hereafter be allowed by law for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting or conveying prisoners to court or to prison, which said expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury.

16. Population of townships. For the purposes of subdivisions fourteen and fifteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors of said county at their regular meeting in the month of December following the election of justices of the peace and constables in said county, by multiplying by three the number of registered voters in said township as shown by the register prepared by the county clerk of said county for the general election next preceding the date of such determination. It is hereby found, as a fact, that the salaries provided for in subdivisions fourteen and fifteen do not work an increase in the compensation and the same shall apply immediately to incumbents.

17. Supervisors. Each member of the board of supervisors, one thousand two hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board at the county seat, and twenty cents per mile in traveling from his residence to the county seat; provided, that not more than one mileage for any one regular session of the board shall be allowed, and not more than one mileage for any special session of the board shall be allowed.

18. Salaries payable monthly. The salaries of all county and township officers and their deputies shall be payable in monthly installments on the first day of each month.

19. Jurors. For acting as a grand juror in the superior court, for each day's attendance per day, three dollars. For every mile actually traveled in attending court as a grand juror in going only, twenty five

cents per mile. [Amendment approved May 27, 1919; Stats. p. 1069.]

This section was also amended in 1917. See Stats. 1917, p. 1

§ 4260. Counties of thirty-first class, salaries of officers. Placer counties of the thirty-first class the county and township officers receive, as compensation for the services required of them by law by virtue of their offices, the following salaries and fees, to wit:

1. **County clerk.** The county clerk, three thousand two hundred dollars per annum; and also such compensation as is now or may after be allowed by law; and in each year in which a new and complete registration of voters is required by law he shall receive such an amount as shall be necessary to pay deputy registration clerks for taking oaths of registration outside of the office at the rate of ten cents each, and such an amount as shall be necessary to pay deputies in the office for enrolling the registrations upon the great register at the rate of four cents each, the claims for which shall be presented and allowed by the board of supervisors as other claims are presented and allowed; he may also appoint a deputy clerk, which office of deputy clerk is hereby created, whose salary shall be nine hundred dollars per annum, payable as the salaries of county officers are paid.

2. **Sheriff.** The sheriff, six thousand dollars per annum.

3. **Recorder.** The recorder, two thousand two hundred fifty dollars per annum; provided, that such recorder shall collect and pay into county treasury for the use and benefit of the county the fees required by law to be so collected; and provided, that when the amount of fees so collected shall amount to more than two hundred dollars in any one month, the said recorder may receive and retain for his use, in addition to his salary, one-half of all fees in excess of two hundred dollars in one month so collected; and provided, that in counties of this class the recorder may appoint two deputy recorders in service in his office, which offices of deputies for the county recorder are hereby created, and said deputies shall receive as compensation for their services the sum of nine hundred dollars each per annum, to be paid out of the county treasury in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, two thousand dollars per annum; he may also appoint a deputy auditor, which office of deputy auditor is hereby created, whose salary shall be seventy-five dollars per month, payable as the salaries of all other county officers are paid. The provisions of this subsection do not increase the compensation of a county auditor and shall take effect immediately.

5. **Treasurer.** The treasurer, two thousand dollars per annum; provided, that in counties of this class the treasurer may appoint a deputy treasurer, which office of deputy treasurer is hereby created, and said deputy treasurer shall receive as compensation for such services the sum of nine hundred dollars per annum, to be paid out of the county treasury in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the treasurer is paid.

6. **Tax collector.** The tax collector, one thousand dollars per annum; provided, that said tax collector shall perform the duties and receive and retain for his own use, the fees provided by law for the license tax collector.

7. **Assessor.** The assessor, four thousand two hundred fifty dollars per annum; provided, that in counties of this class the assessor may appoint a field deputy, which office of field deputy is hereby created, who shall hold office from the first day of March of each year up to and including the last day of July of each year. The salary of said field deputy herein provided for is fixed at the sum of one hundred fifty dollars per month, to include expenses for each month during which the said field deputy holds office, as herein provided. The salary of said field deputy shall be paid at the same time, in the same manner and out of the same fund as the salaries of other county officers are paid.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum; he may also appoint a deputy, which office of deputy district attorney is hereby created, whose salary shall be one thousand dollars per annum, payable as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, including services on the board of education. He shall be allowed his actual traveling expenses not to exceed three hundred dollars per annum; he shall also be allowed one deputy whose salary shall be fifty dollars per month, payable the same as the salary of county officers; provided, that he shall keep his office open from nine o'clock A. M. to five o'clock P. M., of each business day.

12. **Surveyor.** The surveyor shall receive a per diem of ten dollars for all work performed for the county, in addition thereto all necessary expenses and transportation on work performed in the field.

13. **Justices of peace.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships of this class of counties are hereby classified according to population. The population shall be determined by the board of supervisors upon the enactment of this act, and also at the time of the formation of any new township or townships. The board may determine such population by multiplying by three the number of registered voters at the last general election next preceding the date of such determination.

Townships having a population of five thousand eight hundred or more shall belong to and be known as townships of the first class; townships having a population of four thousand and less than five thousand eight hundred shall belong to and be known as townships of the second class; townships having a population of three thousand and less than four thousand shall belong to and be known as townships of the third class; townships having a population of two thousand

two hundred and less than three thousand shall belong to and be known as townships of the fourth class; townships having a population of one thousand seven hundred and less than two thousand two hundred shall belong to and be known as a township of the fifth class; townships having a population of one thousand two hundred and less than one thousand seven hundred shall belong to and be known as townships of the sixth class; townships having a population of one hundred and less than one thousand two hundred shall belong to and be known as townships of the seventh class; townships having a population of three hundred and less than six hundred shall belong to and be known as townships of the eighth class; townships having a population of less than three hundred shall belong to and be known as townships of the ninth class.

Justices of the peace shall receive the following salaries: In townships of the first class, the sum of nine hundred dollars for the period beginning with the date upon which the act becomes effective and ending December 31, 1915, and thereafter a salary of nine hundred dollars per annum; in townships of the second class, the sum of seven hundred eighty dollars for the period beginning with the date upon which the act becomes effective and ending December 31, 1915, and thereafter a salary of seven hundred eighty dollars per annum; in townships of the third class, the sum of six hundred sixty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of six hundred sixty dollars per annum; in townships of the fourth class, the sum of five hundred dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of five hundred dollars per annum; in townships of the fifth class, the sum of three hundred twenty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of three hundred twenty dollars per annum; in townships of the sixth class, the sum of two hundred forty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of two hundred forty dollars per annum; in townships of the seventh class, the sum of one hundred eighty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of one hundred eighty dollars per annum; in townships of the eighth class, the sum of one hundred twenty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of one hundred twenty dollars per annum; in townships of the ninth class, the sum of sixty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of sixty dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid and shall be compensated in full for all services rendered.

All fees received by justices of the peace shall be paid into the county treasury every month.

14. Constables. The constable shall receive the following fees: For serving summons and complaint, for each defendant s

one dollar; for each copy of summons for service when made by him, twenty-five cents; for levying writ of attachment or execution or executing order of arrest or for the delivery of personal property, one dollar; for keeping personal property, such sum as the court may order, but no more than two dollars per day shall be allowed for a keeper when necessarily employed; for taking bond or undertaking, fifty cents; for copies of writs and other papers, except summons, complaints and subpoenas, per folio ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for copies, for serving any writ, notice or order, except summons, complaint or subpoenas, for each person served, fifty cents; for writing and posting each notice of sale of property, twenty-five cents; for serving subpoenas, each witness, including copy, twenty-five cents; for collecting money on execution, two and one-half per cent, to be charged against the defendant named in the execution; for executing and delivering a certificate of sale, one dollar; for executing and delivering constable's deeds, two dollars; for every mile necessarily traveled in his township, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to a prison, twenty-five cents, outside of his township, but within his county, twenty cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the more distant if they live in the same direction; for each mile traveled outside his county in making criminal arrests, both going and returning from the place of arrest ten cents; in transporting prisoners to the county jail, or before a magistrate, either upon arrest or for trial or examination, or after conviction, he shall receive in addition to the above mileage his actual and necessary expenses for himself and prisoners; provided, that if two or more prisoners are transported at the same time, no more than one mileage shall be allowed; for making each arrest in criminal cases, one dollar and fifty cents for sales of estrays, the same fees as for sales on execution; for summoning a jury, two dollars, including mileage; for all other services, the same fees as are allowed sheriffs for like services; provided, further, that no more than sixty dollars shall be allowed to any constable in counties of this class in any one month for fees and mileage in criminal matters.

15. **Supervisors.** Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to and from the county seat; provided, such mileage shall not be allowed more than once a month; and for his services as road commissioner he shall receive twenty cents a mile one way, for all distances actually and necessarily traveled by him in the performance of his duties; provided, he shall not in any one year receive more than three hundred dollars as such road commissioner. The road commissioners shall be reimbursed for all traveling, personal and other necessary expenses while actually engaged in the performance of their duties upon the road; provided, that the full amount of expenses incurred shall not exceed six hundred dollars in any one year, to be allowed as any other claim by the board of supervisors.

16. **Probation officer.** The probation officer, one thousand two hundred dollars per annum; provided, further, that said probation officer shall devote his entire time to the performance of the duties of said office.

17. **Jurors.** In counties of this class grand jurors and jurors in superior court shall receive for each day's attendance the sum of ten dollars, and for each mile actually and necessarily traveled from residence to county seat the sum of twenty-five cents; such mileage to be allowed but once during each session such jurors are required to attend. [Amendment approved March 25, 1919; Stats. 1919, p. 9.]

This section was also amended in 1917. See Stats. 1917, p. 116.

§ 4261. **Counties of the thirty-second class, salaries of officers and Kings.** In counties of the thirty-second class, the county officers shall receive as compensation for their services required of them by law, and by virtue of their office, the following salary or fees, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum, and one deputy at a salary of one thousand five hundred dollars per annum, and one deputy at a salary of one thousand dollars per annum. The salary of said deputies to be payable monthly in the same manner as the salaries of the other county officers are paid; provided, further, however, that in each year in which a new and complete registration of voters is required by law the county clerk shall appoint an additional deputy or deputies whose compensation in the aggregate shall not exceed four hundred dollars in any one year; provided, further, that the county clerk shall file with the county auditor a certified statement showing in detail the amount and persons to whom said compensation is paid. Such salaries of such deputies shall be paid out of the same fund as the salaries of the other county officers are paid.

2. **Sheriff.** The sheriff, three thousand dollars per annum and fees for the service of process issued without his county. He shall have one jailer at a salary of one hundred dollars per month, one bailiff at a salary of one hundred dollars per month, and one deputy at a salary of one hundred dollars per month, which office is hereby created. The salary of said jailer, bailiff and deputy payable monthly in the same manner as the salaries of the other county officers are paid.

3. **Recorder.** The recorder, two thousand dollars per annum, and one copyist at a salary of one thousand two hundred dollars per annum, which office of copyist is hereby created, and one copyist at a salary of one thousand two hundred dollars per annum, which office of copyist is hereby created, the salary of said copyist payable monthly in the same manner as the salaries of other county officers are paid.

4. **Auditor.** The auditor, two thousand dollars per annum and one deputy at a salary of one thousand two hundred dollars per annum, which office of deputy auditor is hereby created, the salary of said deputy payable monthly in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum, and one deputy at a salary of one hundred dollars per month; one copyist for four months beginning August fifteenth, ending December fifteenth at one hundred dollars per month; one copyist for two months beginning October fifteenth ending December fifteenth at one hundred dollars per month; which offices of deputy tax

lector and copyists are hereby created, the salary of said deputy and copyists payable monthly in the same manner as the salaries of other county officers are paid.

7. **Assessor.** The assessor, four thousand five hundred dollars per annum; one chief deputy, which office of chief deputy assessor, is hereby created, at a salary of one thousand five hundred dollars per annum, payable monthly in the same manner as the salaries of other county officers are paid; one copyist for a period of four months in each year, which office of copyist is hereby created, at a salary of one hundred dollars per month, payable during the months of March, April, May and June of each year, in the same manner as the salaries of other county officers are paid. The assessor may also appoint such number of additional deputies as he shall deem necessary, the salaries of such additional deputies to be paid by the assessor out of his salary above provided for. All sums collected by the assessor or his deputies as fees or commissions allowed by law for the collection of personal property taxes, for making the military roll and for commissions now or hereafter allowed by law for the collection of poll taxes, shall be paid into the county treasury, for the use of said county, monthly as collected, with a statement of account of such collection.

8. **District attorney.** The district attorney, two thousand dollars per annum; one stenographer at a salary of nine hundred dollars per annum, which office of stenographer is hereby created, the salary of said stenographer payable monthly in the same manner as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now, or may be hereafter provided by law.

10. **Public administrator.** The public administrator, such fees as are now, or may be hereafter provided by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and one clerk, which office of clerk to the superintendent of schools is hereby created, at a salary of one thousand two hundred dollars per annum, payable monthly in the same manner as the salaries of other county officers are paid.

12. **Surveyor.** The surveyor, such fees as are now, or may be hereafter provided by law.

13. **Supervisors.** Supervisors, each the sum of eight hundred dollars per annum in full for all services performed by them as supervisors, and as members of the board of equalization, and road commissioners, and in any and every capacity.

14. **Justices of peace. Constables.** Justices of the peace shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than six thousand, one hundred dollars per month; in townships having a population of less than six thousand and more than three thousand, seventy-five dollars per month; in townships having a population of less than three thousand and more than seven hundred fifty, forty-five dollars per month; in townships having a population of

17. **Jurors.** In counties of this class grand jurors and jurors in superior court shall receive for each day's attendance the sum of dollars, and for each mile actually and necessarily traveled from dence to county seat the sum of twenty-five cents; such mileage allowed but once during each session such jurors are required to at [Amendment approved March 25, 1919; Stats. 1919, p. 9.]

This section was also amended in 1917. See Stats. 1917, p. 11

§ 4261. **Counties of the thirty-second class, salaries of officers.** **Kings.** In counties of the thirty-second class, the county officers receive as compensation for their services required of them by law by virtue of their office, the following salary or fees, to wit:

1. **County clerk.** The county clerk, two thousand five hundred dollars per annum, and one deputy at a salary of one thousand five hundred dollars per annum, and one deputy at a salary of one thousand dollars per annum. The salary of said deputies to be payable monthly in the same manner as the salaries of the other county officers are provided, further, however, that in each year in which a new and complete registration of voters is required by law the county clerk appoint an additional deputy or deputies whose compensation in aggregate shall not exceed four hundred dollars in any one year provided, further, that the county clerk shall file with the county auditor a certified statement showing in detail the amount and persons to be paid said compensation is paid. Such salaries of such deputies shall be paid out of the same fund as the salaries of the other county officers are paid.

2. **Sheriff.** The sheriff, three thousand dollars per annum and fees for the service of process issued without his county. He shall have one jailer at a salary of one hundred dollars per month, one deputy at a salary of one hundred dollars per month, and one deputy sheriff at a salary of one hundred dollars per month, which office is hereby created. The salary of said jailer, bailiff and deputy payable monthly in the same manner as the salaries of the other county officers are paid.

3. **Recorder.** The recorder, two thousand dollars per annum, and one copyist at a salary of one thousand two hundred dollars per annum, which office of copyist is hereby created, and one copyist at a salary of one thousand two hundred dollars per annum, which office of copyist is hereby created, the salary of said copyist payable monthly in the same manner as the salaries of other county officers are paid.

4. **Auditor.** The auditor, two thousand dollars per annum and one deputy at a salary of one thousand two hundred dollars per annum, which office of deputy auditor is hereby created, the salary of deputy payable monthly in the same manner as the salaries of other county officers are paid.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, two thousand five hundred dollars per annum, and one deputy at a salary of one hundred dollars per month; one copyist for four months beginning August fifteenth, and one copyist for two months beginning October fifteenth ending December fifteenth at one hundred dollars per month; which offices of deputy tax collector

lector and copyists are hereby created, the salary of said deputy and copyists payable monthly in the same manner as the salaries of other county officers are paid.

7. **Assessor.** The assessor, four thousand five hundred dollars per annum; one chief deputy, which office of chief deputy assessor, is hereby created, at a salary of one thousand five hundred dollars per annum, payable monthly in the same manner as the salaries of other county officers are paid; one copyist for a period of four months in each year, which office of copyist is hereby created, at a salary of one hundred dollars per month, payable during the months of March, April, May and June of each year, in the same manner as the salaries of other county officers are paid. The assessor may also appoint such number of additional deputies as he shall deem necessary, the salaries of such additional deputies to be paid by the assessor out of his salary above provided for. All sums collected by the assessor or his deputies as fees or commissions allowed by law for the collection of personal property taxes, for making the military roll and for commissions now or hereafter allowed by law for the collection of poll taxes, shall be paid into the county treasury, for the use of said county, monthly as collected, with a statement of account of such collection.

8. **District attorney.** The district attorney, two thousand dollars per annum; one stenographer at a salary of nine hundred dollars per annum, which office of stenographer is hereby created, the salary of said stenographer payable monthly in the same manner as the salaries of other county officers are paid.

9. **Coroner.** The coroner, such fees as are now, or may be hereafter provided by law.

10. **Public administrator.** The public administrator, such fees as are now, or may be hereafter provided by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and one clerk, which office of clerk to the superintendent of schools is hereby created, at a salary of one thousand two hundred dollars per annum, payable monthly in the same manner as the salaries of other county officers are paid.

12. **Surveyor.** The surveyor, such fees as are now, or may be hereafter provided by law.

13. **Supervisors.** Supervisors, each the sum of eight hundred dollars per annum in full for all services performed by them as supervisors, and as members of the board of equalization, and road commissioners, and in any and every capacity.

14. **Justices of peace. Constables.** Justices of the peace shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than six thousand, one hundred dollars per month; in townships having a population of less than six thousand and more than three thousand, seventy-five dollars per month; in townships having a population of less than three thousand and more than seven hundred fifty, forty-five dollars per month; in townships having a population of

less than seven hundred fifty, ten dollars per month. It is hereby found as a fact that the salaries provided for this subdivision do not warrant an increase in compensation, and the same shall apply immediately to all incumbents.

Constables shall receive the following monthly salaries, to be paid each month in the same manner and out of the same fund as constable officers are paid, which shall be in full for all services rendered by them in criminal cases. In townships having a population of more than ten thousand, one hundred dollars per month; in townships having a population of less than six thousand and over three thousand, seventy dollars per month; in townships having a population of less than three thousand and over seven hundred fifty, fifty dollars per month; in townships having a population of less than seven hundred fifty, ten dollars per month. The constables may retain for their own use all other fees, except those in criminal cases, as are now or may hereafter be provided by law. [Amendment approved May 27, 1919; Stats. 1917, p. 1307.]

This section was also amended in 1917. See Stats. 1917, p. 1166.

§ 4261a. Jurors. Kings County. In counties of the thirty-second class, grand jurors and trial jurors in the superior court, in criminal cases, shall be paid three dollars per day for each day's attendance, for each mile actually traveled in going only, while acting as such jurors, ten cents, and the judge of said court shall make an order directing the auditor to draw his warrant on the treasury in favor of such jurors said per diem and mileage, and the treasurer shall pay the same.

This amendment of section 4261a was incorporated in the Statutes of 1919, p. 1309, although there was no mention of the section in the title of the act. It is in the precise language of the section as added in 1917 (Stats. 1917, p. 1166).

This section was added in 1917. See Stats. 1917, p. 1166.

§ 4262. Counties of thirty-third class, salaries of officers. Merced. In counties of the thirty-third class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum; and in any year when a new and complete or supplemental registration of voters is required by law to be made, he shall receive the sum of twelve cents for each elector registered, which shall be allowed by the board of supervisors at the close of registration preceding a general election, and paid from the general fund of the county. The county clerk shall be allowed one deputy at a salary of one thousand and five hundred dollars per annum, and one deputy at a salary of one thousand two hundred dollars per annum. The county clerk shall also be allowed two copyists during the month of October in each numbered year and prior to the holding of the November general election, said copyists to receive a salary of fifty dollars each for the month; said deputies and copyists to be appointed by the county clerk.

2. **Sheriff.** The sheriff, five thousand dollars per annum, and necessary expenses for pursuing criminals or transacting any criminal business. The sheriff shall be allowed one deputy, who shall be the jailer.

at a salary of one thousand five hundred dollars per annum; said deputy to be appointed by the sheriff; and such additional deputies as may be required to enforce the provisions of the motor vehicle law, said deputies to be appointed by the sheriff and to receive such compensation, to be paid out of the general fund of the county, as the board of supervisors may fix.

3. **Recorder.** The recorder, two thousand four hundred dollars per annum. The recorder shall be allowed one chief deputy, who shall receive a salary of one thousand five hundred dollars per annum, and three additional deputies, each of whom shall receive a salary of one thousand two hundred dollars per annum; all of said deputies to be appointed by the recorder.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum. The auditor shall be allowed one deputy at a salary of one thousand five hundred dollars per annum; said deputy to be appointed by the auditor.

5. **Treasurer.** The treasurer, two thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand dollars per annum. The tax collector shall be allowed one deputy at a salary of one thousand five hundred dollars per annum; said deputy to be appointed by the tax collector; and provided, further, that the said tax collector shall be allowed one deputy who shall hold office during the months of September, October, November, and December at a salary of seventy-five dollars per month; said deputy to be appointed by the tax collector.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum. The assessor shall be allowed one chief deputy at a salary of one thousand eight hundred dollars per annum; one deputy at a salary of one thousand five hundred; one deputy at a salary of one thousand two hundred dollars per annum; two deputies for a period of three months each year at salaries of one hundred fifty dollars per month each; eight deputies for a period of two months each year at salaries of one hundred fifty dollars per month each; two deputies for a period of one month each year at salaries of one hundred fifty dollars per month each. The said deputies shall be appointed by the assessor at such time or times as said assessor shall see fit.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum. The district attorney shall be allowed one stenographer at a salary of one thousand two hundred dollars per annum; said stenographer to be appointed by the district attorney.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum; and shall also be allowed the compensation allowed by law for services on the board of education, and actual traveling expenses when visiting schools in his (or her) county. The superintendent of schools shall be allowed one deputy at a salary of one

thousand two hundred dollars per annum; said deputy to be appointed by the superintendent of schools.

12. Surveyor. The surveyor, such fees as are now or may hereafter be allowed by law; provided, the surveyor shall annually revise the plan in the office of the assessor, for which he shall receive a sum not exceed four hundred dollars in any one year.

13. Population of townships. Justices of the peace. For the purpose of regulating the compensation of justices of the peace and constables in townships in counties of the thirty-third class are hereby classified according to population to be determined by the board of supervisors at the time of the formation of any new judicial township or township in the manner prescribed by section four thousand fifty-five of the Political Code. Townships having a population of five thousand or more shall belong to and be known as townships of the first class. Townships having a population of less than five thousand and more than three thousand five hundred shall belong to and be known as townships of the second class. Townships having a population of less than three thousand five hundred shall belong to and be known as townships of the third class. Justices of the peace shall receive the following salaries for services rendered by them: In townships of the first class, one hundred dollars per month; in townships of the second class, fifty dollars per month; in townships of the third class, thirty-five dollars per month.

14. Constables. Constables in counties of this class shall receive the following salaries for all services rendered by them in criminal cases: Townships of the first class, one hundred dollars per month; in townships of the second class, fifty dollars per month; in townships of the third class, thirty-five dollars per month. Constables shall also receive for their own use and benefit, such fees as are now or may hereafter be allowed by law in civil cases. They shall also be allowed their actual expenses in conveying prisoners from place of arrest to court, and, in case of conviction, from the court to the county jail.

15. Supervisor. Supervisors, each, the sum of one thousand eight hundred dollars per annum for all services performed by them as supervisors and as members of the board of equalization. Each supervisor shall receive mileage at the rate of ten cents per mile for each mile traveled in going to and from the meeting of the board. They shall also act as road commissioners in their respective districts and shall receive for their services as such road commissioner mileage at the rate of twenty-five cents per mile for all distances actually traveled by them in the discharge of their duties as such road commissioner; provided that such mileage as road commissioner shall not in any one year exceed the sum of six hundred dollars for any one of the road commissioners.

16. Court reporter. The official reporter of the superior court, such fees as are now or may hereafter be allowed by law.

17. Jurors. Juror fees shall be as follows: For attending as a grand juror, or a trial juror in the superior court, for each day's attendance three dollars per day; for each mile he travels in attending court as such juror, fifteen cents per mile in going only.

18. Public defender. If at any time there shall be created and established in this state a county office designated the office of county public

defender, then, and in that case, the salary to be allowed such officer in counties of this class shall be one thousand two hundred dollars per annum.

19. **Effect of subdivision 18.** The provisions of subdivision eighteen of this section shall have no force or effect unless the office therein anticipated is created by constitutional or legislative enactment.

20. **Payment of salaries.** The salaries of all county and township officers and their deputies shall be payable in equal monthly installments from the salary fund of the county on the first day of each month. [Amendment approved April 18, 1919; Stats. 1919, p. 105.]

This section was also amended in 1917. See Stats. 1917, p. 989.

§ 4263. **Counties of thirty-fourth class, salaries of officers. Nevada.** In counties of the thirty-fourth class the county officers shall receive, as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, three thousand dollars per annum, and when a great register of voters is required by law to be made, he shall receive the sum of fifteen cents for each elector registered, which amount shall be allowed by the board of supervisors at the close of registration preceding a general election and paid from the general fund of the county; provided, that in any year when a primary election is held, he shall receive the sum of five hundred dollars additional, which shall be in full for all services rendered at said primary election.

2. **Sheriff.** The sheriff, six thousand dollars per annum. The sheriff shall also receive for his own use, for serving all papers issued from justices' courts, the same fees as are now or may be hereafter allowed by law to constables for like services.

3. **Recorder.** The recorder, three thousand two hundred dollars per annum.

4. **Auditor.** The auditor, eight hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, six hundred fifty dollars per annum.

7. **Assessor.** The assessor, five thousand five hundred dollars per annum.

8. **District attorney.** The district attorney, two thousand five hundred dollars per annum; and the district attorney may appoint one deputy, at a salary of six hundred dollars per annum. The deputy district attorney shall hold office at the pleasure of the district attorney. The salary of such deputy shall be paid monthly and in the same manner as salaries of county officers are now paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, four hundred dollars per annum.

11. **Superintendent of schools.** The superintendent of schools, ~~shall~~ receive one thousand dollars per annum; and he shall receive and retain for his own use the sum of five dollars per diem for each and every day he attends the meetings of the county board of education, and shall also be allowed his actual and necessary traveling expenses in visiting schools of the county.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Supervisors.** Each member of the board of supervisors shall receive for his services the sum of nine hundred dollars per annum, ~~and~~ the actual expenses incurred in attendance and for traveling to and from his residence to the county seat at any regular or special session of the board, and that one-twelfth of the annual salary shall be paid at the close of each monthly session of the board; and provided, further, they shall be reimbursed for necessary expenses actually incurred in attending any special session of the board. The road commissioner shall be reimbursed for all traveling, personal and other necessary expenses incurred while actually engaged in the performance of his duty upon the roads; such allowance not to exceed the sum of five dollars for each day so actually engaged, and the total amount of such allowance not to exceed the sum of three hundred dollars per annum.

14. **Classification of townships. Justices of peace.** For the purpose of regulating the compensation of justices of the peace and constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of 1910, as follows: Townships having a population of four thousand and more shall belong to and be known as townships of the first class; townships having a population of three thousand and less than four thousand shall belong to and be known as townships of the second class; townships having a population of one thousand and less than three thousand shall belong to and be known as townships of the third class; townships having a population of less than one thousand shall belong to and be known as townships of the fourth class. Justices of the peace shall receive the following salaries: In townships of the first class, the sum of one thousand two hundred dollars per annum; in townships of the second class, the sum of one thousand two hundred dollars per annum; in townships of the third class, the sum of six hundred dollars per annum; in townships of the fourth class, the sum of sixty dollars per annum; payable monthly and in the same manner as salaries of county officers are paid and shall be in full for all services; provided, further, that justices of the peace shall, before receiving their monthly salary file with the auditor a statement of all fees and fines received, together with the treasurer's receipt for the same. All fees and fines collected by justices of the peace shall be turned over to the county treasurer of the county; provided, that all fines collected for city offenses shall be turned over to the city treasurer of the city where the offense shall have been committed.

15. **Constables.** The constables: (a) For all services rendered by them in civil cases, they may receive and retain for their own use such fees as now or hereafter may be allowed by law, and (b) For all services rendered by them in criminal cases they shall be allowed all necessary

expenses actually incurred in arresting and conveying prisoners to the county jail, which said expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury, and in addition constables in townships of the first class shall be allowed a salary of four hundred eighty dollars per annum; in townships of the second class, four hundred eighty dollars per annum; in townships of the third class, one thousand eighty dollars per annum; in townships of the fourth class, such fees as are now or may be hereafter allowed by law.

16. Court reporter. In the counties of this class the official reporter of the superior court shall receive such fees as are now or may be hereafter allowed by law, and when necessary for such reporter to travel away from the county seat in the performance of his duty he shall receive his actual and necessary traveling and personal expenses, to be allowed and paid by the board of supervisors as are other county charges. [Amendment approved April 15, 1919; Stats. 1919, p. 102.]

§ 4264. Counties of the thirty-fifth class, salaries of officers. Yolo. In counties of the thirty-fifth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. County clerk. The county clerk, three thousand six hundred dollars per annum, and when a new great register of voters is required by law to be made, he shall receive his actual expenses in making said register and ten cents per name for every name registered, in lieu of the sum of five hundred dollars heretofore received for performing said duties. It is hereby found as a fact that the salary provided for in this subsection does not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbent.

2. Sheriff. The sheriff, four thousand five hundred dollars per annum.

3. Recorder. The recorder, three thousand four hundred dollars per annum.

4. Auditor. The auditor, two thousand dollars per annum, and in lieu of fees heretofore paid him under the provisions of section four thousand ninety-nine *a* of the Political Code he shall receive an additional sum of five hundred dollars per annum as compensation for the extra duties imposed by said section four thousand ninety-nine *a*. It is hereby found as a fact that the salary provided for in this subsection does not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbent.

5. Treasurer. The treasurer, two thousand dollars per annum.

6. Tax collector. The tax collector, one thousand eight hundred dollars per annum.

7. Assessor. The assessor, three thousand five hundred dollars per annum, and his actual and necessary traveling expenses, when engaged in assessing the property of his county; provided, such traveling expenses shall not, in any one year, exceed the sum of three hundred dollars.

8. District attorney. The district attorney, two thousand three hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** - The public administrator, such fees as now or may be hereafter allowed by law.

11. **Superintendent of schools and secretary of board of education.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of the county. In counties of this class the secretary of the county board of education shall receive the sum of five hundred dollars per annum, a salary to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools. The compensation of the secretary of the county board of education of this county hereby provided is in addition to the fees heretofore allowed under the provisions of section seven hundred seventy of this code.

It is hereby found as a fact that the salary provided for in this section does not work an increase in compensation and it is intended that the same shall apply immediately to the present incumbent.

12. **Surveyor.** The county surveyor, one thousand five hundred dollars per annum, he to furnish all necessary instruments; but transportation charges for field work shall be allowed him. He shall not be required to perform county work more than two-thirds of the working days in any month, except on payment of fees now allowed by law.

13. **Justices of peace.** Justices of the peace, the following salaries to be paid each month as county officers are paid, which shall be in full for all services rendered by them as such justices of the peace: In townships having a population of five thousand and more, one hundred dollars; in townships having a population of twenty-five hundred and less than five thousand, sixty-five dollars; in townships having a population of fifteen hundred and less than twenty-five hundred, forty dollars; in townships having a population of one thousand and less than fifteen hundred, twenty-five dollars; in townships having a population of less than one thousand, ten dollars. Each justice must pay into the county treasury, once a month, all fees and all fines collected by him. In townships having a population of less than five thousand, if there be more than one justice, the compensation or salary allowed herein shall be equally divided between them so that the sum total of their compensation shall not exceed the salary allowed herein for a single justice in such township.

14. **Constables. Population of townships.** Constables the following salaries, which shall be paid monthly as salaries of county officers are paid, and shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of twenty-five hundred or more, seventy dollars; in townships having a population of fifteen hundred and less than twenty-five hundred, forty-five dollars; in townships having a population of one thousand and less than fifteen hundred, thirty dollars; in townships having a population of less than one thousand, fifteen dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use, such fees as are now or may hereafter be allowed by law for all the services

performed by him in civil actions. In all townships having a population of less than twenty-five hundred, if there be more than one constable, the compensation herein allowed shall be equally divided between them, so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single constable in each township. The board of supervisors shall, during each and every year, ascertain and determine the population of the several townships of the county for the purpose of ascertaining the compensation of township officers regulated by this section, in proportion to their duties.

15. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum for all services performed by him as supervisor, member of the board of equalization and road commissioner. [Amendment approved May 27, 1919; Stats. 1919, p. 1055.]

This section was also amended in 1917. See Stats. 1917, p. 4264.

§ 4265. **Counties of thirty-sixth class; salaries of officers. Imperial.** In counties of the thirty-sixth class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** County clerk, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be, and there hereby is, allowed to the county clerk, one chief deputy who shall receive a salary of one thousand eight hundred dollars per annum, one deputy who shall receive a salary of one thousand five hundred dollars per annum, and one deputy who shall receive a salary of one thousand two hundred dollars per annum, and in each year in which a new and complete registration of voters is required by law, he shall appoint as many deputy registration clerks as may be necessary for the convenient registration of the voters of the county, which deputy registration clerks shall receive as compensation for their services a sum of ten cents per name for each and every voter registered by them, and also one additional deputy to compile the great register, and for mailing sample ballots, at a compensation not to exceed two hundred fifty dollars for each such registration year.

2. **Sheriff.** Sheriff, three thousand dollars per annum; provided, that in counties of this class, there shall be, and hereby is, allowed to the sheriff, one under-sheriff, whose salary is hereby fixed in the sum of two thousand four hundred dollars per annum, one chief deputy who shall receive a salary of one thousand eight hundred dollars per annum, one deputy, who shall be jailer, who shall receive a salary of one thousand five hundred dollars per annum; one deputy, who shall be court bailiff, who shall receive a salary of one thousand five hundred dollars per annum, one deputy, who shall also be chauffeur, who shall receive a salary of one thousand five hundred dollars per annum, and four additional deputies, who shall each receive a salary of one thousand five hundred dollars per annum.

3. **Recorder.** Recorder, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be, and is hereby allowed the recorder one deputy at a salary of one thousand five hundred dollars per annum, and two deputies for twelve months in each year at one hundred dollars each per month, and as many copyists as

may be required who shall receive as compensation the sum of five cents per folio for recording, copying and comparing any instrument or notice except maps or plats, and for copies of any record or paper, five cents per folio. The salaries of all copyists herein provided for shall be paid by the county in monthly installments at the same time, and in the same manner, and out of the same fund that the salary of the county recorder is paid.

4. **Auditor.** Auditor, two thousand four hundred dollars per annum; provided, that there is hereby allowed to the auditor one chief deputy who shall receive a salary of one thousand five hundred dollars per annum, one deputy who shall receive a salary of one thousand three hundred eighty dollars per annum, one deputy who shall receive a salary of one thousand three hundred twenty dollars per annum, two deputies for not more than four months in each year, who shall each receive a salary of one hundred ten dollars per month, and four additional deputies for not more than one month in each year, who shall receive a salary of one hundred ten dollars per month each.

5. **Treasurer.** Treasurer, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be and here is allowed to the treasurer, the sum of not exceeding four hundred dollars per annum, to be expended for the salary of a deputy.

6. **Tax collector.** Tax collector, two thousand four hundred dollars per annum; one chief deputy for not more than ten months of each year who shall receive a salary of one hundred twenty-five dollars per month and six deputies for not more than three months of each year, who shall receive a salary of one hundred dollars per month each.

7. **Assessor.** Assessor, two thousand four hundred dollars per annum; one chief deputy who shall receive a salary of one thousand eight hundred dollars per annum; one stenographer and roll writer, for not more than eight months in each year, who shall receive a salary of one hundred twelve and fifty hundredths dollars per month; one deputy for writing plat-books, for not more than five months in each year, who shall receive a salary of one hundred twenty-five dollars per month; one chief deputy for not more than five months in each year, who shall receive a salary of one hundred twenty-five dollars per month; two additional deputies for not more than four months in each year, who shall each receive a salary of one hundred dollars per month; eight field deputies for not more than three months in each year, who shall each receive a salary of one hundred fifty dollars per month; two field deputies for not more than three months in each year, who shall each receive a salary of one hundred twenty-five dollars per month; one field deputy for not more than three months in each year, who shall receive a salary of one hundred seventy-five dollars per month; all of said field deputies shall pay their own expenses. It is hereby provided that in counties of this class, the assessor shall receive no fees or compensation for his collection of taxes on personal property or possessory interests.

8. **District attorney.** District attorney, three thousand dollars per annum; one chief deputy who shall receive a salary of two thousand one hundred dollars per annum; one deputy who shall receive a salary of one thousand eight hundred dollars per annum; one deputy, who shall be designated "criminal investigator" who shall receive a salary of one

thousand eight hundred dollars per annum; one stenographer who shall receive a salary of one thousand two hundred dollars per annum; it shall be the duty of this stenographer to report and transcribe, without any additional charge, all preliminary hearings required of him by the district attorney.

9. **Coroner.** Coroner, such fees as are now, or may be hereafter, allowed by law.

10. **Public administrator.** Public administrator, such fees as are now, or may be hereafter allowed by law.

11. **Superintendent of schools.** Superintendent of schools, two thousand four hundred dollars per annum; two deputies who shall each receive a salary of two thousand dollars per annum, said salaries to include traveling expenses in connection with the visitation of schools; one deputy who shall receive a salary of one thousand two hundred dollars per annum; provided, that in counties of this class the superintendent of schools shall receive no compensation for services as a member of the county board of education, or as ex-officio secretary thereof.

12. **Surveyor.** Surveyor, one thousand five hundred dollars per annum; which shall be in full for all services required of him by the superior court or board of supervisors, or assessor. It shall be his duty on demand of the assessor, to prepare any and all maps, plats or block-books for the use of the county assessor.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month, in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them; in townships having a population of more than five thousand, one hundred dollars per month; provided, that if the county seat shall be situated in a township of this class, one hundred fifty dollars per month; in townships having a population of less than five thousand, and more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, twenty dollars per month. It is hereby found as a fact that the salaries provided for in this subdivision do not work an increase in compensation, and the same shall apply immediately to incumbents.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than two thousand, seventy-five dollars per month; in townships having a population of less than two thousand, twenty dollars per month. Constables shall co-operate at all times with the sheriff, and shall perform any and all duties that he may require of them. It is hereby found as a fact, that the salaries provided for in this subdivision do not work an increase in compensation, and the same shall apply immediately to incumbents.

15. **Population of townships.** For the purpose of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by four the vote cast for governor in each township at the general election next preceding.

16. **Supervisors.** Each supervisor, one thousand two hundred dollars per annum, which shall be in full for all services as supervisor and road commissioner for each year.

17. **Horticultural commissioner.** Horticultural commissioner, one thousand eight hundred dollars per annum; provided, in counties of this class, said horticultural commissioner may appoint as many inspectors as may be necessary for the performance of his duties, who shall be paid three dollars and fifty cents for each day of eight hours actually engaged in the performance of their duties.

18. **County physician.** County physician, seventy-five dollars per month.

19. **County health officer.** County health officer, seventy-five dollars per month; provided, that in counties of this class there shall be a health officer, two deputies, each of whose salaries shall be one hundred fifty dollars per month, said deputies to pay their own expenses.

20. **Livestock inspector.** Livestock inspector, who shall be ex-officio county veterinarian, one thousand eight hundred dollars per annum; provided, that in counties of this class the livestock inspector shall devote his entire time to the performance of the duties of the office; provided further, that in counties of this class the livestock inspector shall have and hereby is allowed three deputies who shall each receive as salaries six hundred dollars per annum.

21. **Probation officer.** Probation officer, one thousand eight hundred dollars per annum.

22. **Jurors.** In counties of this class, grand jurors and trial jurors in criminal cases shall receive as compensation for each day's attendance on the grand jury, the superior court or justice court, the sum of three dollars per day, and for each mile actually and necessarily traveled from their residence in attending court or grand jury, in coming only, the sum of fifteen cents per mile; such mileage to be allowed but only during each session said jurors are required to attend. [Amendment approved May 27, 1919; Stats. 1919, p. 937.]

This section was also amended in 1917. See Stats. 1917, p. 122.

§ 4266. **Counties of thirty-seventh class, salaries of officers.** **Treasurer.** In counties of the thirty-seventh class the county officers shall receive as compensation for the services required of them by law or by virtue of their office the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand three hundred dollars per annum; in counties of this class the county clerk may appoint a deputy, which office of deputy county clerk is hereby created, and said deputy shall receive as compensation for his services the sum of one thousand two hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner and at the same time other county officials are paid.

2. **Sheriff.** The sheriff, four thousand eight hundred dollars per annum and all mileage now allowed by law.

3. **Recorder.** The recorder, two thousand two hundred dollars per annum; provided, that in counties of this class, the recorder shall

allowed to appoint two deputies, one of which shall be allowed a salary of nine hundred dollars per annum and one a salary of six hundred dollars per annum, and the offices of said deputy recorders are hereby created.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, two thousand four hundred dollars per annum, and such fees and commissions as are now or may hereafter be allowed by law; and shall be allowed one or more deputies, to be appointed by said tax collector, which offices are hereby created; provided, that the compensation of said deputy or deputies shall not exceed in the aggregate the sum of nine hundred seventy-five dollars in any one year. The salaries of the deputies herein provided for shall be paid by the county, at the same time and out of the same fund as the salary of the tax collector is paid.

7. **Assessor.** The assessor, three thousand six hundred dollars per annum; provided, that the assessor shall be entitled to receive and retain for his own use four per cent only on personal property tax collected by him as authorized by section three thousand eight hundred twenty of the Political Code; and provided further, that the assessor shall be allowed to appoint two deputies, one of which shall be allowed a salary of one hundred fifty dollars per month; provided, said deputy shall not be employed for more than five months during any one year, and one deputy at a salary of one hundred dollars per month; provided, said deputy shall not be employed for more than four months during any one year. The salaries of all deputies herein provided shall be paid by the said county in equal monthly installments at the same time and in the same manner as county officers are paid. The assessor shall also be allowed for himself and deputies the sum of three hundred dollars per annum and no more, for traveling expenses while on official business connected with the duties of his office within his county. All claims for traveling expenses incurred by the assessor or his deputies while in the performance of their official duties within the county shall be paid out of the general fund of said county on duly verified claims filed with the board of supervisors at the same time and in the same manner as other county claims.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum, and there is hereby created a new office to be known as stenographer to the district attorney, who shall receive a salary of six hundred dollars per annum, payable monthly at the same time and in the same manner as the salaries of the county officials are paid.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand dollars per annum and actual traveling expenses, when visiting

the schools of his county. The superintendent shall be allowed a deputy, which said deputy shall be allowed a salary of fifty dollars per month, to be paid at the same time and in the same manner as other county officials.

12. Surveyor. The surveyor, one thousand five hundred dollars per annum, which shall be in full for all services required of him by the superior court or the board of supervisors; provided, that he shall be entitled to receive from the county his actual expenses incurred in the performance of any order of the court or the board of supervisors; provided, further, that whenever the surveyor is directed by the board of supervisors to plat, trace or otherwise prepare maps, plats or block-books for the use of the county assessor, or tax collector, he shall be allowed only the actual cost of preparing same.

13. Justices of the peace. Justices of the peace shall receive the following monthly salaries to be paid each month and in the same manner and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having population of more than four thousand, fifty dollars per month; in townships having population less than four thousand and more than one thousand two hundred, forty dollars per month; in townships having population of less than one thousand two hundred and more than eight hundred, thirty dollars per month; in townships having population less than eight hundred, twenty dollars per month; and in civil cases such fees as are or may be hereafter allowed by law.

14. Constables. Constables shall receive the following monthly salaries to be paid each month and in same manner and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having a population of more than four thousand, fifty dollars per month; in townships having population of less than four thousand and more than one thousand two hundred, forty dollars per month; in townships having population of less than one thousand two hundred and more than eight hundred, thirty dollars per month; in townships having a population less than eight hundred, twenty dollars per month; and in all civil cases such fees as are now or may be hereafter allowed by law. Constables shall also be allowed by the board of supervisors in criminal cases only necessary traveling expenses, and necessary expense of conveying criminals and persons charged with crime.

15. Supervisors. Each supervisor, one thousand two hundred dollars per annum, which shall be in full for all services as supervisors and road commissioners; and there shall be allowed to each supervisor necessary traveling expenses when strictly on county business without the county.

16. Population of townships. For the purpose of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors by multiplying by five the registered vote in each township on the first day of June 1913.

17. Fees of jurors. The fees of grand jurors and trial jurors in the superior court of said counties of the thirty-seventh class, shall be three dollars per day for each day's attendance and mileage, to be computed

at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor on the written order of the judge of the court in which the juror was in attendance, and the treasurer of said county shall pay such warrants.

18. **Salaries monthly.** All salaries provided for in this article shall be paid out of the treasury of the county, in monthly installments.

The act amending § 4266 of the Political Code also contained the following provision:

§ 2. **In effect, when.** As to subdivisions one, three, six, and seven, this act shall take effect ninety days after the adjournment of the legislature; as to all other subdivisions thereof it shall not take effect until the expiration of the present terms of the officers hereinbefore enumerated. [Amendment approved May 28, 1917; Stats. 1917, p. 985.]

§ 4267. **Counties of thirty-eighth class, salaries of officers. Yuba.** In counties of the thirty-eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit: .

1. **County clerk.** The county clerk, three thousand dollars per annum and the said county clerk may appoint one deputy county clerk, which said office of deputy county clerk is hereby created. The salary of such deputy county clerk is hereby fixed at one thousand five hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid; in any year when a new registration of voters is required by law, the county clerk shall receive three hundred dollars additional for said year, which shall be in full for all services required in registering voters.

2. **Sheriff.** The sheriff, four thousand dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.

3. **Recorder.** The recorder, one thousand five hundred dollars per annum; and the said recorder may appoint one deputy recorder, which said office of deputy recorder is hereby created. The salary of such deputy recorder is hereby fixed at one thousand two hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

4. **Auditor.** The auditor, one thousand dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum; and the said treasurer may appoint one deputy treasurer, which said office of deputy treasurer is hereby created. The salary of such deputy treasurer is hereby fixed at six hundred dollars per annum, such salary to be paid at the same time and in the same manner as the salary of county officers is paid.

6. **Tax collector.** The tax collector, one thousand dollars per annum, which shall be in full for all services as tax collector and as license collector.

7. **Assessor.** The assessor, two thousand five hundred dollars per annum. The said assessor may appoint one office deputy assessor, who said office of deputy assessor is hereby created, who shall serve as such only during five months of each calendar year. Said office deputy assessor shall receive a salary of one hundred dollars per month, payable during the period of said services, at the same time and in the same manner as the salary of county officers is paid. The said assessor may also appoint one additional deputy assessor, who shall be designated as "field deputy assessor," which said office of "field deputy assessor" is hereby created, who shall serve as such only during five months of each calendar year. Said "field deputy assessor" shall receive a salary of one hundred dollars per month payable during the period of such service, at the same time and in the same manner as the salary of county officers is paid.

8. **District attorney.** The district attorney, two thousand dollars per annum. Said district attorney may appoint one clerk to the district attorney, which said office of clerk to the district attorney is hereby created. Said clerk to the district attorney shall receive a salary of fifty dollars per month, payable at the same time and in the same manner as the salary of county officers is paid.

9. **Coroner.** The coroner, nine hundred dollars per annum, and actual traveling and other expenses while performing the duties of office.

10. **Public administrator.** The public administrator, such fees as now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, one thousand two hundred dollars per annum; and in addition thereto, he shall receive his actual traveling and other necessary expenses incurred by him while engaged in work for his county.

13. **Justices of peace and constables.** In counties of this class township officers shall receive the following compensation, to wit:

In townships having a population of three thousand or more, justices of the peace shall receive a monthly salary of one hundred dollars per month; constables in townships of this population shall receive a salary of sixty dollars per month.

In townships having a population of one thousand five hundred and less than three thousand, the justices of the peace and constables shall each receive a monthly salary of forty-five dollars per month.

In townships having a population of eight hundred and less than one thousand five hundred, the justices of the peace and constables shall each receive a monthly salary of thirty-five dollars per month.

In townships having a population of five hundred and less than eight hundred, the justices of the peace and constables shall each receive a monthly salary of twenty dollars per month.

In townships having a population of less than five hundred, the justices of the peace and constables shall each receive a monthly salary of ten dollars per month.

The above-named salaries shall be in full compensation for all services of said justices of the peace and constables in civil and criminal cases; provided, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his township, for service of a warrant of arrest or any other paper in a criminal case, such fees as they are now or may be hereafter allowed by law, for transporting prisoners to the county jail, the actual expenses of such transportation; and provided, further, that for the purpose of this subdivision, the population of the several townships shall be ascertained by multiplying the number of registered voters at the general election of 1914 by three.

14. **Supervisors.** Each member of the board of supervisors, one thousand two hundred dollars per annum, and mileage when acting as road commissioner, twenty-five cents per mile one way; provided, the amount of mileage shall not exceed the sum of three hundred dollars in any one year.

15. **Jurors.** In counties of this class grand jurors and trial jurors in the superior court shall each receive for each day's attendance the sum of three dollars, and mileage to be computed at the rate of twenty cents per mile for each mile actually and necessarily traveled from their residences to the county seat, in going only. Such fees and mileage shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the superior court in said county. [Amendment approved May 27, 1919; Stats. 1919, p. 1132.]

This section was also amended in 1917. See Stats. 1917, p. 985.

§ 4268. **Counties of thirty-ninth class, salaries of officers. Tuolumne.** In counties of the thirty-ninth class the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum, and during each year in which a general election is held throughout the state he shall in addition to said salary receive each month for the months of August, September, October and November, one hundred dollars, and the same shall be so paid from the same fund as other salaries are paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum, and the fees, mileage and commissions for the service of all papers issued by any court of the state outside of this county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.

3. **Recorder.** The recorder, one thousand eight hundred dollars per annum; provided, that said recorder shall collect and pay into the county treasury for the use and benefit of the county all fees required by law to be collected by him; and provided, further, that in counties of this class the recorder shall be allowed an assistant, who shall be appointed by the recorder and who shall receive a salary of fifty dollars per month, which said salary shall be paid by said county at the time and in the same manner and out of the same fund as is the salary of the recorder.

4. **Auditor.** The auditor, one thousand five hundred dollars annum.
5. **Treasurer.** The treasurer, one thousand eight hundred dollars annum.
6. **Tax collector.** The tax collector, two thousand seven hundred dollars per annum, which shall be in full for all services as tax collector and as license collector.
7. **Assessor.** The assessor, three thousand dollars per annum; provided, that in counties of this class there shall be one deputy assessor who shall be appointed by the assessor of said county, whose salary is hereby fixed at the sum of one hundred dollars per month; which salary shall be paid by said county at the time and in the same manner and out of the same fund as is the salary of the assessor; and provided, further, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor of said county and shall hold office from twelve o'clock meridian of the first Monday of March of each year up to twelve o'clock meridian of the first Monday of July of each year. The salary of said last-mentioned deputy assessor herein provided for is hereby fixed at the sum of one hundred dollars per month during which months he shall hold office as herein provided, which said salary shall be paid by said county at the time and in the same manner and out of the same fund as is the salary of the assessor.
8. **District attorney.** The district attorney, one thousand eight hundred dollars per annum; provided, that in counties of this class the district attorney may appoint a stenographer or clerk who shall receive a salary of six hundred dollars per annum, to be paid in equal monthly installments in the same manner, at the same time and out of the same fund as is the salary of the district attorney.
9. **Coroner.** The coroner, nine hundred dollars per annum.
10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.
11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses while visiting the schools of his county, he to devote all of his time to the duties of his office.
12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided, further, that it shall be the duty of the board of supervisors of each county of this class to so employ him.
13. **Supervisors.** Supervisors, each the sum of one thousand dollars per annum for all services performed by them, as supervisors, and members of the board of equalization and road commissioners; provided, each supervisor shall receive ten cents for each mile traveled by ordinary route, in going from his residence to the county seat and returning, once during each month; and the supervisors in counties of this class be allowed their traveling expenses in viewing and laying out roads and bridges and in attending to such other duties within the county as required by law.

14. **Justices of the peace.** For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population as shown by the federal census of nineteen hundred ten; townships having a population of two thousand four hundred and over four thousand shall be classified as townships of the first class, and townships having a population of less than two thousand four hundred shall belong to and be known as townships of the second class.

15. **Justices of the peace.** In townships of the first class, justices of the peace shall receive eighty dollars per month to be paid each month out of the same fund and at the same time as the county officers are paid, and which sum shall be in full compensation for all services rendered by them.

In townships of the second class, justices of the peace shall receive seventy-five dollars per month to be paid each month out of the same fund and at the same time as the county officers are paid and which sum shall be in full compensation for all services rendered by them.

16. **Constables.** Constables in counties of this class shall receive the following monthly salaries to be paid each month out of the same fund and at the same time as the county officers are paid, which sum shall be in full compensation for all services rendered by them in criminal cases, the same to include all costs of transportation of all prisoners within the county, to wit: Constables in townships of the first class shall receive a monthly salary of seventy-five dollars per month, and constables of townships of the second class shall receive a monthly salary of sixty dollars per month; provided, further, that when any constable is required to serve a warrant of arrest or any other paper of a criminal case he shall be allowed mileage both going and coming, at the rate of ten cents per mile, but shall not be allowed any sum for any other expenses.

17. **Reporter.** In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, such fees as are now or may be hereafter provided by law; said compensation for per diem and transcription in criminal cases to be audited and allowed upon a written order of the court, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

18. **Jurors.** In counties of this class, grand jurors and jurors in the superior court in criminal and civil cases shall be paid three dollars per day for each day's attendance, and for each mile actually traveled in attending court as such juror under summons or under order of court, in going only, twenty-five cents; and in criminal cases, the county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each such juror, and the auditor shall then draw his warrant for the fees and mileage due such juror, and the treasurer shall pay the same.

19. **Witnesses.** In counties of this class, witnesses, when legally required to attend upon the superior court, in criminal cases, shall be

paid two dollars per day for each day's actual attendance, and twenty-five cents per mile for each mile actually traveled, in going only; and in criminal cases the county clerk shall certify to the auditor the number of days attendance and the number of miles traveled by each such witness, and the auditor shall then draw his warrant for the fees and mileage due such witness, and the treasurer shall pay the same. [Amendment approved May 28, 1917; Stats. 1917, p. 1141.]

§ 4268a. Fees of jurors and witnesses, counties of thirty-ninth class. Tuolumne. In counties of the thirty-ninth class, jurors and witnesses shall receive the following fees and mileage:

In criminal cases the county clerk shall, daily, during the attendance of each juror or witness, make his certificate as to such attendance (his certificate as to the first day's attendance of such juror or witness, shall cover and include the number of miles traveled by such juror or witness); and the auditor shall, daily, upon the request of such juror or witness draw his warrant in favor of such juror or witness for the same named in such certificate, and the treasurer shall pay the same;

For attending as a grand juror for each day's actual attendance, per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, such mileage to be paid at the time that the fee for the first day's attendance is paid;

For attending as a trial juror in criminal cases, for each day's actual attendance, per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, such mileage to be paid at the time that the fee for the first day's attendance is paid;

For attending as a witness in criminal cases, for each day's actual attendance, per day, three dollars, and twenty-five cents per mile for each mile actually traveled in going only, such mileage to be paid at the time that the fee for the first day's attendance is paid. [New section added May 28, 1917; Stats. 1917, p. 1140.]

§ 4271. Counties of forty-second class, salaries of officers. Madras. In counties of the forty-second class, the county officers shall receive, for compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be appointed and is hereby allowed the county clerk the following deputies, who shall be appointed by the county clerk, and shall be paid salaries as follows: One deputy county clerk at a salary of one hundred twenty-five dollars per month, and one deputy county clerk at a salary of seventy-five dollars per month. The salaries of said deputy county clerks shall be paid in monthly installments at the same time and in the same manner as that out of the same fund as the salary of the county clerk is paid; provided, further, that in counties of this class, in each year in which a new complete or supplemental registration of voters is required by law, the county clerk shall appoint as many deputy registration clerks as may be necessary for the convenient registration of voters of the county, and such deputy registration clerks shall receive as compensation for their services the sum of ten cents per name for each and every voter registered by them; said compensation to be paid out of the general fund of the

county, on the presentation and filing with the board of supervisors of the county of a duly verified claim therefor, approved by the county clerk.

2. **Sheriff.** The sheriff, five thousand dollars per annum and such mileage as is allowed by law for service of all papers wherever issued by any court outside this county and all mileage for service of paper in civil cases in his own county and actual expenses incurred in criminal cases; provided, further, that in counties of this class there shall be and is hereby allowed to the sheriff one deputy who shall be appointed by the sheriff and shall be paid a sum of one hundred dollars per month, which said sum shall be paid by said county in equal monthly installments at the same time and in the same manner as the salary of the sheriff is paid.

3. **Recorder.** The recorder, two thousand one hundred dollars per annum; provided, further, that in counties of this class there shall be and is hereby allowed to the recorder, one deputy recorder who shall be appointed by the recorder and shall be paid a sum of one hundred dollars per month; also, an additional deputy recorder who shall be appointed by the recorder and who shall be paid a salary of seventy-five dollars per month, which said sum shall be paid by said county in equal monthly installments at the same time, in the same manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, the sum of two thousand dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the auditor one deputy auditor, which said office is hereby created, who shall be appointed by the auditor and shall be paid a salary of seventy-five dollars per month, which sum shall be paid by said county in monthly installments at the same time and in the same manner and out of the same funds as the salary of the auditor.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the tax collector one deputy tax collector, which office is hereby created, said deputy tax collector to be appointed by the tax collector and to be paid a salary of seventy-five dollars per month, which said sum shall be paid by the county in monthly installments at the same time, in the same manner and out of the same fund as the salary of the tax collector is paid; and provided, also, that there is hereby allowed to the tax collector during the months of April, May, October, November and December, in each year, one clerk who shall receive a salary of seventy-five dollars per month, which sum shall be paid monthly in the same manner and out of the same fund as the salary of the tax collector is paid.

7. **Assessor.** The assessor, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be one deputy assessor, who shall be appointed by the assessor and shall receive as compensation for all services performed by him the sum of one hundred twenty-five dollars per month; and provided, further, that the assessor may appoint such additional deputies as may be required in the judgment of the assessor, the length of time that such deputies shall serve

in any one year not to exceed, in the aggregate, three hundred days, and the aggregate compensation to be paid all of said deputy not to exceed, in the aggregate, one thousand five hundred sixty dollars, which shall be paid out of the county treasury in the same manner at the same time and out of the same funds as the salaries of county officers are paid; provided, further, that the assessor may employ one copyist, to be paid a compensation of three dollars per month for a period not to exceed four months in any one year, and such allowance shall be made as other claims are allowed by the board of supervisors, and when so allowed shall be paid out of the salary fund.

8. **District attorney.** The district attorney, two thousand four hundred dollars per annum; provided, the district attorney may employ a stenographer, whose compensation shall be seventy-five dollars per month, and such allowance shall be made as other claims are allowed by the board of supervisors, and when so allowed shall be paid out of the salary fund.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools a deputy who shall be appointed by the board of supervisors and paid a salary of five hundred dollars per annum, said salary to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools is paid.

12. **Surveyor.** The surveyor, ten dollars per day when engaged on county work. He shall also receive his actual expenses when at work in the field.

13. **Justices of peace and constables.** In counties of this class township officers shall receive the following compensation for services rendered by them in criminal matters of whatever kind, character or description: In townships having a population of five thousand or more, justices of the peace and constables shall receive a monthly salary of one hundred twenty-five dollars, to be paid each month in the same manner and out of the same fund as the salaries of county officers are paid. In townships having a population of less than five thousand, said justices of the peace shall receive a salary of six hundred dollars per annum, and constables shall receive a salary of five hundred eighty dollars per annum, to be paid in monthly installments.

14. **Supervisors.** Each member of the board of supervisors, one thousand eight hundred dollars per annum, in full payment for services as member of the board of supervisors, as member of the board of equalization and as road commissioner and twenty-five cents per mile for traveling from his residence to the county seat not more than once each month. It is hereby found as a fact that the changes proposed for in this subdivision do not work an increase in compensation of

office, and it is intended that the same shall apply immediately to the present incumbents.

15. Court reporter. In counties of this class, the official reporter of the superior court shall receive such fees as are now or may hereafter be allowed by law. The compensation allowed each officer above enumerated shall be in full payment for all services performed by him. [Amendment approved April 9, 1919; Stats. 1919, p. 68.]

This section was also amended in 1917. See Stats. 1917, p. 68.

§ 4272. Counties of forty-third class, salaries of officers. San Benito. In counties of the forty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, one thousand nine hundred twenty dollars per annum, and such fees as he may be now or hereafter allowed by law to retain; provided, that in counties of this class there shall be and there hereby is allowed to the county clerk one deputy clerk, who shall be appointed by the county clerk and shall be paid a salary as follows: the sum of one thousand two hundred dollars per annum, which sum shall be paid by the said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid.

2. Sheriff. The sheriff, three thousand five hundred dollars per annum. The sheriff shall also receive for his own use and benefit all fees, commissions and mileage, in all civil cases within his county, and all fees, commissions and mileage for service of any papers issued by any court outside of his county.

3. Recorder. The recorder, one thousand two hundred dollars per annum, and such fees as he may be now or hereafter allowed by law to retain; and one deputy, whose office is hereby created, to be appointed by the recorder, who shall receive a salary of nine hundred dollars per annum. The salary of said deputy shall be paid in the same manner and at the same time and from the same funds as county officers are paid. The board of supervisors is hereby authorized to employ such number of copyists at such salaries and for such length of time as the said board may deem necessary to properly and expeditiously record all instruments and documents filed for record in the office of the county recorder of such county, and the salary of such copyist or copyists shall be paid out of the general fund of said county.

4. Auditor. The auditor, six hundred dollars per annum.

5. Treasurer. The treasurer, one thousand eight hundred sixty dollars per annum.

6. Tax collector. The tax collector, seven hundred dollars per annum.

7. Assessor. The assessor, two thousand four hundred dollars per annum. He shall also be permitted to appoint such deputies as he may desire, of whom one shall be paid by the county for the term of twelve months, beginning on the first Monday in January in each year at the rate of one hundred dollars per month, and one of whom shall be paid

in the county for the term of four months, beginning on the Monday in March in each year, at the rate of one hundred dollars per month, and one of whom shall be paid by the county at the rate of one hundred dollars per month for the term of two months, said term beginning on the first Monday of March of each year. The board of supervisors shall allow the assessor to appoint extra deputies, other than as above provided, in the ratio of one for every three hundred statements, or major fraction thereof in excess of two thousand eight hundred statements, and said extra deputies shall each serve for two months in each year, at the will of the assessor, and shall be paid one hundred dollars per month. All salaries of deputies as above provided, shall be paid in the same manner and at the same time as the salary of the assessor is paid. All commissions allowed by law to the assessor for the collection of poll tax, road poll, personal property and special taxes, shall be paid into the county treasury by the assessor monthly as collected, for the use of the county, and shall be apportioned by the auditor and the treasurer to the salary fund.

8. **District attorney.** The district attorney, one thousand eight hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them. In townships having a population of more than four thousand, ninety dollars per month; in townships having a population of less than four thousand and more than three thousand three hundred, seventy-five dollars per month; in townships having a population of less than two thousand three hundred and more than one thousand five hundred, thirty dollars per month; in townships having a population of less than one thousand five hundred and more than six hundred, twenty dollars per month; in townships having a population of less than six hundred, fifteen dollars per month. The compensation herein fixed for justices of the peace shall be in full for all services rendered, and all fees collected by them shall be paid into the county treasury as provided by law.

14. **Constables.** Constables shall receive the following monthly salaries to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than four thousand, thirty-five dollars per month; in townships having a population of less than four thousand and more than two thousand, fifteen dollars per month; in townships having

population of less than two thousand, ten dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases, each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. **Supervisors.** Each supervisor, nine hundred dollars per annum, and twenty cents per mile for traveling expenses from his residence to the county seat, and also necessary expenses when on official business outside of the county.

16. **Board of education.** Each member of the county board of education, including the secretary, shall receive one hundred fifty dollars per annum as compensation for his services on the board of education, and mileage at the rate of twenty cents per mile, one way, from his residence to the place of meeting of said board. Said compensation of said members and of said secretary shall be paid monthly in the same manner and out of the same fund as the salaries of other county officers are paid. Claims for such mileage shall be presented to and allowed by the board of supervisors before payment. The compensation of the members of the county board of education herein provided is not in addition to that provided in section one thousand seven hundred seventy.

17. **Jurors.** In counties of this class grand and trial jurors in the superior court shall receive three dollars per day for each day's attendance while engaged in the performance of the duties required of them, and in addition thereto shall receive for each mile actually traveled, in going only, while acting as such juror, fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for such per diem and mileage, and the treasurer shall pay the same.

18. **Population of townships.** For the purposes of subdivisions thirteen and fourteen of this section, the population of the several judicial townships shall be ascertained by the board of supervisors, by multiplying by five the vote for presidential electors cast in each township at the next preceding election. [Amendment approved April 4, 1919; Stats. 1919, p. 20.]

This section was also amended in 1917. See Stats. 1917, p. 130.

§ 4273. **Counties of forty-fourth class, salaries of officers. Colusa.** In counties of the forty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand four hundred dollars per annum; provided, that in counties of this class there shall be, and there is hereby allowed to the county clerk, one deputy clerk, who shall be appointed by the county clerk and shall be paid a salary as follows: the sum of one thousand dollars per annum, which shall be paid by said county in equal monthly installments at the time and in the same manner and out of the same fund as the salary of the clerk is paid.

2. **Sheriff. Recorder.** The sheriff, four thousand dollars per annum and the fees or commissions for the service of all papers issued by court of the state outside of this county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county. There is also hereby allowed the sheriff one office deputy who shall be appointed by the sheriff and shall be paid a salary of one thousand two hundred dollars per annum which shall be paid by the county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the sheriff is paid. The recorder, sixteen hundred dollars per annum and in addition to his salary fifty per cent of fees collected by him for such fees are one hundred dollars or less and in addition thereto twenty-five per cent of all fees over one hundred dollars so collected.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand dollars per annum, and shall be in full for all services rendered by him and he shall pay the fees collected by him into the treasury of the county in the manner provided by law.

6. **Tax collector.** The tax collector, one thousand one hundred dollars per annum. He shall also receive as compensation to be paid him for his services one-third of one per cent of all moneys collected by him as tax collector.

7. **Assessor.** The assessor, three thousand dollars per annum.

8. **District attorney.** The district attorney, two thousand dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, fifteen hundred dollars per annum, and shall be in full for all services rendered by him by the superior court or the board of supervisors and as such county recorder; provided that he shall be entitled to receive from the county his actual and necessary traveling expenses, including the maintenance of any order of court or board of supervisors for all other services the fees allowed by law.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries to be paid by the county, and in the same manner out of the same fund as the salaries are paid, which shall be full for all services rendered by them in criminal cases: in the city of Chicago having a population of more than one hundred, seventy-five dollars per month; in the city of Evanston having a population of less than one hundred and more than fifty, fifty dollars per month; in the city of Chicago having a population of less than one hundred, thirty dollars

month. In addition to the compensation received in criminal cases each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

14. Constables. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Supervisors. Each supervisor, one hundred and twenty-five dollars per month, and mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties either as road commissioner or supervisor, not exceeding in the aggregate two hundred and fifty dollars per annum. Supervisors shall also receive their necessary expenses when the performance of duty as supervisor or road commissioner takes them out of the county.

16. Reporter. The official reporter, such fees as are now provided by law.

17. Assistants to surveyor. The board of supervisors in counties of this class may, by resolution, authorize the county surveyor to employ such assistants as may be necessary to perform such work as may be ordered by the board of supervisors or prescribed by law, and fix the compensation of such assistants and their actual necessary traveling expenses while in the field; such compensation and expenses to be allowed and paid as county charges. [Amendment approved April 21, 1919; Stats. 1919, p. 120.]

§ 4273a. Counties of forty-fourth class, jurors' fees. Colusa. In counties of the forty-fourth class grand jurors and trial jurors of the superior court shall each receive for each day's attendance the sum of three dollars per day, and for each mile of actual travel in attending court, twenty cents per mile, one way only. [New section added May 25, 1919; Stats. 1919, p. 1162.]

§ 4274. Counties of forty-fifth class, salaries of officers. El Dorado. In counties of the forty-fifth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries and fees, to wit:

1. County clerk. The county clerk, one thousand five hundred dollars per annum and such fees for services in naturalization proceedings as by the act of congress, in such case made and provided, it is said he may retain; and also such other fees as he may be allowed by the law of this state to retain; and provided, that in each year when a new

2. **Sheriff. Recorder.** The sheriff, four thousand dollars per annum and the fees or commissions for the service of all papers issued by the court of the state outside of this county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county. There is also hereby allowed to the sheriff one office deputy who shall be appointed by the sheriff and shall be paid a salary of one thousand two hundred dollars per annum which shall be paid by the county in equal monthly installments of time and in the same manner and out of the same fund as the salary of the sheriff is paid. The recorder, sixteen hundred dollars per annum and in addition to his salary fifty per cent of fees collected by him for such fees are one hundred dollars or less and in addition thereto ten per cent of all fees over one hundred dollars so collected.

4. **Auditor.** The auditor, two thousand four hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand dollars per annum, shall be in full for all services rendered by him and he shall receive the fees collected by him into the treasury of the county in the manner provided by law.

6. **Tax collector.** The tax collector, one thousand one hundred dollars per annum. He shall also receive as compensation to be paid him for his services one-third of one per cent of all moneys collected by him as tax collector.

7. **Assessor.** The assessor, three thousand dollars per annum.

8. **District attorney.** The district attorney, two thousand dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, two thousand four hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, fifteen hundred dollars per annum, shall be in full for all services required of him by the superior court or the board of supervisors, and as ex-officio county recorder; provided that he shall be entitled to receive from the county his actual and necessary traveling expenses, incurred in the performance of any order of the court or board of supervisors; for all other services the fees allowed by law.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same funds as county officers are paid, which shall be in full for all services rendered by them in criminal cases: in townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month.

month. In addition to the compensation received in criminal cases each justice of the peace shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

14. Constables. Constables shall receive the following monthly salaries, to be paid each month, and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases; in townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, thirty dollars per month; provided, that each constable shall receive his actual and necessary expenses incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases each constable shall receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

15. Supervisors. Each supervisor, one hundred and twenty-five dollars per month, and mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties either as road commissioner or supervisor, not exceeding in the aggregate two hundred and fifty dollars per annum. Supervisors shall also receive their necessary expenses when the performance of duty as supervisor or road commissioner takes them out of the county.

16. Reporter. The official reporter, such fees as are now provided by law.

17. Assistants to surveyor. The board of supervisors in counties of this class may, by resolution, authorize the county surveyor to employ such assistants, as may be necessary to perform such work as may be ordered by the board of supervisors or prescribed by law, and fix the compensation of such assistants and their actual necessary traveling expenses while in the field; such compensation and expenses to be allowed and paid as county charges. [Amendment approved April 21, 1919; Stats. 1919, p. 120.]

§ 4273a. Counties of forty-fourth class, jurors' fees. Colusa. In counties of the forty-fourth class grand jurors and trial jurors of the superior court shall each receive for each day's attendance the sum of three dollars per day, and for each mile of actual travel in attending court, twenty cents per mile, one way only. [New section added May 25, 1919; Stats. 1919, p. 1162.]

§ 4274. Counties of forty-fifth class, salaries of officers. El Dorado. In counties of the forty-fifth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their offices, the following salaries and fees, to wit:

1. County clerk. The county clerk, one thousand five hundred dollars per annum and such fees for services in naturalization proceedings as by the act of congress, in such case made and provided, it is said he may retain; and also such other fees as he may be allowed by the law of this state to retain; and provided, that in each year when a new

registration is required he shall receive in addition to his salary the sum of ten cents for each elector registered, which amount shall be allowed by the board of supervisors at the close of registration preceding a general election, and paid from the general fund of the county; and provided, further, that in counties of this class there shall be and is hereby allowed to the county clerk a deputy, who shall be appointed by the county clerk, who shall be paid a salary of one hundred and twenty-five dollars per month, said salary to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the county clerk is paid. The provisions of this subsection do not increase the compensation of the county clerk and shall take effect immediately.

2. **Sheriff.** The sheriff, four thousand two hundred dollars per annum and mileage for the service of papers or process served by him in civil cases from any court, also necessary expenses for pursuing criminals or transacting any criminal business. The provisions of this section do not increase the compensation of a county officer and shall take immediate effect.

3. **Recorder.** The recorder, one thousand eight hundred dollars per annum, and all fees and commissions allowed by law to the recorder for preparing vital statistics for the state of California and also a sum of twenty-five dollars, per annum for preparing the abstracts of mortgages for use of the county assessor as required by law; provided, that in counties of this class the recorder may appoint a copyist in his office which office of copyist for the county records hereby created and said copyist shall receive as compensation for his services the sum of nine hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner and at the same time as other county officers are paid.

4. **Auditor.** The auditor, nine hundred dollars per annum and five per cent on all amounts found to have been paid out by the county from state aid as per his report as contemplated by section 4099a of the Political Code of this state or other law providing for such compensation.

5. **Treasurer.** The treasurer, one thousand eight hundred dollars per annum; and provided, further, that the treasurer shall receive and retain for his own use the commissions on all inheritance and transfer taxes collected by him in accordance with the law.

6. **Tax collector.** The tax collector, five hundred dollars per annum and ten per cent on all licenses collected by him as license collector.

7. **Assessor.** The assessor, three thousand five hundred dollars per annum and such fees as are now or may hereafter be allowed by law.

8. **District attorney.** The district attorney, one thousand eight hundred dollars per annum and all traveling expenses in criminal matters and county business.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum and actual traveling expenses.

when visiting the schools of his county and also the sum of five dollars per day for his services as secretary of the board of education for the actual time that the board may be in session.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Justices of peace.** Justices of the peace who shall have their office at the county seat shall receive a salary of fifty dollars per month. The justice of the peace whose office is at El Dorado in the township of Mud Springs shall receive a salary of twenty dollars per month. The justice of the peace whose office is at Georgetown in the township of Georgetown shall receive a salary of twenty dollars per month. The justices of the peace who may be elected to office in Kelsey, Lake Valley, Cosumnes, Mountain, White Oak, Diamond Springs, Coloma, Salmon Falls and Greenwood townships shall each receive a salary of fifteen dollars per month; which said salaries shall be in full compensation for all services of every kind and description rendered by them whether civil or criminal; such salaries shall be payable in like manner and out of the same funds and at the same times as the salaries of county officers are paid; all fees payable under the law to such justices of the peace shall be turned over to the county with verified statements of fees so received, in like manner and at like times as required of county officers.

14. **Constables.** Each constable shall receive the following fees: For serving all summons in civil cases, for each defendant, including the copy required by law, one dollar.

For summoning a jury of twelve or less before a justice, one dollar and fifty cents; for each additional juror above twelve, twenty-five cents.

For taking any bond required by law to be taken, fifty cents.

For subpoenaing each witness twenty-five cents.

For serving an attachment or levying an execution on the property of a defendant, one dollar and fifty cents.

For summoning and swearing a jury to try the rights of property, and making a verdict, two dollars.

For receiving and taking care of property on execution, order or attachment, his actual necessary expenses to be allowed by the justice who issued the order, attachment or execution upon the affidavit of the constable that the charges are correct and that the expenses were necessarily incurred.

For collecting all sums on execution, three per cent to be charged against the defendant named in the execution.

For serving a warrant or order for the delivery of personal property, or making an arrest in a civil case, one dollar and fifty cents.

For making each arrest in criminal cases, two dollars.

For every mile necessarily traveled, in going only, to serve any civil or criminal process or paper, or to take a prisoner before a magistrate or to prison, twenty-five cents; but when two or more persons are served or summoned in the same suit and at the same time, mileage shall be charged only for the most distant, if they live in the same direction.

For sales of estrays, the same fees as for sales on execution.

For the transportation of prisoners to the county jail the actual necessary expenses.

For attending a justice's court and taking charge of a jury and p
oner when required, two dollars for each day of actual attendance up
the court.

For all other services the same fees as are allowed sheriffs for l
service.

15. **Supervisors.** Each member of the board of supervisors, nine h
dred dollars per annum and twenty cents per mile for traveling fr
his residence to the county seat, also his actual necessary expenses w
acting as ex officio or as overseer or commissioner not to exceed th
hundred dollars in any one year.

16. **Board of education.** Each member of the board of educat
whether appointed or ex officio, shall receive five dollars per day as c
pensation for his services while in actual attendance upon said bo
and mileage at the rate of twenty cents per mile, one way only, f
his residence to the place of meeting of said board.

Said compensation of the members of said board shall be paid
of the same fund as the salary of the superintendent of schools
paid. Claims for such services and mileage shall be presented to
board of supervisors and shall be allowed at the rate above named
the same manner as other claims against the county are allowed.

The compensation of the members of the county board of educa
herein provided for is not in addition to that provided in section
thousand seven hundred seventy of this code.

17. **Jurors.** In the superior court juror's fees, and witness fees
criminal cases shall be as follows:

For attending as a grand juror, for each day's actual attendance
day three dollars, and fifteen cents per mile for each mile actu
traveled in going only, and the judge of said court shall make an o
directing the auditor to draw his warrant in favor of such juror
said per diem and mileage and the treasurer shall pay the same.

For attending as a trial juror in criminal cases, for each day's ac
attendance, per day three dollars, and fifteen cents per mile for e
mile actually traveled in going only, and the judge of said court s
make an order directing the auditor to draw his warrant in favor of
juror for said per diem and mileage and the treasurer shall pay
same.

For attendance as a witness in criminal cases, for each day's ac
attendance the sum of two dollars, and fifteen cents per mile for e
mile actually traveled in going only, and the judge of said court s
make an order directing the auditor to draw his warrant in favor
such witness for said per diem and mileage, and the treasurer shall
the same; provided, however, that in criminal cases such per diem
mileage shall only be allowed upon a showing to the court by the
ness, that the same are necessary for the expense of the witness
attending, and the court shall determine the necessity for the s
and may disallow any fees to a witness unnecessarily subpoena
[Amendment approved May 27, 1919; Stats. 1919, p. 1155.]

§ 4275. **Counties of forty-sixth class, salaries of officers.** Glenn.
counties of the forty-sixth class, all county officers shall receive
compensation for the services required of them by law, or by virtu
their office, the following salaries, to wit: The county clerk, two t

and five hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the county clerk one deputy who shall receive a salary of one thousand two hundred dollars per annum, and one deputy who shall receive a salary of eight hundred dollars per annum; the deputies herein provided for shall be appointed by the county clerk, and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same funds as the salary of the county clerk is paid. All fees collected by the clerk as are now or may hereafter be required by law shall by him be paid into the county treasury.

The sheriff, five thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county; also, his actual and necessary traveling expenses in the execution of a warrant outside of his county issued by a court magistrate of his county.

The recorder, one thousand four hundred forty dollars per annum, and, in addition thereto, all fees which said recorder is now or may hereafter be entitled to receive as such recorder, or which are now or may hereafter be required by law to be collected by said recorder.

The auditor, one thousand four hundred sixty dollars per annum, and in addition thereto all commissions and fees permitted by any law of this state or of the United States to be collected by the auditor as an officer or ex-officio officer, his deputies or assistants for the performance of any official duty.

The treasurer, two thousand three hundred forty dollars per annum; and in addition thereto all commissions and fees permitted by any law of this state or of the United States to be collected by the treasurer as an officer or ex-officio officer, his deputies or assistants for the performance of any official duty.

The tax collector, one thousand five hundred dollars per annum; provided, that there shall be allowed to the tax collector one deputy for five months in each year at a salary of seventy dollars per month, and one deputy for one month in each year at a salary of fifty dollars per month; the deputies herein provided for shall be appointed by the tax collector, and their salaries shall be paid by said county out of the same funds as the salary of the tax collector is paid; provided, further, that all commissions and fees required or permitted by any law of this state or of the United States to be collected by the tax collector either as an officer or ex-officio officer, his deputies or assistants, for the performance of any official duty, shall be collected for the benefit of the county and shall be paid into the general fund of the county monthly.

The assessor, four thousand dollars per annum; provided, that said assessor shall be entitled to receive and retain for his own use four per cent only on personal property tax collected by him as authorized by section three thousand eight hundred twenty of the Political Code of the state of California.

The district attorney, two thousand four hundred dollars per annum; provided, further, that in counties of this class, there shall be and is hereby allowed to the district attorney a stenographer or office clerk, to be appointed by the district attorney, who shall receive a salary of nine hundred dollars per annum, to be paid in equal monthly installments, at

the same time, in the same manner and out of the same funds as salary of the district attorney is paid.

The coroner, such fees as are now or may hereafter be allowed by law.

The public administrator, such fees as are now or may be hereafter allowed by law.

The superintendent of schools, two thousand seven hundred dollars per annum and traveling expenses while visiting and examining schools and school properties of the county and in performing such other duties as are incident to the full discharge of the requirements of the office of superintendent of schools, and who shall serve as secretary of the county board of education without compensation; provided, that in counties of this class there shall be and there is allowed to the superintendent of schools one deputy who shall receive a salary of one thousand dollars per annum; the deputy herein provided for shall be appointed by the superintendent of schools, and the salary of the deputy shall be paid by said county in equal monthly installments at the same time, in the same manner and out of the same funds as salary of the superintendent of schools is paid.

The surveyor, such fees as are now or may be hereafter allowed by law.

Justices of the peace shall receive the following monthly salaries to be paid each month, and in the same manner and out of the same funds as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population more than nine hundred, seventy-five dollars per month; in townships having a population less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population less than five hundred, twenty dollars per month.

Constables shall receive the following monthly salaries to be paid each month and in the same manner and out of the same fund as county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of more than nine hundred, seventy-five dollars per month; in townships having a population of less than nine hundred and more than five hundred, fifty dollars per month; in townships having a population of less than five hundred, twenty dollars per month; provided, that each constable shall receive his actual and necessary expenses, incurred in conveying prisoners to the county jail. In addition to the compensation received in criminal cases each constable shall receive and retain for his own use such fees as are now or may be hereafter allowed by law for all services performed by him in civil actions.

Supervisors, the sum of one hundred twenty-five dollars per month each; mileage at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties either as road commissioner or supervisor, not exceeding in the aggregate two hundred fifty dollars per annum. Supervisors shall also receive their necessary expenses when the performance of duty as supervisor or road commissioner takes them out of the county.

The official reporters, same as now provided by law.

In counties of this class grand jurors and trial jurors in the superior court shall receive for each day's attendance the sum of three dollars and for each mile actually and necessarily traveled from their residence

to the county seat, the sum of fifteen cents; such mileage to be allowed but once during each session such jurors are required to attend.

§ 2. The compensation, fees, mileage and expenses provided for herein are intended to affect present incumbents and shall take effect and be in force ninety days after the passage and approval of this act. [Amendment approved May 27, 1919; Stats. 1919, p. 1162.]

This section was also amended in 1917. See Stats. 1917, p. 1605.

§ 4276. **Counties of forty-seventh class; salaries of officers. Inyo.** In counties of the forty-seventh class, the county officers shall receive as compensation for the services required of them by law, or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand five hundred dollars per annum; provided, that in counties of this class, there shall be a deputy county clerk, who shall be appointed by the county clerk, whose salary shall be, per annum, a sum not to exceed nine hundred dollars; which salary shall be fixed by said county clerk, and which said salary shall be paid by said county at the time and in the same manner and out of the same fund as the salary of the county clerk.

2. **Sheriff.** The sheriff, five thousand dollars per annum and mileage for services of any and all processes required by law to be served by him, at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty, and for services of all processes issued from all courts outside of his county; the sheriff to pay all salaries of his deputies.

3. **Recorder.** The recorder, one thousand six hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law.

4. **Auditor.** The auditor, one thousand five hundred dollars per annum. The county auditor shall be allowed one deputy county auditor to be appointed by him, whose salary shall be one thousand two hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand five hundred dollars per annum.

7. **Assessor.** The assessor, two thousand one hundred dollars per annum.

8. **District attorney.** The district attorney, two thousand one hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of peace.** Justices of the peace shall receive the following monthly salaries, to be paid each month as salaries of county officers are paid, which shall be in full compensation for all services rendered as hereinafter provided: In townships having a population of three thousand or more, fifty dollars per month, which said salary shall be in full compensation for all services rendered by said justices of the peace in both civil and criminal cases, and all such fees as are allowed by law in civil cases shall be paid by said justices of the peace in the county treasury, as the fees of county officers are paid in. In townships having a population under three thousand, twenty-five dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases such fees as are now or may hereafter be allowed by law. In townships having a population of not less than one thousand and under two thousand, twenty dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary, each justice of the peace shall collect and retain for his own use and benefit in civil cases such fees as are now or may hereafter be allowed by law. In townships having a population of less than one thousand, fifteen dollars per month, which shall be in full compensation for all services rendered in criminal cases. In addition to the above salary each justice of the peace shall collect and retain for his own use and benefit in civil cases, such fees as are now or may hereafter be allowed by law.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Each member of the board of supervisors, six hundred dollars per annum; thirty cents per mile one way in attending meetings of the board. Three dollars per day when actually serving as road commissioner, not to exceed three hundred dollars per annum.

16. **Official reporter.** In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in criminal cases in said court, before the grand jury, for preliminary examinations, and for coroner's inquests, a monthly salary of seven dollars and fifty cents, payable out of the county treasury at the same time as the salaries of the county officers are paid, and he shall also receive as compensation for taking notes, when required, in civil cases a per diem of ten dollars, to be paid by the litigants as the court may direct; and for transcription of said notes, when required, the fee of fifteen cents per folio for the original, and five cents per folio for each copy thereof; said compensation for transcription in criminal cases and coroner's inquests to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases to be paid by the party ordering same, or when ordered by the judge, by either party, or by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside the county seat.

17. Population of townships. Population of townships. The board of supervisors shall determine the population of each township for the purpose of fixing the salary of the township officers aforesaid. [Amendment approved May 27, 1919; Stats. 1919, p. 962.]

This section was also amended in 1917. See Stats. 1917, p. 1107.

§ 4276a. Fees of jurors and witnesses, counties of forty-seventh class.
Inyo. In counties of the forty-seventh class, jurors and witnesses shall receive the following fees and mileage:

Jurors. For attending as a grand juror, for each day's actual attendance, per day, three dollars, and twenty cents per mile for each mile actually traveled, in going only; for attending as a trial juror in the superior court in civil and criminal cases, for each day's actual attendance, per day, three dollars, and twenty cents per mile for each mile actually traveled, in going only; for attending as a trial juror in the justice's court, in civil cases only, for each day's actual attendance, per day, two dollars, and twenty cents per mile for each mile actually traveled, in going only. The fee of such jurors shall be paid to them, respectively, on each day during the period of their attendance, if demanded, and the mileage herein provided for shall be paid at the time the fee for the first day's attendance is paid.

Witnesses. For each day's actual attendance when legally required to attend upon the superior court, per day, three dollars, and twenty cents per mile for each mile actually traveled, in going only; and for each day's actual attendance when legally required to attend upon the justice's court, in civil cases only, per day, two dollars, and twenty cents per mile for each mile actually traveled, in going only. Witnesses in criminal cases shall be paid their fees and mileage, as in this section provided, immediately upon their being discharged by the court. Witnesses in civil cases may demand the payment of their fees and mileage for one day, in advance, and when so demanded shall not be compelled to attend until the same shall have been paid. [New section added May 28, 1917; Stats. 1917, p. 1109.]

§ 4277. Counties of forty-eighth class, salaries of officers. Sutter.
In counties of the forty-eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following compensation and salaries, to wit:

1. **County clerk.** The county clerk, two thousand dollars per annum.
2. **Sheriff.** The sheriff, three thousand five hundred dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.
3. **Recorder.** The recorder, one thousand five hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the recorder one deputy recorder who shall be appointed by the recorder and shall be paid a sum of one thousand two hundred dollars per annum, also one deputy recorder who shall be appointed by the recorder and shall be paid a salary of one thousand dollars per annum, said salaries to be paid in equal monthly installments at the same time and in the same manner as the salaries of other county officers are paid.

4. **Auditor.** The auditor, five hundred dollars per annum.
5. **Treasurer.** The treasurer, one thousand two hundred dollars per annum.
6. **Tax collector.** The tax collector, eight hundred dollars per annum which shall be in full for all services as tax collector and license collector; provided, that in counties of this class there shall be one deputy tax collector who shall be appointed by the tax collector of said county and shall receive a salary of nine hundred dollars per annum, payable at the same time and in the same manner as the salaries of county officers are paid.
7. **Assessor.** The assessor, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be one chief deputy assessor and one deputy assessor who shall be appointed by the assessor of said county. Said deputy assessor shall serve as such officer during the months of March, April, May and June of each year and shall receive a salary of one hundred dollars per month, payable during the period of such service, and said chief deputy assessor shall receive a salary of one thousand two hundred dollars per year, such salaries to be payable at the same time and in the same manner as the salaries of county officers are paid.
8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.
9. **Coroner.** The coroner, five hundred dollars per annum, and his actual traveling and other expenses while performing the duties of his office.
10. **Public administrator.** The public administrator, such fees as now or may be hereafter allowed by law.
11. **Superintendent of schools.** The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. **Surveyor.** The surveyor, nine hundred dollars per annum, and in addition thereto, he shall receive his actual traveling and other necessary expenses incurred by him while engaged in work for the county.
13. **Supervisors.** Each supervisor, fifty dollars per month, payable at the same time and in the same manner as other county officers are paid and his necessary and actual expenses when attending to the business of the county by order of the board, and mileage at the rate of twenty cents per mile for traveling from his residence to the county seat to attend the sessions of the board, and mileage at the rate of twenty cents per mile one way for all actual distances traveled by him in the performance of his duties as road commissioner.
14. **Classification of townships. Justices of peace.** In counties of this class the township officers shall receive the following compensation: For the purpose of fixing the compensation of justices of the peace and constables according to their duties townships in counties of this class shall be hereby classified according to their population as follows: Townships having a population of two thousand four hundred or more shall be known to and be known as townships of the first class. Townships having a population of more than one thousand two hundred and less than

thousand four hundred shall belong to and be known as townships of the second class. Townships having a population of less than one thousand two hundred shall belong to and be known as townships of the third class. Justices of the peace shall receive the following salaries: In townships of the first class forty dollars per month; in townships of the second class twenty dollars per month, and in townships of the third class fifteen dollars per month. Such salaries shall be paid in the same manner and out of the same fund as salaries of county officers are paid, and shall be compensation in full for all services rendered. All fees received by justices of the peace shall be paid into the county treasury every month.

15. **Constables.** Constables shall receive the following monthly salaries, payable at the same time and in the same manner as county officers are paid, which shall be in full for all services rendered by them in criminal actions: In townships of the first class thirty dollars per month; in townships of the second class fifteen dollars per month; in townships of the third class fifteen dollars per month; provided, that in addition to the salary herein allowed each constable shall be paid out of the treasury of the county for traveling expenses outside of his township for service of a warrant of arrest or any other paper in a criminal case such fees as are now or may be hereafter allowed by law, and for transporting prisoners to the county jail the actual expenses for such transportation, and his actual and necessary expenses in keeping and caring for property seized by him under a writ of attachment or execution; and provided, further, that constables may retain for their own use, the fees which are now or may be hereafter allowed to them in civil cases.

16. **Population of townships.** For the purposes of sections fourteen and fifteen, the population of the several townships shall be ascertained by multiplying by two and one-half the number of registered voters in each township, at the last general election preceding the fixing of this classification.

17. **Jurors.** Grand jurors and jurors in the superior court shall receive the following fees: For each day's attendance three dollars, and for each mile actually traveled in attending court as a juror, one way, fifteen cents.

18. **Incumbents.** When this law shall enter into effect it shall apply to and affect incumbents mentioned in section three. [Amendment approved April 18, 1919; Stats. 1919, p. 114.]

This section was also amended in 1917. See Stats. 1917, p. 1258.

§ 4278. Counties of forty-ninth class, salaries of officers. Modoc. In counties of the forty-ninth class, the county officers shall receive as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand eight hundred dollars per annum; provided, that in counties of this class the county clerk shall be allowed a copyist, who shall be appointed by the county clerk and paid the salary of seventy-five dollars per month; said salary to be paid at the same time, in the same manner and out of the same fund as the salary of the county clerk; and provided, further, that in coun-

ties of this class, during the years when the compilation of a great-
ter is required by law, the county clerks of the county shall be allo-
the sum of ten cents per name for each affidavit legally taken for re-
tration; said sum to be allowed and paid to said county clerks by
board of supervisors as other county charges are allowed and paid.

2. **Sheriff.** The sheriff shall receive two thousand five hundred dol-
per annum, and in counties of this class, there is hereby allowed to
sheriff, one deputy, to be appointed by him, who shall receive the sa-
of seventy-five dollars per month, which shall be paid by the cou-
in monthly installments, at the same time and in the same manner
out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, one thousand dollars per annum; provi-
that in counties of this class there shall be and is hereby allowed to
recorder a copyist who shall be appointed by the recorder, and paid
salary of seventy-five dollars per month; said salary to be paid by
said county in monthly installments, at the time and in the same man-
and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, eight hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars
annum.

6. **Tax collector.** The tax collector, one thousand two hundred dol-
per annum, and ten per cent on all licenses collected by him as licen-
collector; provided, that in counties of this class there shall be and
hereby allowed to the tax collector an assistant for the months of Ap-
October and November, who shall be appointed by the tax collector
paid the salary of seventy-five dollars per month for said above-nam-
months, said salary to be paid by the said county in monthly inst-
ments, at the time and in the same manner, and out of the same f-
as the salary of the tax collector is paid.

7. **Assessor.** The assessor, one thousand five hundred dollars per
num; provided, that in counties of this class there shall be and is her-
allowed to the assessor one deputy and one copyist, to be appointed
him, who shall receive the salary of one hundred twenty-five dollars
month each, from the first day of March to July first of each year,
salaries to be paid by said county in monthly installments, at the s-
time and in the same manner, and out of the same fund as the sal-
of the assessor is paid.

8. **District attorney.** The district attorney, one thousand eight h-
dred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter
allowed by law.

10. **Public administrator.** The public administrator, such fees as
now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, o-
thousand five hundred dollars per annum and actual traveling expen-
when visiting the schools of his county, and the sum of five dollars
day for each day's services on the board of education; said sum, toget-
with the traveling expenses, to be allowed and paid the same as oth-
county charges are allowed and paid; provided, that in counties of t

class there shall be and is hereby allowed to the superintendent of schools one deputy to be appointed by him for two months in each year at a salary of seventy-five dollars per month, said salary to be paid by said county in monthly installments at the same time, in the same manner, and out of the same fund as the salary of the superintendent of schools is paid.

12. Surveyor. The surveyor, such fees as are now or may hereafter be allowed by law.

13. Justices of peace. Justices of the peace in counties of this class shall receive the following monthly salaries to be paid each month in the same manner, at the same time and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than one thousand, fifty dollars per month; in townships having a population of more than five hundred and less than one thousand, twenty-five dollars per month; in townships having a population of less than five hundred, ten dollars per month. The board of supervisors of such counties shall furnish and supply to the justices of the peace of the various townships in such counties the codes of the state and amendments thereto and all necessary stationery, legal blanks and forms for the proper conduct of business.

14. Constables. Constables shall receive the following salaries to be paid each month as salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: (1) In townships having a population of five hundred or more, twenty dollars per month; (2) in townships, having a population of less than five hundred, ten dollars per month; provided, further, that in addition to the salary herein allowed, each constable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for service of a warrant of arrest or any other paper in a criminal case, such fees as are now or may be hereafter allowed by law. For serving a coroner's subpoena the same fees and mileage as are now or may hereafter be allowed by law for the service of a subpoena issued out of a justice's court. For summoning a coroner's jury the same fees as are now or may be hereafter allowed for summoning a jury in a civil action in the justice's court. For transporting prisoners to the county jail, the expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fee allowed by law. For transporting prisoners to the county jail, the actual expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law. It is hereby declared that the salaries provided for in this subdivision do not constitute an increase and shall apply to present incumbents.

15. Supervisors. Each member of the board of supervisors to receive a flat rate of eight hundred dollars per annum, in full for all services.

16. Official reporter. In counties of this class, the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said courts, and for preliminary examinations in justices' courts, and at coroners' inquests, a per diem of ten dollars, and for transcription of said notes when required during the progress of a trial, he shall receive the sum of twenty-five cents per

folio for the original and five cents per folio for one copy; but if a transcription is not required until after the conclusion of the trial, he shall receive the sum of ten cents per folio for original, and cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury and in civil cases, to be paid by the party ordering the same, or warranted by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat.

17. Jurors. For attending as a grand juror or as a trial juror in superior court, in criminal cases, three dollars per day for each day of attendance. For each mile actually traveled in attending upon superior court, in going only, per mile, twenty-five cents; provided, in counties of this class the grand jurors and trial jurors in criminal cases shall be paid warrants drawn by the county auditor, issued under the order of the court, or judge thereof. [Amendment approved March 27, 1919; Stats. 1919, p. 1135.]

This section was also amended in 1917. See Stats. 1917, p. 114.

§ 4279. Counties of fiftieth class; salaries of officers. Lake. In counties of the fiftieth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, one thousand eight hundred dollars per annum and such fees as he may be by law allowed to receive; and provided, that in any year when a new register of voters is required by law said county clerk may appoint such number of deputy clerks as may be necessary for the convenience of registration of voters, each said deputies to receive the sum of ten cents per name for each elector registered by him whose name appears on the great register at the November election. Said sum to be paid out of the general county fund on the presentation and filing with the board of supervisors of the county a duly verified claim therefor approved by the county clerk.

2. Sheriff. The sheriff, two thousand four hundred dollars per annum and the fees or commissions for the services of all papers issued by the court of the state outside of his county, and his actual and necessary traveling expenses while executing a warrant outside of his county issued by a magistrate or court within his county.

3. Recorder. The recorder, one thousand six hundred dollars per annum; provided, that when the amount of fees collected by said recorder in any month shall exceed the sum of one hundred dollars, the recorder may receive and retain for his own use, in addition to his salary, half of all fees in excess of one hundred dollars collected by him in any such month.

4. Auditor. The auditor, one thousand five hundred dollars per annum; provided, that the provisions herein contained for the salary of the auditor shall apply to the incumbent.

5. Treasurer. The treasurer, nine hundred dollars per annum.

6. **Tax collector.** The tax collector, six hundred dollars per annum, which shall be in full for all services as tax collector and license collector.

7. **Assessor.** The assessor, one thousand eight hundred dollars per annum; provided, that the board of supervisors shall allow the traveling expenses of the assessor and his deputies, necessarily incurred in the performance of the duties of said office, not to exceed the sum of three hundred dollars per year, to be allowed and paid as other claims against the county are allowed and paid; provided, further, that the provisions herein contained for the expenses of the assessor shall apply to the incumbent.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum, to be in full compensation for all services rendered, including his traveling expenses while visiting schools, and his services as member of and secretary of the board of education; provided, that the provisions herein contained for the salary of the superintendent of schools shall apply to the incumbent.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of peace. Population of townships.** In counties of this class the justices of the peace shall receive the following compensation, to wit:

(a) In townships having a population of one thousand or over, the sum of three hundred dollars per annum, payable monthly.

(b) In townships having a population of less than one thousand, the sum of two hundred forty dollars per annum, payable monthly.

The above-named salaries shall be in full compensation for all services of said justices of the peace in criminal and civil cases, and when acting as coroner said justices of the peace shall be allowed and paid actual expenses, which expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury. The above compensation shall be in lieu of all other fees received for services and said fees shall be accounted for to the auditor and paid into the county treasury.

The salaries of justices of the peace as herein provided for shall be paid in the same manner, at the same time, and out of the same funds as county officers are paid.

For the purpose of this subdivision the population of the several judicial townships is hereby determined to be the population of the townships as shown by the federal census taken in the year A. D. one thousand nine hundred ten.

14. **Constables.** Constables, the sum of three hundred dollars per annum, which shall be paid, in the manner and at the same time and out of the same funds as county officers are now paid. The above com-

folio for the original and five cents per folio for one copy; but if a transcription is not required until after the conclusion of the trial, then he shall receive the sum of ten cents per folio for original, and five cents per folio for copies required; said compensation for transcripts in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or as ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat.

17. Jurors. For attending as a grand juror or as a trial juror in superior court, in criminal cases, three dollars per day for each day of attendance. For each mile actually traveled in attending upon superior court, in going only, per mile, twenty-five cents; provided, that in counties of this class the grand jurors and trial jurors in criminal cases shall be paid warrants drawn by the county auditor, issued upon the order of the court, or judge thereof. [Amendment approved 127, 1919; Stats. 1919, p. 1135.]

This section was also amended in 1917. See Stats. 1917, p. 114.

§ 4279. Counties of fiftieth class; salaries of officers. Lake. In counties of the fiftieth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. County clerk. The county clerk, one thousand eight hundred dollars per annum and such fees as he may be by law allowed to retain; and provided, that in any year when a new register of voters is required by law said county clerk may appoint such number of deputy clerks as may be necessary for the convenience of registration of voters, each said deputy to receive the sum of ten cents per name for each elector registered by him whose name appears on the great register at the November election. Said sum to be paid out of the general county fund on the presentation and filing with the board of supervisors of the county a duly verified claim therefor approved by the county clerk.

2. Sheriff. The sheriff, two thousand four hundred dollars per annum and the fees or commissions for the services of all papers issued by the court of the state outside of his county, and his actual and necessary traveling expenses while executing a warrant outside of his county issued by a magistrate or court within his county.

3. Recorder. The recorder, one thousand six hundred dollars per annum; provided, that when the amount of fees collected by said recorder in any month shall exceed the sum of one hundred dollars, the recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of one hundred dollars collected by him in such month.

4. Auditor. The auditor, one thousand five hundred dollars per annum; provided, that the provisions herein contained for the salary of the auditor shall apply to the incumbent.

5. Treasurer. The treasurer, nine hundred dollars per annum.

6. **Tax collector.** The tax collector, six hundred dollars per annum, which shall be in full for all services as tax collector and license collector.

7. **Assessor.** The assessor, one thousand eight hundred dollars per annum; provided, that the board of supervisors shall allow the traveling expenses of the assessor and his deputies, necessarily incurred in the performance of the duties of said office, not to exceed the sum of three hundred dollars per year, to be allowed and paid as other claims against the county are allowed and paid; provided, further, that the provisions herein contained for the expenses of the assessor shall apply to the incumbent.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand five hundred dollars per annum, to be in full compensation for all services rendered, including his traveling expenses while visiting schools, and his services as member of and secretary of the board of education; provided, that the provisions herein contained for the salary of the superintendent of schools shall apply to the incumbent.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of peace. Population of townships.** In counties of this class the justices of the peace shall receive the following compensation, to wit:

(a) In townships having a population of one thousand or over, the sum of three hundred dollars per annum, payable monthly.

(b) In townships having a population of less than one thousand, the sum of two hundred forty dollars per annum, payable monthly.

The above-named salaries shall be in full compensation for all services of said justices of the peace in criminal and civil cases, and when acting as coroner said justices of the peace shall be allowed and paid actual expenses, which expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury. The above compensation shall be in lieu of all other fees received for services and said fees shall be accounted for to the auditor and paid into the county treasury.

The salaries of justices of the peace as herein provided for shall be paid in the same manner, at the same time, and out of the same funds as county officers are paid.

For the purpose of this subdivision the population of the several judicial townships is hereby determined to be the population of the townships as shown by the federal census taken in the year A. D. one thousand nine hundred ten.

14. **Constables.** Constables, the sum of three hundred dollars per annum, which shall be paid, in the manner and at the same time and out of the same funds as county officers are now paid. The above com-

pensation shall be in lieu of all other fees received for services, and said fees shall be accounted for to the auditor and paid into the county treasury; provided, the provisions hereof and herein contained shall apply to the present incumbent.

15. **Supervisors.** Each member of the board of supervisors, five dollars a day when the board is in session, and ten cents a mile, in going or returning for traveling from his residence to the county seat, and when serving as road commissioner three dollars per day, and actual and necessary expenses; provided, he shall not in any one year receive more than two hundred fifty dollars as supervisor, exclusive of mileage, nor more than two hundred dollars as road commissioner, exclusive of travel expenses.

16. **Board of education.** Each member of the board of education excepting the superintendent of schools shall receive five dollars per day as compensation for his services when in actual attendance upon the board, and mileage at the rate of ten cents per mile, one way, or from his residence to the place of meeting of said board. Said compensation of the members of said board shall be paid out of the school fund as the salary of the superintendent of schools. Claims for service and mileage shall be presented to the board of supervisors and shall be allowed at the rate above named, and in the same manner as the claims against the county are allowed. The compensation of the members of the board of education herein provided for, is not in addition to that provided in section one thousand seven hundred seventy of this code.

17. **Jurors.** In counties of this class, for attending as a grand juror or as a trial juror in a criminal case in the superior court, for each day's attendance, three dollars. Such jurors shall receive for each day actually and necessarily traveled in attending as a juror, in going and returning, fifteen cents.

18. **Witnesses.** In counties of this class witnesses shall be allowed for each day's actual attendance, when legally required to attend in the superior court in a criminal case, three dollars, and for each day actually and necessarily traveled as such witness, in going and returning, ten cents; provided, that such per diem and such mileage shall be allowed only upon such a showing to the court as is now or may be hereafter required by law.

19. **Intent of act.** The legislature hereby declares that the provisions of this act are not intended to and do not increase or diminish the compensation of the officers herein mentioned, but are intended to change the same to a fixed salary basis wherever a salary is provided for compensation of such officers.

20. **Time in effect.** The provisions of this act shall take effect thirty days after the final adjournment of the session of the legislature which passed this act and said provisions shall be in force and apply to the present incumbent. [Amendment approved May 27, 1919; Stats. 1919, p. 1001.]

This section was also amended in 1917. See Stats. 1917, p. 128.

§ 4280. **Counties of fifty-first class, salaries of officers.** Plumas. In counties of the fifty-first class, the county officers shall receive as follows:

pensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand dollars per annum, except in the years when a general election is held, and in such years he shall receive two thousand three hundred dollars per annum, and said clerk may appoint one deputy clerk, which office is hereby created, who shall receive a salary of nine hundred dollars per annum. The deputy herein provided for shall be paid at the same time and in the same manner and out of the same fund as the clerk is paid.

2. **Sheriff.** The sheriff, four thousand dollars per annum.

3. **Recorder.** The recorder, one thousand eight hundred dollars per annum.

4. **Auditor.** The auditor, four hundred dollars per annum.

5. **Treasurer.** The treasurer, two thousand dollars per annum.

6. **Tax collector.** The tax collector, seven hundred fifty dollars per annum.

7. **Assessor.** The assessor, two thousand six hundred dollars per annum; provided, however, that such compensation shall be in full for all services of every kind and description rendered by the assessor; and it is further provided, that in counties of this class from and after the date upon which this act takes effect, the assessor shall pay into the county treasury for the use of the county all commissions and fees which would otherwise be allowed to him by the provisions of section four thousand two hundred ninety of the Political Code, as compensation for the services therein mentioned. The provisions of this subdivision are not intended to increase the compensation of the incumbent of such office, but are intended to change the compensation of the assessor from a mixed fee and salary system to a fixed salary basis and shall take effect ninety days after the final adjournment of the forty-second session of the legislature.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Classification of townships. Justices of peace.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships of this class of counties are hereby classified according to population. The population shall be determined by the board of supervisors upon the enactment of this act, and also at the time of formation of any new township or townships. The board may de-

9. **Coroner.** The coroner, such fees as are now or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may hereafter be allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. **Surveyor.** The surveyor, such fees as are now or may hereafter be allowed by law.

13. **Justices of the peace.** Justices of the peace in counties of this class shall receive the following monthly salaries to be paid each month in the same manner, at the same time, and out of the same funds as the county officers are paid, which shall be in full for all services rendered by them: In townships having a population of more than two thousand, fifty dollars per month; in townships having a population of two thousand or less, twenty dollars per month; provided, however, that the justice of the peace of the township wherein the county seat is located shall be in attendance at his office not less than three hours of each and every day except Sundays and holidays, between the hours of nine A. M. and three P. M., said justice to receive a salary of seventy-five dollars per month. The board of supervisors of such county shall furnish and supply to the justice of the peace of the various townships the codes of the state and amendments thereto and all necessary stationery, legal blanks and forms for the proper conduct of business. For the purpose of this subdivision, the population of the several townships shall be ascertained by multiplying the number of registered voters at the last general election by three.

14. **Constables.** Constables, twenty-five dollars per month, and in addition thereto, each constable shall be paid out of the treasury of the county, for traveling expenses, outside of his own township for service of a warrant of arrest or any other paper, in a criminal case, such fees as are now or may be hereafter allowed by law. For serving a coroner's subpoena, the same fees and mileage as are now or may hereafter be allowed by law for the service of a subpoena issued out of a justice's court. For summoning a coroner's jury the same fees as are now or may be hereafter allowed for summoning a jury in a civil action in the justice's court. For transporting prisoners to the county jail, the actual expenses of such transportation. In addition to the monthly salaries allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law.

15. **Supervisors.** Each member of the board of supervisors, one thousand dollars per annum, and mileage from residence to the county seat, at each sitting of the board, at twenty-five cents per mile; which said salary and mileage shall be in full for all services.

16. **Reporter.** In counties of this class, the official reporter of the superior court shall receive a salary of seventy-five dollars per month, to cover all work done in criminal cases, both in the superior and justice's courts of the county; and shall receive as compensation for taking notes in civil cases tried in the superior court a per diem of ten dollars, and for transcription of said notes, when required during the progress

of the trial, he shall receive the sum of twenty-five cents per folio for the original, and five cents per folio for one copy, in both criminal and civil cases; but if such transcription is not required until after the conclusion of the trial, then he shall receive the sum of ten cents per folio for the original, and five cents per folio for copies required; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct. He shall also be allowed his actual traveling expenses when reporting outside of the county seat. [Amendment approved May 28, 1917; Stats. 1917, p. 1000.]

§ 4281a. Fees of jurors, counties of fifty-second class. Lassen. In counties of the fifty-second class, grand jurors, and trial jurors, in criminal cases, shall receive the follownig fees and mileage: (1) Grand jurors, and jurors in the superior court in criminal cases, shall be paid three dollars per day for each day's attendance, and for each mile actually traveled in going only, while acting as jurors, fifteen cents; and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of each such juror for said per diem and mileage, and the treasurer shall pay the same.

(2) **In criminal cases.** For attending as a trial juror in criminal cases only, in any justice's court of the county, for each day's attendance, two dollars. The justice of the peace shall certify to the auditor the number of days' attendance of each juror, and the auditor shall then draw his warrant therefor, and the treasurer shall pay the same. [New section added May 28, 1917; Stats. 1917, p. 988.]

§ 4282. Counties of fifty-third class, salaries of officers. Sierra. In counties of the fifty-third class, the county and township officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand three hundred dollars per annum; provided, that in years when a great register of voters is required by law to be made the county clerk shall receive in addition to his regular salary the sum of four hundred dollars for such services, and said clerk may appoint one deputy clerk, which office of deputy county clerk is hereby created, who shall receive a salary of nine hundred dollars per annum. The deputy herein provided for shall be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the county clerk is paid.

2. **Sheriff.** The sheriff, two thousand five hundred dollars per annum, and twenty-five cents mileage, in going only.

3. **Recorder.** The recorder, four hundred dollars per annum; provided, that the recorder may retain to his own use all fees paid him for recording and indexing notices of location of mining claims and affidavits of annual expenditures upon mining claims.

4. **Auditor.** The auditor, three hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand dollars per annum.
6. **Tax collector.** The tax collector, three hundred fifty dollars per annum.
7. **Assessor.** The assessor, one thousand six hundred dollars per annum.
8. **District attorney.** The district attorney, one thousand dollars per annum, and his necessary traveling expenses, to be allowed by the board of supervisors.
9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.
10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.
11. **Superintendent of schools.** The superintendent of schools, six hundred twenty-five dollars per annum, and actual traveling expenses when visiting the schools of his county.
12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.
13. **Classification of townships. Justices of peace.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships of this class of counties are hereby classified according to population. The population shall be determined by the board of supervisors, in any manner determined upon by said board, upon the enactment of this act, and also at the time of the formation of any new township or townships.

Townships having a population of one thousand two hundred and more shall belong to and be known as townships of the first class; townships having a population of six hundred and less than one thousand two hundred shall belong to and be known as townships of the second class; townships having a population of three hundred and less than six hundred shall belong to and be known as townships of the third class; townships having a population of less than three hundred shall belong to and be known as townships of the fourth class.

Justices of the peace shall receive the following salaries: In townships of the first class the sum of two hundred forty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of two hundred forty dollars per annum; in townships of the second class the sum of one hundred eighty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of one hundred eighty dollars per annum; in townships of the third class the sum of one hundred twenty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of one hundred twenty dollars per annum; in townships of the fourth class the sum of sixty dollars for the period beginning with the date upon which this act takes effect and ending December 31, 1915, and thereafter a salary of sixty dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officials are paid and shall be compensation in full for all services rendered.

All fees received by justices of the peace shall be paid into the county treasury every month.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Each supervisor, six hundred fifty dollars per annum, and twenty cents per mile for traveling to and from his residence to the county seat at each session.

When traveling by order of the board upon county business, each supervisor shall be allowed his actual itemized expenses. For all services as road commissioner, each supervisor shall receive five dollars per day, but he shall not in any one year receive more than nine hundred dollars as supervisor.

16. **License collector.** The license collector, such compensation as the board of supervisors shall fix.

17. **Jurors.** For attending as a grand juror, or a trial juror in criminal cases only, in the superior court, for each day's attendance, three dollars; for each mile actually traveled one way as such grand juror or trial juror in criminal cases, in the superior court, under summons or order of the court, twenty-five cents. The county clerk shall certify to the auditor the number of days attendance, and the number of miles traveled by each juror, and the auditor shall then draw his warrant therefor and the treasurer shall pay the same. [Amendment approved May 27, 1919; Stats. 1919, p. 1188.]

§ 4283. **Counties of fifty-fourth class, salaries of officers. Mariposa.** In counties of the fifty-fourth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, one thousand eight hundred dollars per annum.

2. **Sheriff.** The sheriff, three thousand eight hundred dollars per annum.

3. **Recorder.** The recorder, one thousand five hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees so collected shall exceed one hundred dollars in any one month, the recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of one hundred dollars in any one month, so collected; and provided, that the recorder may retain for his own use all fees collected for filing and recording proofs of labor and notices of location of mining claims.

4. **Auditor.** The auditor, six hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand four hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand dollars per annum, and ten per cent of all licenses collected by him.

7. **Assessor.** The assessor, one thousand nine hundred dollars per annum.

8. **District attorney.** The district attorney, one thousand six hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** Public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** Superintendent of schools, one thousand two hundred dollars per annum, and actual traveling expenses of visiting schools of the county.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of peace.** Justices of the peace, one hundred fifty dollars per annum.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Supervisors, each the sum of nine hundred dollars per annum, for all services performed by them, as supervisors and members of the board of equalization. They shall act as road commissioners in their respective districts and shall receive for the service of such road commissioner three dollars per day for each day's service as such road commissioner. Such compensation as road commissioner shall not exceed three hundred dollars per annum.

16. **Jurors.** Grand jurors, and jurors of the superior court in civil and criminal cases shall be paid three dollars per day for each day's attendance, and for each mile actually traveled in going only, while acting as such juror, twenty cents per mile, and the judge of said court shall make an order directing the auditor to draw his warrant on the treasurer in favor of such juror for said per diem and mileage and the treasurer shall pay the same. [Amendment approved May 27, 1919; Stats. 1919, p. 1045.]

This section was also amended in 1917. See Stats. 1917, p. 1164.

§ 4284. **Counties of fifty-fifth class, salaries of officers. Trinity.** In counties of the fifty-fifth class the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries, to wit:

1. **County clerk.** The county clerk, two thousand dollars per annum.

2. **Sheriff.** The sheriff, three thousand dollars per annum.

3. **Recorder.** The recorder, one thousand dollars per annum.

4. **Auditor.** The auditor, one thousand dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum; provided, that all fees and commissions now allowed by law or which may hereafter be allowed by law to said treasurer by virtue of the said office shall be paid into the county treasury.

6. **Tax collector.** The tax collector, one thousand two hundred dollars per annum.

7. **Assessor.** The assessor, three thousand dollars per annum; provided, that all commissions and fees now allowed by law or which may hereafter be allowed by law to the said assessor on the collection of personal property taxes, road and hospital taxes, shall be paid into the county treasury.

8. **District attorney.** The district attorney, one thousand five hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, one thousand two hundred dollars per annum which said sum of one thousand two hundred dollars shall also be in full payment of the services of such superintendent of schools upon the board of education.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Justices of peace.** In counties of this class the justices of the peace shall receive the following compensation, to wit:

(a) In townships having a population of one thousand or over, twenty dollars per month;

(b) In townships having a population of less than one thousand, ten dollars per month; provided, however, that the justice of the peace residing at the county seat shall receive twenty dollars per month, even when presiding as justice of the peace in townships having less than a population of one thousand.

The above-named salaries shall be in full compensation for all services of said justices of the peace in criminal and civil cases, and when acting as coroner said justices of the peace shall be allowed and paid actual expenses, which expenses shall be audited and allowed by the board of supervisors and paid out of the county treasury. The above compensation shall be in lieu of all other fees received for services and said fees shall be accounted for to the auditor and paid into the county treasury.

The salaries of justices of the peace as herein provided for shall be paid in the same manner, at the same time, and out of the same funds as county officers are paid.

For the purposes of this subdivision the population of the several judicial townships is hereby determined to be the population of said townships as shown by the federal census taken in the year A. D. nineteen hundred ten.

14. **Constables.** The constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Each member of the board of supervisors, six hundred dollars per annum; mileage from residence to county seat at each sitting of the board, twenty cents per mile.

16. **Jurors.** The fees of grand jurors and trial jurors in the superior courts of counties of this class, in civil and criminal cases, shall be three

dollars, in lawful money of the United States, for each day's attendance, and mileage to be computed at the rate of twenty-five cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county shall pay said warrants.

The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for. [Amendment approved April 4, 1919; Stats. 1919, p. 23.]

§ 4285. Counties of fifty-sixth class, salaries of officers. Del Norte. In counties of the fifty-sixth class, the county officers shall receive as compensation for the services required of them by law and by virtue of their office the following salaries, to wit:

1. **County clerk.** The county clerk, twelve hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the clerk a deputy to act as clerk of the board of supervisors, who shall be appointed by the county clerk and be paid a salary of one hundred dollars per month; said salary to be paid by said county in monthly installments at the time and in the manner and out of the same fund as the salary of the county clerk is paid. In counties of this class the county clerk is hereby allowed in addition to his salary, each year when a new registration is required, the sum of ten cents for each elector registered, which amount shall be allowed by the board of supervisors at the close of registration preceding a general election, and be paid from the general fund of the county.

2. **Sheriff.** The sheriff, one thousand eight hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed a jailer who shall be appointed by the sheriff and be paid a salary of fifty dollars per month; and said salary to be paid by said county monthly and at the time and in the manner and out of the same fund as the salary of the sheriff is paid.

3. **Recorder.** The recorder, six hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the recorder a copyist, which office of copyist to the recorder is hereby created and which copyist shall be appointed by the recorder and be paid the salary of seventy-five dollars per month; said salary to be paid by said county in monthly installments at the time and in the manner and out of the same fund as the salary of the recorder is paid.

4. **Auditor.** The auditor, seven hundred twenty dollars per annum.

5. **Treasurer.** The treasurer, one thousand five hundred dollars per annum.

6. **Tax collector.** The tax collector, one thousand two hundred dollars per annum.

7. **Assessor.** The assessor, nine hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy who shall be appointed by the assessor and be paid a salary of fifty dollars per month; and said salary to be paid

by said county monthly and at the time and in the manner and out of the same fund as the salary of the assessor is paid.

8. **District attorney.** The district attorney, one thousand two hundred dollars per annum and such fees as are now or may hereafter be paid to that officer.

9. **Coroner.** The coroner, such fees as are now or may be hereafter allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, seven hundred twenty dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the superintendent of schools one deputy who shall be appointed by the superintendent of schools and shall be paid a salary of thirty-five dollars per month, said salary to be paid by said county monthly at the same time and manner and out of the same fund as the salary of the superintendent of schools is paid.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Classification of townships. Population of townships.** For the purpose of fixing the compensation of justices of the peace according to their duties, townships in counties of this class are hereby classified according to their population as follows:

Townships having a population of one thousand or more shall belong to and be known as townships of the first class. Townships having a population of less than one thousand shall belong to and be known as townships of the second class.

The population of the several townships shall be determined by the board of supervisors upon the enactment of this act, and also at the time of the formation of any new township or townships for the purpose of this and the succeeding subdivisions by the last federal census taken during the year 1910. Justices of the peace shall receive the following salaries:

In townships of the first class the sum of three hundred dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of three hundred dollars per annum;

In townships of the second class the sum of one hundred eighty dollars for the period beginning with the date upon which this act becomes effective and ending December 31, 1915, and thereafter a salary of one hundred eighty dollars per annum.

Such salaries shall be paid in the same manner and out of the same fund as the salaries of county officers are paid, and shall be compensation in full for all services rendered. All fees received by justices of the peace shall be paid into the county treasury every month. The board of supervisors of such counties shall furnish and supply to the justices of the peace of various townships in such counties, the codes of the state and amendments thereto, and all necessary stationery, legal blanks and forms for the proper conduct of business.

14. **Constables.** Constables, such fees as are now or may be hereafter allowed by law.

15. **Supervisors.** Each member of the board of supervisors, nine hundred dollars per annum and twenty cents per mile in traveling from his residence to the county seat, going only; provided, that only one mileage shall be allowed for any regular session of the board.

16. **Official reporter.** In counties of this class the official reporter of the superior court shall receive as full compensation for taking notes in civil and criminal cases tried in said court and for preliminary examinations in justices' courts and the coroners' inquests, a monthly salary not to exceed fifty dollars, payable out of the county treasury at the same time and in the same manner as the salaries of the county officers; and for transcription of said notes when required he shall receive the sum of ten cents per folio for the original and five cents per folio for the copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county and paid out of the county treasury, and in civil cases to be paid by the party ordering the same or when ordered by the judge, by either party or jointly by both parties as the court may direct.

17. **Jurors.** The fees of grand jurors and trial jurors in the superior courts of said counties of this class in civil and criminal cases, shall be three dollars in lawful money of the United States for each day's attendance and mileage to be computed at the rate of fifteen cents per mile for each mile necessarily traveled in attending court, in going only. In criminal cases such fees and mileage of said trial jurors in the superior court shall be paid by the treasurer of the county out of the general fund of said county upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance and the treasurer of said county shall pay said warrants. The board of supervisors of said county is hereby directed to make suitable appropriations for the payment of the fees herein provided for. [Amendment approved May 27, 1919; Stats. 1919, p. 1119.]

This section was also amended in 1917. See Stats. 1917, p. 74.

§ 4286. **Counties of fifty-seventh class, salaries of officers.** Mono. In counties of the fifty-seventh class the county and township officers shall respectively receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries and compensation, to wit:

1. **County clerk.** The county clerk, one thousand two hundred dollars per annum.

2. **Sheriff.** The sheriff, two thousand six hundred dollars per annum.

3. **Recorder.** The recorder, six hundred dollars per annum. In counties of this class the recorder may appoint a copyist for service in his office, which office of copyist for the county recorder is hereby created, and said copyist shall receive as compensation for his services fifty per cent of the amount collected in said office during his period of service for filing and recording mining locations and affidavits of assessment work.

4. **Auditor.** The auditor, two hundred dollars per annum.

5. **Treasurer.** The treasurer, one thousand dollars per annum.

6. **Tax collector.** The tax collector, five hundred dollars per annum.

7. **Assessor.** The assessor, one thousand two hundred dollars per annum.

8. **District attorney.** The district attorney, one thousand two hundred dollars per annum.

9. **Coroner.** The coroner, such fees as are or may hereafter be allowed by law.

10. **Public administrator.** The public administrator, such fees as are now or may be hereafter allowed by law.

11. **Superintendent of schools.** The superintendent of schools, four hundred dollars per annum.

12. **Surveyor.** The surveyor, such fees as are now or may be hereafter allowed by law.

13. **Population of townships.** For the purpose of regulating the compensation of justices of the peace and constables, townships of this class of counties are hereby classified according to their population, as shown by the total number of registered voters, in each township, at the next preceding general election, prior to the fixing of the classification, the said population to be determined by the supervisors by multiplying the said total number of registered voters by three; townships having a population of not more than one hundred shall belong to and be known as townships of the first class; townships having a population of not more than three hundred and not less than one hundred one shall belong to and be known as townships of the second class; townships having a population of not more than seven hundred fifty and not less than three hundred one shall belong to and be known as townships of the third class; townships having a population of not more than one thousand five hundred and not less than seven hundred fifty-one shall belong to and be known as townships of the fourth class; townships having a population in excess of one thousand five hundred shall belong to and be known as townships of the fifth class; provided, that the board of supervisors may, prior to any general election, consolidate two or more such townships into one.

14. **Justices of the peace and constables.** Justices of the peace and constables each of townships of the first class shall receive an annual salary of one hundred dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables of townships of the second class shall each receive an annual salary of one hundred fifty dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables in townships of the third class shall each receive an annual salary of two hundred dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables in townships of the fourth class shall each receive an annual salary of three hundred dollars to be paid in monthly installments as county officers are paid; justices of the peace and constables in townships of the fifth class shall each receive an annual salary of four hundred dollars to be paid in monthly installments as county officers are paid. The salaries so received by justices of the peace and constables aforesaid shall be in full compensation for all services rendered by them. These salaries shall also apply to incumbents.

15. Board of supervisors. Each member of the board of supervisors, six dollars per day during session, and thirty cents per mile one way to board meetings; three dollars per day (no mileage) as road commissioners when actually engaged in road business.

16. Jurors. Jurors' fees in criminal cases shall be as follows: For attending as a grand juror or trial juror in the superior court, in criminal cases only, for each day's attendance, per day, three dollars; for each mile actually traveled in attending court as such juror under summons or under order of court, in criminal cases, in going only, per mile, thirty cents, and the county clerk shall certify to the auditor the number of days' attendance and number of miles traveled by each juror, and the auditor shall draw his warrant therefor and the treasurer shall pay the same. [Amendment approved April 25, 1917; Stats. 1917, p. 203.]

§ 4287a. Counties of fifty-eighth class, fees of jurors. Alpine. In counties of the fifty-eighth class, each grand juror in the superior court shall receive for each day's attendance three dollars; for each mile actually traveled one way as such grand juror in the superior court on a summons or order of the court, thirty cents. The per diem and mileage of the grand jurors shall be paid by the treasurer of the county out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court. [New section added May 2, 1919; Stats. 1919, p. 141.]

§ 4288. Time of payment of salaries of county officials. The salaries of such officers named in this title as are entitled to salaries shall be paid monthly out of the county treasury; and it shall be the duty of the auditor, on the first day of each and every month, to draw his warrant upon the treasurer in favor of each of said officers for the amount of salary due him under the provisions of this title for the preceding month; except that, unless in this title otherwise provided, one-half of the annual salary of the assessor shall be paid to him in equal monthly installments for the months of March, April, May and June, and one-half in equal monthly installments for the remaining eight months of the year. The treasurer shall pay said warrants on presentation, out of the salary fund of the county treasury; provided, that in counties of the first class or in counties operating under a charter, the board of supervisors may, by ordinance, fix a date or schedule of dates for the payment of salaries of the officers, deputies, clerks and other employees of the several departments and institutions of the county government. [Amendment approved April 5, 1917; Stats. 1917, p. 57.]

§ 4289. Statement of fees before salary warrant issued. The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have filed with him the sworn statement required in section four thousand two hundred ninety-four and a copy of the treasurer's receipt for all fees and other moneys payable into the county treasury, collected by such officer in that month. [Amendment approved May 25, 1917; Stats. 1917, p. 936.]

§ 4290. Fees and salaries of county officers. Conveying prisoners to state institutions. State settlements of treasurers. The salaries and

fees provided in this title shall be in full compensation for all services of every kind and description rendered by the officers named in this title either as officers or ex-officio officers, their deputies and assistants, unless in this title otherwise provided, and all deputies employed shall be paid by their principals out of the salaries provided in this title, unless in this title otherwise provided; provided and except, that the assessor shall be entitled to receive and retain for his own use, unless in this title otherwise provided, six per cent of personal property tax collected by him, as authorized by section three thousand eight hundred twenty, and fifteen per cent of all amounts collected by him for poll taxes, and road poll taxes, and also five dollars per hundred names of persons returned by him as subject to military duty, as provided in section one thousand nine hundred one, and shall also be allowed by the county his actual expense when summoned before the state board of equalization in pursuance of an act entitled "An act to carry into effect the provisions of section fourteen of article thirteen of the constitution of the state of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations for the benefit of the state, all relating to revenue and taxation," and the license collector shall be entitled to receive and retain for his own use ten per cent on all licenses collected by him, except where otherwise provided in this title; provided, however, that in counties and cities and counties of the first, second and third classes, the assessor shall receive no commission for the collection of taxes on personal property, nor shall such assessor receive any compensation or commission for the collection of poll taxes or road poll taxes, nor shall such assessor receive any compensation for making out military roll of persons returned by him as subject to military duty, as provided by section one thousand nine hundred one; nor shall the license collector in counties and cities and counties of the first and second classes receive any commission for licenses collected by him; provided, further, that the treasurer shall receive and retain for his own use the commissions on all inheritance and transfer taxes collected by him; and provided, further, that whenever the treasurer of any county shall employ a special attorney for the collection of such taxes, said attorney shall be paid out of the commissions and fees allowed by law for the collection of such taxes; provided, that in any county where the number of judges of the superior court shall have been increased since the first day of January, 1911, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county, by reason of such increase, one additional deputy, to be appointed by the sheriff, at a salary not exceeding one thousand two hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid, and also there must be and is hereby allowed to the county clerk of such county, one additional deputy to act as courtroom clerk, for each judge so appointed or elected, at a salary not exceeding one thousand two hundred dollars per annum for each of said deputies, to be paid at the same time and in the same manner county officers are paid. The board of supervisors shall allow to the sheriff his necessary expenses for pursuing criminals, or transacting any criminal business, and for boarding prisoners in the county jail; provided, that the board of supervisors shall fix a reasonable price at which such

prisoners shall be boarded, if not otherwise provided for in this title, which price shall not be less than twelve cents for each meal for each prisoner; provided, further, that the sheriff shall be entitled to receive and retain for his own use, five dollars per diem for conveying prisoners to and from the state prisons, and for conveying persons to and from the insane asylums, or other state institutions, not otherwise provided for by law; also, all expenses necessarily incurred in conveying insane persons to and from the insane asylums and in conveying persons to and from the state prisons, or other state institutions, which per diem and expenses shall be allowed by the board of examiners and collected from the state. The court shall also allow the sheriff his necessary expenses in keeping and preserving property seized on attachment or executions, to be paid out of the fees collected in the action. The sheriff may retain for his own use the mileage for service of papers or process issued by any court of the state; provided, further, that the county treasurers of the several counties of this state, where their necessary expense incurred in the making of the state settlements provided for by section three thousand eight hundred sixty-six shall exceed the maximum amount of mileage allowed them by section three thousand eight hundred seventy-six shall be allowed out of the county treasury of their respective counties, the amount of such excess, which shall be paid as other demands against the county are paid; provided, further, that in case county or city and county officers perform municipal duties imposed by a charter framed under the provisions of sections eight and eight and one-half of article eleven of the constitution the compensation of such officers and the expense of such officers may be apportioned by the board of supervisors in proportion to the duties rendered as county officers under general laws and rendered as municipal officers under charter provisions, and the compensation determined to be for the performance of municipal duties shall be paid from funds raised for municipal purposes and the compensation determined to be for county duties shall be paid from funds provided by sections three thousand seven hundred fourteen and four thousand three hundred five of this code. [Amendment approved May 29, 1917; Stats. 1917, p. 1323.]

§ 4292. Payment of fees into county treasury. All salaried officers of the several counties and townships of this state shall charge and collect for the use of their respective counties, and pay into the county treasury, on or before the fifth day of each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county. [Approved May 25, 1917; Stats. 1917, p. 937.]

§ 4293a. Deposit and withdrawal of trust moneys. Every officer of the several counties and townships of this state must, on the certificate of the auditor immediately deposit in the county treasury all trust moneys officially coming into his possession. Such trust moneys so deposited shall be withdrawn only on a warrant issued by the county auditor, drawn on an order of the court into which the money was paid, or upon requisition of the officer depositing the same in instances where there are no court proceedings. [New section added May 2, 1919; Stats. 1919, p. 238.]

§ 4293. Record of fees. Each of the officers authorized to receive fees under the provisions of this title must keep a record, open to the

public inspection during office hours, in which must be entered, at once and in detail, all fees or compensation, and fines, of whatever nature, kind, or description, collected or chargeable. On the first day of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all such records kept by him to the county auditor. [Amendment approved May 25, 1917; Stats. 1917, p. 937.]

§ 4294. Statement filed with auditor. Form of affidavit. Each of the officers authorized to receive fees under the provisions of this title must pay the fees and compensation and fines collected and chargeable for the county in each month, to the treasurer on or before the fifth day in the following month and must file with the auditor a statement, duly verified, showing the amounts and kinds of fees, compensation, and fines collected or chargeable, the amounts collected and the amount of trust moneys received, disbursed, and on hand. The affidavit shall be in substantially the following form:

"I, A. B., county clerk (or other officer, as the case may be), do swear that the fee record in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies and assistants, and the amount of all fines, and trust money, received, disbursed and on hand, for the month of —, A. D. —, and that said fee record shows a full amount received or chargeable in said month, and that neither myself, nor to my knowledge or belief, any of my deputies or assistants have rendered any official service, except as provided in sections four thousand two hundred ninety-five and four thousand two hundred ninety-seven of the Political Code, which is not fully set out in said fee record and that the foregoing statement thereof and of other matters, is complete, true, and correct."

The auditor shall file and preserve in his office said statements and affidavits. [Amendment approved May 25, 1917; Stats. 1917, p. 937.]

§ 4295. Prepayment of fees for official services. Records of United States service. State, county, and township officers shall not in any case except in proceedings upon habeas corpus perform any official services unless upon the prepayment of such fees as are prescribed by law for the performance of such services; provided, that the state or any county, city, or city and county, or any public officer, or board, or body acting in his or its official capacity on behalf of the state, or any county, city or city and county, shall not be required to pay or deposit any fee for the filing of any document or paper or for the performance of any official service; provided, further, that the state, or any county, city, or city and county, or any public officer or board, or body, acting in his, or its official capacity on behalf of the state, or any county, city, or city and county, shall not collect, demand or receive any fee or compensation for recording or indexing any discharge of a soldier or sailor discharged from the army or navy of the United States or for issuing certified copies thereof or for any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the bureau of war risk insurance under and by virtue of an act of Congress of the United States entitled "An act to amend an act entitled 'An act to authorize the estab-

lishment of a bureau of war risk insurance in the treasury department," approved October 6, 1917, and acts amendatory thereof, or furnishing a verified copy of the public record of a marriage, death, birth or divorce or making a search for same, wherein the same is to be used in a claim for a pension, or a claim for an allotment, allowance, compensation, insurance, or otherwise under the said act establishing the said bureau of war risks insurance. Said services shall be rendered on the request of a United States official, a claimant or his or her attorney, and for every failure or refusal so to do such officer shall be liable on his official bond. Upon the payment by any person of the fees required by law, the officer must perform the services required, and for every failure or refusal so to do such officer shall be liable on his official bond. [Amendment approved April 30, 1919; Stats. 1919, p. 269.]

The act amending section 4295 also contained the following section:

§ 2. This act is hereby declared to be an urgency measure, and under the provisions of section one of article four of the constitution of the state of California shall take effect immediately upon approval. The facts constituting such urgency are as follows: The United States has just concluded a war and the claims for allotment, allowances, compensations and insurance referred to in section one of this act are urgent emergency claims growing out of said war. Said claims for allotment, allowances, compensation and insurance are in a vast and innumerable number of instances payable to dependent wives, parents or relatives in destitute circumstances, who without the financial aid and assistance of said allotments, allowances, compensations and insurance would be left in want. It is therefore necessary for the immediate preservation of the public peace and health that these claims be presented to the war risk insurance bureau for immediate action and this act is necessary to enable claimants to so present their respective claims.

This section was also amended in 1917. See Stats. 1917, p. 1175.

§ 4297. Fees not to be charged, when. No fee or compensation of any kind must be charged or received by any officer for duties performed or services rendered in proceedings upon habeas corpus, nor for administering or certifying the oath of office, nor fees or other compensation shall be paid for service rendered in an affidavit or application relating to the securing of a pension or the payment of a pension voucher, or any matter relating thereto, nor for any services rendered in making certified copies of birth, death or marriage records wherein the same are to be used by any person in connection with enlistment in the army or navy, nor for any services rendered in connection with assisting in preparing such certified copies to be used in presenting claims against the United States government for insurance, allowance or allotment, nor filing nor swearing to any claim or demand against any county in this state. [Amendment approved April 30, 1919; Stats. 1919, p. 160.]

§ 4300a. Fees of county clerk. In addition to the charges otherwise provided for by law, the county clerk shall charge and collect the following fees:

For filing the first paper in a civil action or in a special proceeding, except a probate proceeding or an adoption proceeding, five dollars.

For filing the papers transmitted from another county on the transfer of a civil action or a special proceeding, except a probate proceeding or an adoption proceeding, five dollars.

For filing the papers transmitted on appeal from a justice's court in a civil action or a special proceeding, five dollars.

On the appearance of any defendant, or any number of defendants appearing jointly, except disclaimer, to be paid upon filing the first paper in the action by him or them, two dollars; and for every additional defendant appearing separately, one dollar.

For filing a petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary or a petition for letters of guardianship, five dollars; provided, that when either the public administrator or the secretary of the state commission in lunacy, in his official capacity is the petitioner, he shall be required to pay said fee only out of the assets of the estate coming into his possession; provided, that only one fee must be collected by any one estate or guardianship matter. On placing any action or proceeding for the first time on the calendar for hearing or trial, to be paid by the party at whose request such action or proceeding is so placed, two dollars; provided, no fee shall be charged for probate, adoption or criminal proceedings or default cases in civil actions.

For issuing an execution, or order of sale, one dollar.

The foregoing fees shall be in full for all services rendered by the county clerk to and including the making up of the judgment-roll in any action or proceeding except for making or certifying to copies of filed papers or records.

For filing or docketing an abstract of judgment from a justice's court, one dollar.

On filing the petition to contest any will or codicil, three dollars.

For filing any notice of intention to move for a new trial of any civil action or special proceeding, two dollars.

For preparing a copy of any record, proceeding, or paper on file in his office per folio, ten cents.

For each certificate of the clerk, except a certificate to a copy of a filed record, paper or proceeding or a certificate in connection with a governmental civil service examination, twenty-five cents.

No fees shall be charged by the clerk for services rendered in any criminal action or adoption proceedings, except for making or certifying to copies of proceedings.

For issuing a marriage license, one-half to be paid to the county recorder, two dollars. This fee shall be in full for all services in connection with the issuance of a marriage license.

For filing and indexing articles of incorporation, amended articles of incorporation or a certified copy of articles of incorporation, one dollar.

For filing a certificate of increase of the capital stock of a corporation, one dollar.

For filing a certificate of decrease of the capital stock of a corporation, one dollar.

For filing a certificate of increase of the number of directors of a corporation, one dollar.

For filing certificate of decrease of the number of directors of a corporation, one dollar.

For filing a certificate of notice of removal of the principal place of business of a corporation, one dollar.

For filing a certificate of creation of bonded indebtedness of a corporation, one dollar.

For filing a certificate of increase of bonded indebtedness of a corporation, one dollar.

For filing any charter, by-laws, or any other certificate, etc., of any corporation, granting power to do business in this state, one dollar.

For filing and indexing a certificate of partnership, including affidavit of publication, one dollar.

For filing and indexing a certificate of fictitious name, including affidavit of publication, one dollar.

For filing and indexing an auctioneer's bond, one dollar.

For filing and indexing all papers other than papers filed in actions or special proceedings, official bonds, certificates of appointment, or papers for which a charge is not elsewhere provided, one dollar.

For either recording or registering any license or certificate or issuing any certificate, or both, in connection with a license, required by law, for which a charge is not otherwise prescribed, one dollar.

For examining and certifying to any copy of any paper, record or proceeding prepared by another and presented for his certificate, fifty cents, and one cent per folio for comparing the said copy with the original.

For taking any affidavit, except in criminal cases, or adoption proceedings, or in connection with governmental civil service examinations, fifty cents.

For searching records or files, of each year, fifty cents.

For taking and approving each undertaking, and the justification thereof, except in criminal cases, for each signature, fifty cents.

For taking acknowledgment of any deed or other instrument, including the certificate, for each signature, fifty cents.

For exemplification of record or other paper on file besides the charges allowed for copying or comparing, one dollar. [Amendment approved May 23, 1917; Stats. 1917, p. 902.]

§ 4300c. Fees of recorders. Payment of fees into treasury. For recording every instrument, paper, or notice required by law to be recorded, per folio, ten cents.

For indexing every instrument, paper, or notice, for each name, ten cents.

For filing every instrument for record, and making the necessary entries thereon, twenty cents.

For each certificate under seal, twenty-five cents.

For any copy of any record or paper on file in the office of the county recorder, when such copy is made by him, per folio, ten cents.

For examining and certifying to a copy of any record or paper on file in the recorder's office when such copy is prepared by another, three cents per folio for comparing such copy with the original.

For every entry of discharge, credit, or release on the margin of record, and indexing same, twenty-five cents.

For searching the records of his office, for each year, fifty cents.

For abstract of title, for each conveyance or encumbrance, twenty-five cents.

For recording each map or plat where the same is copied in a book of record for each course, ten cents.

For recording or filing each map wherein land is subdivided in lots, tracts or parcels, five dollars.

For recording each map wherein corners, points or lines are located, one dollar.

For filing building contracts, plans and specifications, one dollar.

For figures or letters on maps or plats, per folio, ten cents; provided, that the fees for recording any map shall not exceed fifty dollars.

For taking acknowledgment of any instrument, fifty cents.

For recording marriage license, and certificate, to be paid by the county clerk, one dollar.

For recording transcript and all services in estray cases, one dollar.

For recording each mark or brand, fifty cents.

For administering each oath or affirmation, and certifying the same, twenty-five cents.

For filing, indexing, and keeping each paper not required by law to be recorded, twenty-five cents; provided, however, no charge or fee shall be made for recording or indexing any discharge of a soldier, sailor or marine discharged from the army or navy of the United States or for issuing certified copies thereof.

The clerk, sheriff and recorder shall account for all fees in this and the two preceding sections provided for, and the clerk, sheriff, and recorder, unless otherwise provided by law, shall pay the same to the treasurer on the first Monday of the month following their collection, as provided in this article fifty-nine of this chapter. [Amendment approved May 3, 1919; Stats. 1919, p. 138.]

§ 4300d. Constables' and marshals' fees. Constables and marshals, except as in this title otherwise provided:

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than two dollars per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint, or subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, twenty-five cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one-half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order or paper, except a warrant of arrest, in going only, per mile, twenty-five cents; provided, that in townships which consist in whole or in part of cities of the first and one-half class, the constable or marshal shall receive in lieu of said mileage, his actual traveling expenses going and returning from place of service.

For traveling outside of his township to serve such writ, order, or paper, in going only, fifteen cents; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage allowed.

For each mile necessarily traveled within his county in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents.

For each mile traveled out of his county, both going and returning from place of arrest, five cents; provided, that for traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged.

For executing a search-warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into court, or jail, one dollar.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to and from the county jail, the actual cost of such transportation. [Amendment approved May 3, 1919; Stats. 1919, p. 171.]

§ 4300e. Fees of justices of peace. Justices of the peace, except as in this title otherwise provided, shall charge for all services to be performed by him in civil actions:

Before trial, two dollars, to be paid before complaint filed;

For the trial of either a question of law or fact, and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, entry of judgment, issuance of execution thereon and supplementary proceedings thereto, three dollars, to be paid when such trial is set for hearing;

For certificate and transmitting transcript and papers on appeal, one dollar;

For receiving and filing an abstract of judgment rendered by a justice or judge of another jurisdiction, and for subsequent services based thereon, two dollars;

In cases before a justice of the peace, when the venue shall be changed, for making up and transmission of transcript and papers, one dollar, and a further sum of two dollars as the filing fee of said papers in the court to which venue may be transferred, to be paid by the party making the motion for such change of venue at the time of filing the affidavit therefor;

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents;

For taking deposition, per folio, fifteen cents;

For administering an oath, and certifying the same, twenty-five cents;
For issuing a commission to take testimony, fifty cents;

For all services connected with the posting of estrays, one dollar.
[Amendment approved May 8, 1919; Stats. 1919, p. 471.]

This section was also amended in 1917. See Stats. 1917, p. 173.

§ 4307. What constitute county charges. The following are county charges:

1. Charges incurred against the county by virtue of any of the provisions of this title.

2. The traveling and other personal expenses of the district attorney, incurred in criminal cases arising in the county, and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by him in the detection of crime and prosecution of criminal cases, and in civil actions and proceedings and all other matters in which the county is interested.

3. The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail, and for other services in relation to criminal proceedings for which no specific compensation is prescribed by law.

4. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases.

5. The accounts of the coroner of the county for such services as are not provided to be paid otherwise.

6. All charges and accounts for services rendered by any justice of the peace in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law.

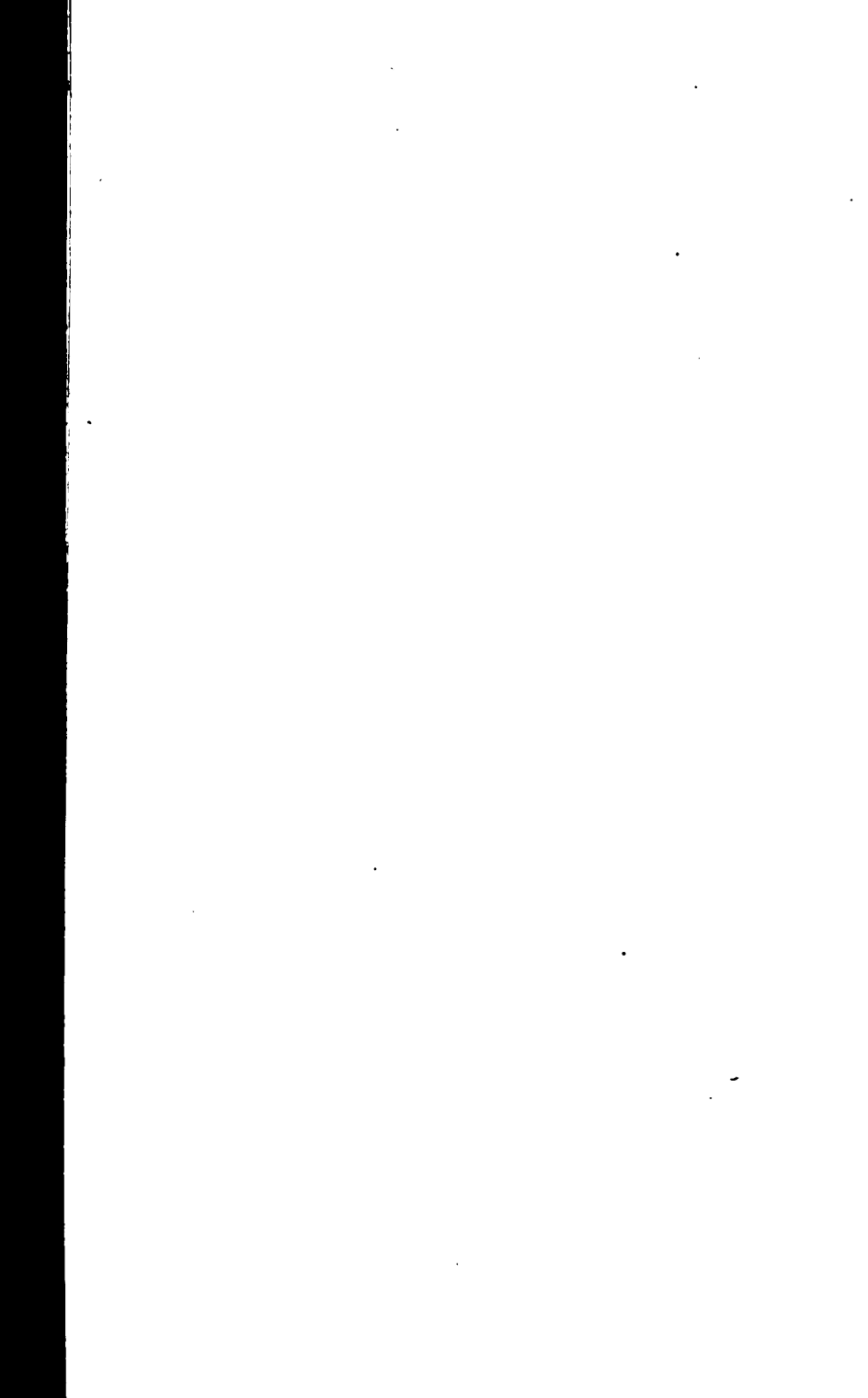
7. The necessary expenses incurred in the support of the county hospitals, almshouses, and the indigent sick and otherwise dependent poor, whose support is chargeable to the county.

8. The contingent expenses necessarily incurred for the use and benefit of the county.

9. Every other sum directed by law to be raised for any county purpose under the direction of the board of supervisors, or declared to be a county charge.

10. The fees of constables in criminal cases allowed by law.

11. The necessary expenses other than attorney's fees incurred by county auditors and treasurers in the defense and prosecution of any action brought by, or against said officers, for the purpose of testing the validity or constitutionality of any act of the legislature providing for the payment of county funds or funds held in trust by the county.
[Amendment approved May 21, 1919; Stats. 1919, p. 795.]



GENERAL LAWS

OF THE

STATE OF CALIFORNIA.

AMENDMENTS OF 1917 AND 1919.

TITLE 6.

ADULTERATION.

ACT 29.

An act to prevent the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a state laboratory for foods, liquors and drugs and making an appropriation therefor.

[Approved March 11, 1907. Stats. 1907, p. 208.]

Amended 1909, pp. 51, 353; 1911, p. 1114; 1915, p. 170; 1917, p. 1641; 1919, p. 241.

The amendments of 1917 and 1919 follow:

§3. Standard of purity. The standard of purity of food and liquor shall be that published in circular number nineteen, the food inspection decisions and the service and regulatory announcements of the bureau of chemistry of the United States department of agriculture. Nothing in this section contained shall authorize or permit any adulteration of any food or liquor because the standard of purity of such food or liquor shall not be proclaimed by the secretary of the United States department of agriculture. [Amendment approved April 30, 1919; Stats. 1919, p. 241.]

This section was also amended in 1917. See Stats. 1917, p. 1641.

§9. Laboratory for analysis of foods and drugs. Duties of director, etc. Salaries. Assistants. For the purpose of this act there is hereby established a state laboratory for the analysis and examination of foods and drugs, which shall be under the supervision of the state board of health, which laboratory shall be located at such place as the state board of health may select. The state board of health shall appoint a director of said laboratory, consulting nutrition expert, and an assistant to such director, all of whom shall be skilled pharmaceutical chemists and analysts of foods and drugs. Said director shall perform all duties required by this act and which shall be required by the state board of health. Said consulting nutrition expert shall at all times be ready for consultation with, give advice to, and perform duties in connection

with the director of said laboratory, and shall at all times be under the supervision of and perform such duties under this act as are required by the state board of health. As a part of his duties he shall consult and advise with the state board of control concerning standards of purity and other matters relating to foods and drugs purchased by the state of California for any or all of its institutions. The assistant shall be under the supervision of the director and shall perform all duties required of him by the director and by the state board of health.

The director shall receive an annual salary of three thousand six hundred dollars, the consulting nutrition expert shall receive an annual salary of one thousand two hundred dollars and the assistant to the director shall receive an annual salary of one thousand eight hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of state officers.

The state board of health, out of the appropriation hereinafter provided, and out of the funds derived from the operation of this act, may employ and fix the compensation of other and additional clerical and professional assistants. [Amendment approved June 1, 1917; Stats. 1917, p. 1641.]

§ 10. Suspected food to be analyzed. Duty of sheriffs. Powers of inspectors. The state board of health or its secretary, shall cause to be made by the said director of the state laboratory, or under his supervision, examinations and analyses of food and liquor on sale in California, suspected of being adulterated, mislabeled or misbranded at such times and places and to such extent as said board or its secretary may determine, and may appoint such agent or agents, as it may deem necessary, and the sheriffs of the respective counties of the state are hereby appointed and constituted agents for the enforcement of this act, and any agent or sheriff shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated, mislabeled or misbranded foods exist, and such agent or sheriff upon tendering the market price of said articles, if a sale be refused, may take, from any person, firm or corporation samples of any articles suspected of being adulterated, mislabeled or misbranded, and shall deliver or forward such samples to the said director of the state laboratory for examination and analysis. The director of the state laboratory, the agents and inspectors of the state board of health shall have the same powers as are possessed by peace officers in this state. [Amendment approved June 1, 1917; Stats. 1917, p. 1642.]

§ 16. Hearing for violation of act. When an examination or analysis of the directors of the state laboratory shows that any provisions of this act have been violated, notice of that fact, together with a copy of the certificate of the findings, shall be furnished to the party or parties from whom the sample was obtained, or who executed the guarantee, as provided in this act, and a day shall be fixed by the secretary of the state board of health, at which said parties may be heard before the state board of health, or before any two members thereof and the secretary. The hearing shall be held at such place as the state board of health or its secretary may designate, and at least fifteen days' notice thereof shall be served upon the party complained of. These hearings shall be private and confined to questions of fact. Parties interested

therein may appear in person or by attorney and may propound interrogatories and submit oral or written evidence to show any fault or error in the findings made by the director of the state laboratory. If the examination or analysis be found correct, or if the party or parties fail to appear at such hearing, after notice duly given as provided herein, the secretary of the state board of health shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which said adulterated, mislabeled or misbranded food was found. No publication as in this act provided shall be made until after said hearing is concluded. [Amendment approved April 30, 1919; Stats. 1919, p. 241.]

§ 20. Penalty. Adulterated food seized. Adulterated food destroyed.

Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Whenever the director of the state laboratory shall find after investigation and examination that any article of food found in the possession of any person, firm, company or corporation is adulterated, misbranded or mislabeled within the meaning of this act, he may seize such article of food and tag the same "quarantined," and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of pending hearing and final disposition as in this act provided.

Whenever the director of the state laboratory or any agent or inspector of the state board of health shall find any article of food adulterated within the meaning of the sixth subdivision of section four of this act, he may seize such article of food and tag the same "quarantined" and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of until further notice in writing from said director of the state laboratory. Food found to be adulterated, mislabeled or misbranded within the meaning of this act may, by order of any court or judge, be seized and destroyed. [Amendment approved June 1, 1917; Stats. 1917, p. 1642.]

ACT 47b.

An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor. [Approved June 11, 1915. Stats. 1915, p. 1478.]

Repealed 1917, p. 803. See next Act.

ACT 47c.

An act to prevent the sale of impure and unwholesome milk, butter, ice-cream and other milk products; to declare ice-cream a milk product; to grade milk; to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for

violation of the provisions hereof; and to repeal an act entitled, "An act to prevent the sale of impure and unwholesome milk, to grade milk, to provide rules and regulations therefor, and to empower cities, groups of cities, counties and groups of counties, or cities and counties, to establish inspection service; to provide for the enforcement of this act; to prescribe penalties for violation of the provisions hereof; and to make an appropriation therefor," approved June 11, 1915.

[Approved May 22, 1917. Stats. 1917, p. 803. In effect July 27, 1917.]

Amended 1919. Stats. 1919, p. 326.

§ 1. Milk must be pasteurized. Cream for butter. Butter used in manufacture of foodstuffs. Marking of butter. Ice-cream a milk product. It shall be unlawful for any person, firm or corporation, except in bulk to the wholesale trade, to sell or exchange or offer or expose for sale or exchange for human consumption any milk from cows that have not passed the tuberculin test, until it has been pasteurized by the holding process at a temperature not less than one hundred forty degrees Fahrenheit for twenty-five minutes; provided, that milk for drinking purposes shall not be heated for more than one hour nor above one hundred forty-five degrees Fahrenheit; provided, further, that cream that is to be manufactured into butter may be pasteurized by heating it to a higher degree than milk and, when the same is uniformly heated to and held at a higher degree of temperature than one hundred fifty-one degrees Fahrenheit, the time for holding may be decreased from twenty-five minutes by one minute for each degree of temperature over one hundred fifty-one degrees Fahrenheit. It shall further be unlawful for any person, firm or corporation to sell or exchange or offer or expose for sale or exchange for human consumption any butter, ice cream or other milk products except cheese and butter as hereinafter provided, into the composition of which any milk enters other than that permitted in this section of this act, to be sold at retail for human consumption; provided, that nothing in this act shall be construed to prohibit the use or sale of butter that is not pasteurized or butter that is not the product of nonreacting tuberculin-tested cows; provided, that said butter be used by manufacturers of foodstuffs only and in the manufacture of such foodstuffs said butter shall be subjected to a minimum temperature of two hundred twenty-five degrees Fahrenheit; and provided, further, that it shall be unlawful to use any such butter except in the manufacture of food subjected to said temperature. Butter offered for sale for human consumption shall be marked: "From nonreacting tuberculin-tested cows," or "Pasteurized," as the case may be. Butter, which, by the provisions of this act, is permitted to be used for cooking and baking purposes only shall be marked "for cooking and baking only." Ice-cream is hereby declared to be a milk product. For the purpose of this act milk shall be construed to include cream.

§ 2. Sale of milk where milk inspection service established. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange, in any city, county, or city and county, in which a milk inspection service, approved by the state dairy bureau, has been established, any milk otherwise than as hereinafter provided in this act, and for the purpose of this act, the term "inspect-

ing department" shall be construed to mean the health department of a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the state dairy bureau, and such inspecting department shall include at least one regularly licensed physician. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange any milk as and for, or under, the designation, label or other representation of "guaranteed," "grade A," or "grade B" milk, except within a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the state dairy bureau; provided, that a person, firm or corporation, which is authorized to sell milk within the jurisdiction of an inspecting department may sell milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any inspecting department, if local ordinances are not thereby violated, and also in territory within the jurisdiction of any other inspecting department; provided, the consent of said other inspecting department has been previously obtained.

§ 3. Milk not to be sold for human consumption. All milk sold or exchanged or offered or exposed for sale or exchange except in bulk to the wholesale trade in any county or group of counties, city or group of cities, or city and county, in which a milk inspection service, approved by the state dairy bureau has been established, except certified milk, guaranteed milk, grade A milk and grade B milk, is hereby declared to be impure and unwholesome and must not be sold for human consumption.

§ 4. Grades of milk. Where an inspection service is maintained as provided in section two of this act, milk shall be graded as follows: Certified milk, guaranteed milk, grade A milk, grade B milk and milk not suitable for human consumption; provided, that milk sold or exchanged or offered or exposed for sale or exchange as and for, or under the designation, label or other representation of "guaranteed," "grade A" or "grade B," milk shall have the grade and whether raw or pasteurized marked on the container or cap of the container in capital letters not less than one-eighth inch long and one-sixteenth inch wide; and provided, further, that milk not suitable for human consumption shall be plainly so marked.

§ 5. Approval of inspecting department. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as or for guaranteed milk, any milk, raw or pasteurized the quality of which is guaranteed by the dealer, without approval in writing of the inspecting department, which milk must be of a higher standard than that required for grade A raw milk.

§ 6. Requirements for grade A milk. Dairies having not more than two cows. Sterile containers. Bacteria content. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade A milk, any milk that does not conform to the rules and regulations and the methods and standards for production and distribution of grade A milk adopted by the inspecting department.

Grade A milk shall conform to the following requirements as a minimum: If raw, it shall consist of the clean raw milk from healthy cows

as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department, and by the tuberculin test by a qualified veterinarian under the supervision of the state veterinarian, and from dairies that score not less than seventy per cent on the score card hereinafter set forth; provided, however, that dairies having not more than two milking cows, and, which are found by any such inspecting department to comply fully with the remaining provisions of this act are hereby exempted from such scoring requirements and from the use of the labels prescribed in section four hereof. The tuberculin test must be repeated annually if no reacting animals are found in the herd. If reacting animals are found they must be removed from the herd, and the tuberculin test repeated in six months. All cows are to be fed, watered, housed and milked under conditions approved by the inspecting department. All persons who come in contact with the milk must exercise scrupulous cleanliness and must not harbor the germs of typhoid fever, tuberculosis, diphtheria or other infectious diseases liable to be conveyed by milk. Absence of such infections shall be determined by cultures and physical examination, to the satisfaction of the inspecting department.

This milk is to be delivered in sterile containers and is to be kept at a temperature established by the inspecting department until it reaches the ultimate consumer, when it must contain less than one hundred thousand bacteria per cubic centimeter. If pasteurized it shall come from cows free from disease as determined by physical examination at least once in six months, by a qualified veterinarian under the supervision of the inspecting department. It shall contain less than two hundred thousand bacteria per cubic centimeter before pasteurization and less than fifteen thousand bacteria per cubic centimeter at the time of delivery to the ultimate consumer. Dairies from which this milk is derived must score at least sixty on the score card hereinafter set forth.

§ 7. Requirements for Grade B milk. Pasteurization. Records. No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade B milk, any milk that does not conform to the following requirements as a minimum: It must be obtained from cows in no way unfit for the production of milk for use by man, as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department. Before pasteurization such milk shall contain less than one million bacteria per cubic centimeter. After pasteurization it shall contain less than fifty thousand bacteria per cubic centimeter.

Milk for pasteurization must be kept at a temperature established by the inspecting department up to the time of delivery to the pasteurization plant and rapidly cooled after pasteurization to a temperature of fifty degrees Fahrenheit or below and so maintained to the time of delivery of the same. Pasteurization shall be by the holding method at a temperature not less than one hundred forty degrees Fahrenheit; provided, that milk for drinking purposes shall not be heated above one hundred forty-five degrees Fahrenheit.

Such pasteurization plant shall be equipped with a self-registering device for record of the time and temperature of pasteurization. Such records shall be kept for two months and be available for inspection by any health department, the state veterinarian or any of his agents, or

the state dairy bureau. Pasteurized milk shall be marked with the day of the week of pasteurization and must be delivered to the consumer within forty-eight hours thereafter. If milk is repasteurized, it must not be sold except as not suitable for human consumption; provided, however, if graded, cream of any grade shall conform to all the standards set for milk of the same grade, except that the maximum bacterial count for cream shall be not more than three times as great as that of the corresponding grade of milk. [Amendment approved May 6, 1919; Stats. 1919, p. 326.]

§ 8. Milk not suitable for human consumption. Milk not suitable for human consumption may be sold for industrial purposes, provided it be heated to a higher temperature than necessary for pasteurization, and delivered in a distinctive container, plainly marked with the words "Not suitable for human consumption," in letters not less than one-quarter inch in length and one-twelfth inch stroke.

§ 9. Counties, etc., may maintain inspection service. Counties, or groups of counties, cities or groups of cities, or cities and counties, are hereby authorized to maintain a milk inspection service and laboratory conformable to requirements as set forth by the state dairy bureau, and to establish pasteurizing plants.

§ 10. Penalties for violation. Any person who violates any provision of this act or the rules made in accordance with section eleven of this act or who directs or knowingly permits an employee to violate any of said provisions or said rules, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and imprisonment.

Any firm, corporation, society or association which violates any of said provisions or of said rules shall be guilty of a misdemeanor and upon conviction shall be fined as above provided.

In the event an officer, director, manager or managing agent of any firm, corporation, society or association violates any of the provisions of this act or the rules made in accordance with section eleven of this act or directs or knowingly permits any employee to violate any of said provisions or said rules, such officer, director, manager or managing agent shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine or imprisonment or both as above provided; and, in such case, the firm, corporation, society or association shall also be guilty and upon conviction shall be fined as above provided. One-half of all such fines shall be paid into the state treasury and placed to the credit of the general fund. [Amendment approved May 6, 1919; Stats. 1919, p. 327.]

§ 11. Duty of state dairy bureau. It shall be the duty of the state dairy bureau, with the assistance of the pure food and drugs laboratory, to enforce all the provisions of this act except the tuberculin testing of cows and the marking of reactors; and said bureau, with the approval and assistance of the pure food and drugs laboratory, is hereby empowered to make such rules and regulations as may be necessary and advisable for such enforcement.

§ 12. Duty of state veterinarian. It shall be the duty of the state veterinarian, as soon as practicable, either directly or through local inspecting departments, to enforce the provisions of this act as to the tuberculin testing of cows and the exclusion of reacting animals from the herds, and to mark indelibly by tattooing the ear with the capital letter "T" one inch long any cattle which have been tested with tuberculin under the provisions of this act and found to react to the test. For such purpose he may appoint such veterinarians as may be necessary.

§ 13. Dairyman not operating under inspecting department. If any dairyman not operating under an inspecting department desires to sell milk, he may file with the state veterinarian a written request that his cows be tuberculin tested. After the filing of such request, said dairyman shall not be liable under the provisions of this act until such time as the state veterinarian shall be able to make the required test. The provision of this section shall apply also to any dairyman, operating under an inspecting department, if such inspecting department approves.

§ 14. Score card. The following score card shall be used in scoring dairies under the provisions of this act:

DAIRY FARM SCORE CARD OF THE UNITED STATES BUREAU OF ANIMAL INDUSTRY.

[As approved by the bureau for use under California conditions.]
DAIRY FARM SCORE CARD.

Equipment.		Score.		Methods.		Score.	
		Per-	Al-			Per-	Al-
		fect.	lowed.			fect.	lowed.
COWS.				COWS.			
Health	6	....		Clean	8	....
Apparently in good health... 1				(Free from visible dirt, 6.)			
If tested with tuberculin within a year and no tuberculosis is found, or if tested within six months and all reacting animals removed	5			STABLES.			
If tested within a year and reacting animals are found and removed	8			Cleanliness of stables	6	....
Food (clean and wholesome) ...	1	....		Floor	2		
Water (clean and fresh)	1	....		Walls	1		
STABLES.				Ceiling and ledges	1		
Location of stable	2	....		Mangers and partitions ...	1		
Well drained	1			Windows	1		
Free from contaminating surroundings	1			Stable air at milking time ...	5	....
Construction of stable	4	....		Freedom from dust	3		
Tight, sound floor and proper gutter	2			Freedom from odors	2		
Smooth, tight walls and ceiling	1			Cleanliness of bedding	1	....
Proper stall, tie, and manger	1			Barnyard	2	....
Provisions for light: Four square feet of glass per cow	4	....		Clean	1		
(Three square feet of glass or four square feet of opening, 3; two square feet of glass or three square feet of opening, 2; one square foot of glass, 1. Deduct for uneven distribution.)				Well drained	1		
Bedding, or clean pasture for bed	1	....		Removal of manure daily to 50 feet from stable	2	....
Ventilation	7	....		MILK ROOM OR MILK HOUSE.			
Ventilators in roof	2			Cleanliness of milk room	3	....
Windows hinged at bottom. 2 (Sliding windows, 1.5; other openings, 1.)				UTENSILS AND MILKING.			
Cubic feet of space per cow, 500 feet	3			Care and cleanliness of utensils	8	....
(Less than 500 feet, 2; less than 400 feet, 1; less than 300 feet, 0.)				Thoroughly washed	2		
UTENSILS.				Sterilized in steam for 15 minutes	3		
Construction and condition of utensils	1	....		(Placed over steam jet, or scalded with boiling water, 2.)			
Water for cleaning	1	....		Protected from contamination	3		
(Clean, convenient and abundant.)				Cleanliness of milking	9	....
Small-top milking pail	5	....		Clean, dry hands	3		
Milk cooler	1	....		Udders washed and wiped ..	6		
Clean milking suits	1	....		(Udders cleaned with moist cloth, 4; cleaned with dry cloth or brush at least 15 minutes before milking, 1.)			
MILK ROOM OR MILK HOUSE.				HANDLING THE MILK.			
Location: Free from contaminating surroundings	1	....		Cleanliness of attendants in milk room	2	....
Construction of milk room ...	2	....		Milk removed immediately from stable without pouring from pail	2	....
Floor, walls, and ceiling ...	1			Cooled immediately after milking each cow	2	....
Light, ventilation, screens. 1				Cooled below 50° F.	5	....
Separate rooms for washing utensils and handling milk ...	1	....		(51° to 55°, 4; 56° to 60°, 2.)			
Facilities for steam	1	....		Stored below 50° F.	3	....
(Hot water, 0.5.)				(51° to 55°, 2; 56° to 60°, 1.)			
Total	40			Transportation below 50° F. ...	2	....
				(51° to 55°, 1.5; 56° to 60°, 1.)			
				(If delivered twice a day, allow perfect score for storage and transportation.)			
				Total	60	....

Equipment + Methods = Final Score.

NOTE 1.—If any exceptionally filthy condition is found, particularly dirty utensils, the total score may be further limited.

NOTE 2.—If the water is exposed to dangerous contamination, or there is evidence of the presence of a dangerous disease in animals or attendants, the score shall be 0.

~~Act 1913, p. 1478, repealed.~~ The purpose of this act is to ~~repeal~~ an act entitled "An act to prevent the sale of ~~unwholesome~~ milk, to grade milk, to provide rules and regulations, and to empower cities, groups of cities, counties and ~~cities~~, or cities and counties, to establish inspection service; ~~to provide for the enforcement of this act; to prescribe penalties for~~ ~~violation of the provisions hereof; and to make an appropriation there-~~ ~~for.~~ This is hereby repealed.

ACT 1919.

An act to define imitation milk and to regulate the business of producing, buying or selling imitation milk or imitation milk products, providing for the licensing of said business by the state dairy bureau, and prescribing penalties for a violation of the provisions hereof, and repealing all acts or parts of acts inconsistent herewith.

[Approved April 15, 1919. Stats. 1919, p. 89. In effect July 22, 1919.]

§ 1. Imitation milk defined. For the purposes of this act certain manufactured substances, certain mixtures and compounds shall be known and designated as "imitation milk," namely: (a) Any mixture or compound composed of skim milk or condensed, evaporated or powdered skim milk and any edible oil or fat other than natural milk fat, whether with or without any other ingredient or ingredients; (b) any mixture or compound made in imitation or semblance, or having the appearance or semblance, of milk or condensed or evaporated milk, or when so made or having such appearance or semblance calculated or intended, whether by intent of the compounder or other person, or by reason of the appearance or other characteristic of the mixture or compound, for use or disposition as or for milk, or as or for condensed or evaporated milk, or to induce its purchase, or use as or for milk or condensed or evaporated milk.

§ 2. Manufacture and sale of imitation milk. No person by himself, his agents or servants shall render, manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell or to use, or to serve to patrons, customers, boarders or inmates of any hotel, dwelling-house, restaurant, public conveyance or boarding-house, any article, product or compound made wholly or in part, out of any imitation milk; provided, that nothing in this section shall be construed to prohibit the manufacture or sale, under regulations hereinafter provided, of imitation milk, of substances or compounds that may be used as imitation milk, of a separate and distinct character not resembling milk or condensed or evaporated milk, and in such a manner as will advise the purchaser and consumer of its real character, colored or containing ingredients that cause it to look unlike pure whole cow's milk or the condensed or evaporated product made therefrom; and provided, further, it is not adulterated within the meaning of this act; and provided, further, that nothing in this act shall be construed to prevent or prohibit the manufacture, sale, or use, for cooking purposes, of imitation milk as defined by section one of this act.

§ 3. Imitation milk to be labeled. Each person, who by himself, or another, lawfully manufactures any imitation milk, or any substitute that may be used as and substituted for milk or condensed or evapo-

rated milk, shall mark the same by printing, stamping or stenciling upon the top, if the top be of sufficient size and upon the sides of each case, box, carton, or other package, in which that article or substance shall be kept, and in which it shall be removed from the place where it is produced or put up in a clear manner, in the English language, the words, "imitation milk," in printed letters in plain roman type, each of which shall not be less than one inch in height and one-half inch in width, and in addition to the above shall prepare a statement, printed in plain roman type, of a size not smaller than pica, stating in the English language its name, and the name and address of the manufacturer, the name of the place where manufactured or put up, and also the name and actual percentages of the various ingredients used in the manufacture of such imitation milk; and shall place a copy of said statement within and upon the contents of each case, box, carton, or other package, and next to that portion of each case, box, carton, or other package as is commonly and most conveniently opened, and in addition thereto shall label each bottle, can, container, or other package containing imitation milk with the words "imitation milk" printed in black-face plain roman capital letters of a size not less than twelve point, and said words shall appear upon the main or principal label of said bottles, cans, containers, or other packages containing any imitation milk, and in addition thereto said main or principal label shall contain or bear the words: "Not suitable for infant food," in plain legible type.

§ 4. Adulteration. Imitation milk, not condensed or evaporated, shall be deemed adulterated within the meaning of this act if it contains less than three per cent of edible fats, or oils, and imitation milk, if evaporated or condensed, shall be deemed adulterated within the meaning of this act if it contains less than seven and eight-tenths per cent of edible fats or oils.

§ 5. Display of sign by restaurants, etc. No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch counter, or any place of public entertainment, and no person having charge thereof, or employee thereat, and no employer when such board is furnished as compensation, or part of the compensation of any employee, shall place before any patron or employee for use as food, any imitation milk, unless there shall be displayed in a prominent place in said bakery, hotel, boarding-house, restaurant, saloon, lunch counter, or other place of public entertainment in each room where meals are served, a sign bearing the words: "Imitation milk used and served here," in black-faced letters and not less than four inches in length upon a white ground.

§ 6. License for manufacture and sale of imitation milk. No person, firm or corporation shall engage in the business or occupation of manufacturing, selling, dealing, or in furnishing imitation milk, without first having applied for and obtained a license so to do as hereinafter provided. Any person, firm or corporation dealing in or engaged in the business or occupation of manufacturing, selling, dealing in or furnishing to his, its or their patrons, imitation milk, as in this act defined shall first make application each year to the state dairy bureau for a license, and upon payment of license fee of the amount mentioned herein to the state dairy bureau, said bureau shall issue to the applicant a license. All such licenses shall contain the following proviso: provided

that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any imitation milk and similar substances that may be used as a substitute for milk or condensed or evaporated milk which resembles in appearance pure whole cow's milk, or the condensed or evaporated product made therefrom. All such licenses shall expire on June thirtieth of each year, and may be issued in periods of one year or less than one year, on payment of a proportionate part of the license fee, provided that no license shall be issued for a period of less than three months. The fee for issuing said license to said manufacturers, of any of the said substances within this state shall be one hundred dollars; for issuing to wholesale dealers in, or importers or agents for importers, of any of said substances the fee shall be fifty dollars; for issuing to retail dealers in any of said substances the fee shall be five dollars; and for issuing to the keeper of any hotel, restaurant, boarding-house, and any other place where meals are served and payment is received therefor, either immediately or by the day, week or month, the fee shall be two dollars. The term "wholesale dealer" as used in this section includes all persons, firms or corporations who sell any of said substances in quantities of one full case or more at a time or in the same transaction. The term "retail dealer" includes all persons who sell only in quantities of less than one case. All licenses while in force shall be kept conspicuously displayed in the places of business of the party or parties to whom they have been issued.

It shall be unlawful for any person, firm or corporation to manufacture, buy, sell, deal in or furnish to his, its or their patrons, or to have in their possession, for any purpose whatsoever other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in case of a warehouse or cold storage company, any imitation milk or similar substance designed to be used as a substitute for milk or for condensed or evaporated milk without having first applied for and obtained from the state dairy bureau of the state of California a license herein required.

§ 7. Penalty. Any person, firm or corporation found guilty of violating any of the provisions of this act shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

§ 8. Enforcement. It shall be the duty of the state dairy bureau, now existing under the laws of this state, to enforce the provisions of this act; provided, that nothing in this act shall be construed to prevent any city or county or state board of health or other city or county official from enforcing the provisions of this act.

§ 9. Repealed. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE 8.

ADVERTISEMENTS.

ACT 53.

An act to prohibit the advertising of venereal disease remedies and providing a penalty for the violation of the provisions of this act.

[Approved May 11, 1919. Stats. 1919, p. 477. In effect July 22, 1919.]

§ 1. Advertising of venereal disease remedies prohibited. From and after the passage of this act it shall be unlawful for any person, firm, corporation or association, except boards of health or agencies approved by the state board of health, to post or otherwise exhibit or distribute in any manner whatsoever in any place, any advertising or other printed matter concerning venereal diseases, lost manhood, lost vitality, impotency, seminal emissions, self-abuse, varicocele, or excessive sexual indulgence, and calling attention to any medicine, device, compound, treatment or preparation that may be used therefor.

§ 2. Penalty. Any person violating the provisions of this act shall upon conviction therefor be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment.

TITLE 10.

AGENTS.

ACT 60.

An act to define real estate brokers, agents, salesmen, solicitors; to provide for the regulation, supervision, and licensing thereof; to create the office of real estate commissioner and making an appropriation therefor. [Approved June 1, 1917. Stats. 1917, p. 1579.]

Repealed 1919; Stats. 1919, p. 1252. See post, Act 61.

ACT 61.

An act to define real estate brokers and salesmen; to provide for the regulation, supervision and licensing thereof; to create a state real estate department and the office of real estate commissioner; to provide for the enforcement of said act and penalties for the violation thereof; and repealing an act entitled "An act to define real estate brokers, agents, salesmen, solicitors; to provide for the regulation, supervision, and licensing thereof; to create the office of real estate commissioner; and making an appropriation therefor," approved June 1, 1917, and all acts or parts of acts inconsistent with the provisions of this act.

[Approved May 27, 1919. Stats. 1919, p. 1252. In effect July 27, 1919.]

§ 1. License for real estate business. It shall be unlawful for any person, copartnership or corporation to engage in the business, or act in the capacity of a real estate broker, or a real estate salesman within this state without first obtaining a license therefor.

§ 2. Real estate broker. Real estate salesman. Application of act. Act constituting person, etc., a broker. A real estate broker within the meaning of this act is a person, copartnership or corporation who, for a compensation, sells, or offers for sale, buys, or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who, for compensation, negotiates loans on real estate, leases, or offers to lease, rents, or places for rent, or collects rent from real estate, or improvements thereon, for others as a whole or partial vocation. A real estate salesman within the meaning of this act is one who for a compensation is employed by a licensed broker to sell, or offer for sale, or to buy, or to

offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease, or offer to lease, rent, or place for rent, any real estate, or improvements thereon, as a whole or partial vocation. The provisions of this act shall not apply to any person, copartnership or corporation who shall perform any of the acts aforesaid with reference to property owned by such person, copartnership or corporation; nor shall the provisions of this act apply to persons holding a duly executed power of attorney from the owner, nor shall this act be construed to include in any way the services rendered by an attorney at law in performing his duties as such attorney at law; nor shall it be held to include any receiver, trustee in bankruptcy, or any person acting under order of any court, nor to a trustee selling under a deed of trust. One act, for a compensation, of buying or selling real estate of or for another, or offering for another to buy or sell or exchange real estate, or negotiating a loan on or leasing or renting or placing for rent real estate, or collecting rent therefrom shall constitute the person, copartnership or corporation making such offer, sale or purchase, exchange or lease, or negotiating said loan, or so renting or placing for rent or collecting said rent a real estate broker within the meaning of this act.

§ 3. State real estate department created. Clerks and deputies.

There is hereby created a state real estate department. The chief officer of such department shall be the real estate commissioner. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state and execute to the people of the state of California a bond in the penal sum of ten thousand dollars executed by two or more sureties, or by a surety company duly authorized to do business in this state, to be approved by the governor of the state, for the faithful discharge of the duties of his office. The real estate commissioner shall have full power to regulate and control the issuance and revocation, both temporary and permanent, of the licenses to be issued under the provisions of this act, and to perform all other acts and duties provided in this act and necessary for its enforcement. The real estate commissioner shall employ such deputies, clerks and assistants as he may need to discharge in proper manner the duties imposed upon him by law. Neither the real estate commissioner, nor any of his deputies, clerks or assistants, shall be interested in any real estate company or real estate broker as director, stockholder, officer, member, agent or employee. Such deputies, clerks and assistants shall perform such duties as the real estate commissioner shall assign to them. The real estate commissioner shall fix the compensation of such deputies, clerks and assistants, which compensation shall be paid monthly on a certificate of the real estate commissioner and on the warrant of the controller out of the state treasury. Each deputy shall, after his appointment, take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state.

§ 4. Office in Sacramento. The real estate commissioner shall have his principal office in the city of Sacramento, and may establish branch

offices in the city and county of San Francisco, and in the city of Los Angeles, and he shall from time to time obtain the necessary furniture, stationery, fuel, light and other proper conveniences for the transactions of business, the expenses of which shall be paid out of the state treasury on the certificate of the real estate commissioner and the warrant of the controller.

§ 5. "Real estate commissioner's fund." All fees charged and collected under this act shall be paid by the real estate commissioner at least once a week, accompanied by a detailed statement thereof, into the treasury of the state to the credit of a fund to be known as the "real estate commissioner's fund," which fund is hereby created. All moneys which shall be paid into the state treasury and credited to the "real estate commissioner's fund" are hereby appropriated to be used by the commissioner in carrying out the provisions of this act, including the payment of the salaries of the commissioner and his deputies, clerks and assistants; and the controller shall draw his warrant on said fund from time to time in favor of the commissioner for the amounts expended under his direction, and the treasurer shall pay the same; provided, however, that all of the expenditures of said commissioner including his salary shall be paid only from the real estate commissioner's fund. The commissioner may, with the consent of the board of control, withdraw from said fund a sum not exceeding one thousand dollars to be used as a "revolving fund" where cash advances are necessary. The commissioner must account for the sum withdrawn from said "revolving fund" at any time upon demand of the board of control. It shall be the duty of the real estate commissioner semi-annually to certify under oath to the state treasurer and secretary of state the total amount of receipts and expenditures of the real estate commissioner's department for the six months preceding. All moneys remaining in the state treasury to the credit of the "real estate commissioner's fund" at noon on the thirty-first day of December of each year shall on or before the fifteenth day of the succeeding January be transferred from said "real estate commissioner's fund" to the general fund of the state.

§ 6. Seal. The real estate commissioner shall adopt a seal with the words "Real Estate Commissioner State of California" and such other device as the commissioner may desire engraved thereon, by which he shall authenticate the proceedings of his office. Copies of all records and papers in the office of the real estate commissioner's department certified under the hand and seal of the commissioner shall be received in evidence in all cases equally and with like effect as the originals.

§ 7. Attorney general attorney for commissioner. The attorney general shall render to the real estate commissioner opinions upon all questions of law relating to the construction or interpretation of this act or arising in the administration thereof that may be submitted to him by the commissioner, and shall act as the attorney for the commissioner in all actions and proceedings brought by or against him under or pursuant to any of the provisions of this act.

§ 8. Limitations on license. No real estate license shall give authority to do any act mentioned in section two of this act to any person, copartnership or corporation other than those to whom said license is issued; provided, however, that when a license is issued to a corporation the

officers thereof, other than the president, shall be required to obtain a license if engaged in the real estate business as a whole or partial vocation; and provided, further, that when a license is granted to a copartnership the members of said copartnership shall each be required to obtain a separate license, except as provided in section ten hereof.

§ 9. Applications for license. Licenses for salesmen. Application for license as real estate broker shall be made in writing to the real estate commissioner, which application shall be accompanied by the recommendation of two real estate owners of the county in which such applicant resides or has his place of business, certifying that the applicant is honest, truthful and of good reputation, and recommending that a license be granted the applicant. If the applicant shall have resided, or shall have engaged in business for less than one year in the county from which the application is made, the same shall also be accompanied by the recommendation of two real estate owners of each of the counties where he has formerly resided or engaged in business during said period of one year prior to the filing of said application, certifying that the applicant is honest, truthful and of good reputation and recommending that a license be granted the applicant. Where the applicant for a real estate broker's license maintains more than one place of business within the state he shall be required to apply for and procure a duplicate license for each branch office so maintained by him. Such duplicate license shall be issued without additional charge. Every such application shall state the name of the person, copartnership or corporation, and the location of the place or places of business for which such license is desired.

Application for license as real estate salesman shall be made in writing to the real estate commissioner, signed by the applicant, setting forth the period of time during which he has been engaged in the business, stating the name of his last employer and the name and place of business of the person, copartnership or corporation then employing him, or in whose employ he is to enter. The application shall be accompanied by the recommendation of his employer, if employed, certifying that the applicant is honest, truthful and of good reputation, and recommending that the license be granted to the applicant.

The real estate commissioner may require such other proof as he may deem advisable of the honesty, truthfulness and good reputation of any applicant for a license, or of the officers of any corporation, or of the members of any copartnership making such application before authorizing the issuance of a license.

§ 10. License fees. The fees for licenses shall be as follows:

(1) For a broker's license the annual fee shall be ten dollars. If the licensee be a corporation, the license issued to it shall entitle the president thereof to engage in the business of real estate broker within the meaning of this act. For officers other than the president of a licensed corporation, who shall engage in the business of real estate broker, within the meaning of this act, the annual fee shall be two dollars. If the licensee be a copartnership, the license issued to it shall entitle one member of said copartnership to engage in the business of real estate broker within the meaning of this act. For each other member of such copartnership who engages in the business of real estate broker within the meaning of this act the annual fee shall be two dollars.

(2) For a salesman's license the annual fee shall be two dollars.

(3) If application for a license is made during the period beginning on the first day of April and ending on the thirtieth day of June, in any year, three-fourths of the annual fee shall be paid; if application is made during the period beginning on the first day of July and ending on the thirtieth day of September, one-half of such annual fee; if application is made during the period beginning on the first day of October and ending on the thirty-first day of December, one-fourth of such annual fee.

(4) All applications for license shall be accompanied by the license fee as herein provided, and all licenses shall expire on December thirty-first of each year.

§ 11. Display of licenses in offices. The licenses of both broker and salesman shall be prominently displayed in the office of the real estate broker, and no license issued hereunder shall authorize the licensee to do business except from the location stipulated in the license. Notice in writing shall be given the commissioner of change of business location or change of employer, whereupon the commissioner shall issue a new license for the unexpired period without charge. The change of business location without notification to the commissioner and the issuance by him of a new license shall automatically cancel the license heretofore issued.

Each person, firm or corporation licensed as a broker under the provisions of this act shall be required to have and maintain a definite place of business in the state of California which shall serve as his office for the transaction of business.

§ 12. Revocation of licenses. Appeal from revocation of license. The real estate commissioner may upon his own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any person, copartnership or corporation engaged in the business or acting in the capacity of a real estate broker, or a real estate salesman, within this state, and shall have the power to temporarily suspend or permanently revoke licenses issued under the provisions of this act, at any time where the holder thereof in performing, or attempting to perform, any of the acts mentioned in section two hereof is guilty of—

(1) Making any substantial misrepresentation, or

(2) Making any false promises of a character likely to influence, persuade or induce, or

(3) A continued and flagrant course of misrepresentation or making of false promises through agents or salesmen, or

(4) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto, or

(5) Any other conduct, whether of the same or a different character than hereinabove specified, which constitutes dishonest dealing.

Before suspending or revoking any license the said commissioner shall notify, in writing, the holder of such license of the charges against him and afford an opportunity to be heard in person or by counsel in reference thereto. The decision of the said commissioner in suspending or revoking any license under this act shall be subject to review in accordance with the provisions of chapter one of title one of part three of the Code of Civil Procedure; and any party aggrieved by such decision of the commissioner may within ten days from the date of said decision appeal therefrom to the superior court of the state of California, in

and for the county in which the person affected by such decision resides or has his place of business under the terms of this act, by serving upon the commissioner a notice of such appeal and a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision and all the evidence taken on the hearing and paying ten cents for each folio of the transcript and one dollar for the certification thereof. Thereupon the commissioner shall, within thirty days, make and certify such transcript, and the appellant shall, within five days after receiving the same, file the same and the notice of appeal with the clerk of said court. Upon the hearing of such appeal, the burden of proof shall lie upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the commissioner from which the appeal is taken, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in making such decision.

The decision of the commissioner shall not take effect until ten days after its date, and if notice of appeal and demand for transcript are served upon the commissioner in accordance with the provisions of this section, then such stay shall remain in full force and effect until decision upon appeal by said superior court. But if said aggrieved party shall fail to perfect his appeal as herein provided, said stay shall automatically terminate.

§ 13. Powers of commissioners. Service of process. Powers of superior court. Taking of depositions. Right to attendance of witnesses. The real estate commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of books and papers. In any hearing in any part of the state the process issued by the commissioner shall extend to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the commissioner. The person serving any such process shall receive such compensation as may be allowed by the commissioner, not to exceed the fees prescribed by law for similar service, and such fees shall be paid in the same manner as provided herein for the payment of the fees of witnesses. Each witness who shall appear by order of the commissioner shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness who has not been required to attend at the request of any party shall be subpoenaed by the commissioner his fees and mileage shall be paid from the funds appropriated for the use of the said real estate department in the same manner as other expenses of said department are paid.

The superior court in and for the county in which any hearing may be held by the commissioner shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the commissioner. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena the commissioner may report to the superior court in and for the county in which the hearing is pending

by petition, setting forth that due notice has been given of the time and place of attendance of said witness or the production of said papers, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by subpoena before the commissioner in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing, and ask an order of said court compelling the witness to attend and testify or produce said papers before the commissioner. The court upon petition of the commissioner shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended or testified or produced said papers before the commissioner. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commissioner, the court shall thereupon enter an order that said witness appear before the commissioner at the time and place fixed in said order and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The commissioner may in any hearing before him cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production of books and papers.

Any party to any hearing before the commissioner shall have the right to the attendance of witnesses in his behalf at such hearing or upon deposition as set forth in this section upon making request therefor to the commissioner and designating the person or persons sought to be subpoenaed.

§ 14. When salesman is discharged. When any salesman shall be discharged by his employer for a violation of any of the provisions of section twelve hereof, a written statement of the facts in reference thereto shall be filed forthwith with the real estate commissioner by the employer.

§ 15. Employer's license not affected by employee's violation. No violation of any of the provisions of this act on the part of any salesman or employee of any licensed broker in this state shall cause the revocation or suspension of the license of the employer of said salesman or employee unless it shall appear upon a hearing to be had by the commissioner in accordance with section twelve hereof that said employer had guilty knowledge of such violation.

§ 16. Prosecution of violations. The real estate commissioner may prefer a complaint for violation of section one of this act before any court of competent jurisdiction, and said commissioner and his counsel, deputies or assistants may assist in presenting the law or facts at the trial. It shall be the duty of the district attorney of each county in this state to prosecute all violations of the aforesaid provision of this act in their respective counties in which such violations occur.

§ 17. Penalty for acting without license. Any person or corporation acting as real estate broker or real estate salesman within the meaning

of this act without a license as herein provided shall, upon conviction thereof, if a person, be punished by a fine of not to exceed two thousand dollars, or by imprisonment in the county jail or state prison for a term not to exceed two years, or by both such fine and imprisonment, in the discretion of the court; or if a corporation, be punished by a fine of not to exceed five thousand dollars.

§ 18. No commission to unlicensed persons. It shall be unlawful for any licensed broker to pay a commission for performing any of the acts herein specified to any person who is not a licensed broker, or a licensed salesman.

§ 19. Violation of sections fourteen and eighteen. For a violation of any of the provisions of sections fourteen and eighteen of this act the real estate commissioner may temporarily suspend or permanently revoke the license of such holder in accordance with the proceedings set forth in section twelve of this act.

§ 20. Party to action must be licensed. No person, copartnership or corporation engaged in the business or acting in the capacity of a real estate broker or a real estate salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in section two hereof without alleging and proving that such person, copartnership or corporation was a duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

§ 21. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 22. Stats. 1917, p. 1579, repealed. An act entitled "An act to define real estate brokers, agents, salesmen, solicitors; to provide for the regulation, supervision and licensing thereof; to create the office of real estate commissioner and making an appropriation therefor," approved June 1, 1917, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE 11.

AGRICULTURE.

ACT 78d.

An act providing for the appointment of a commission to investigate and report at the forty-second session of the legislature relative to the adoption of a system of land colonization and rural credits, and making an appropriation therefor. [Approved May 17, 1915. Stats. 1915, p. 475.]

Repealed by act approved June 1, 1917; Stats. 1917, p. 1573. See post, Act 3822.

ACT 78f.

An act creating a department of agriculture, providing for its organization and declaring its functions; transferring to said department

the powers and duties of various state agencies and the unexpended balances of their appropriations and funds; prohibiting certain acts, and prescribing penalties for violation of the provisions hereof.

[Approved May 16, 1919. Stats. 1919, p. 542.]

§ 1. Department of agriculture created. Director. A department of the government of the state of California to be known as the department of agriculture is hereby created. The department shall be conducted under the control of an executive officer to be known as director of agriculture, which office is hereby created. The director shall be appointed by and hold office at the pleasure of the governor, and shall receive a salary of five thousand dollars per annum. Before entering upon the duties of his office, the director shall execute an official bond to the state of California in the penal sum of twenty-five thousand dollars, conditioned upon the faithful performance of his duties. He shall maintain his office at Sacramento, and shall adopt and keep an official seal. He shall act as chief of one of the divisions herein created.

§ 2. Divisions. For the purpose of administration, the department shall be organized by the director in such manner as, with the approval of the governor, shall be deemed necessary to properly segregate and conduct the work of the department. The work of the department shall be divided into at least two divisions: One to be known as the division of plant industry and one as the division of animal industry. The director shall adopt such rules and regulations not inconsistent with law as may be necessary to govern the activities of the department. He shall have the power to arrange and classify the work of the department and to assign to each of the officers thereof such duties and labors as he may see fit.

§ 3. Appointments by director. Civil service exemptions. The director shall have power, except as otherwise provided herein, to appoint heads of divisions and such assistants, agents, experts, and other employees as are necessary for the administration of the affairs of the department, to prescribe their duties and, subject to the approval of the governor, to fix the salaries; provided, that the director or other officer of the department shall have no authority on the part of the state to incur obligations exceeding the amount of moneys made available by law for the support of the department. The heads of divisions, assistants, agents, experts and other employees appointed by the director shall execute to the state such official bonds as the director may determine and require. The head of each division and one position under him of a confidential nature shall be exempt from the provisions of the civil service law. The director and all officers, assistants and agents of the department shall be civil executive officers.

§ 4. Traveling expenses. All heads of divisions, assistants, agents, experts and other employees of the department shall be entitled to receive in addition to their salaries, their actual necessary traveling expenses when away from their headquarters on state business. The salaries and expenses of all heads of divisions, assistants, agents, experts and other employees of the department shall be paid at the same time and in the same manner as the salaries and expenses of other state officers are paid.

§ 5. Powers and duties of director. Power of subpoena. Powers of officers. The director of agriculture may make investigations and pros-

ecute actions concerning all matters relating to the business activities and subjects under the jurisdiction of the department as well as relating to the acts and the statistics referred to in section nine of this act. In connection therewith he shall have the right to inspect books and records and to hear complaints, administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding pertinent or material thereto in any part of the state.

In the event of the failure or the refusal of any witness to attend or testify or produce such papers, books, accounts or documents or give such testimony or in the event of any disobedience of said subpoena, the superior court in and for the county, or city and county, in which any inquiry, investigation or proceeding may be held by the director of agriculture, shall have power to compel the attendance of said witness, the giving of said testimony and the production of said papers, including books, accounts and documents, as required by any subpoena issued by the director of agriculture. The court upon petition of the director of agriculture shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the director of agriculture. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the director of agriculture, the court shall thereupon enter an order that the said witness appear before the director of agriculture at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

The powers conferred upon the director of agriculture by the provisions of this section may be exercised with like force and effect by such officers of the department as the director may authorize and designate to conduct any such investigation or hearing; provided, however, that except in his report to the director, or when called upon to testify in any court or proceeding at law, any such officer who shall divulge any information acquired by him from the private books, documents or papers of any person, while acting or claiming to act under any such authorization or designation, in respect to the confidential or private transactions, property or business of any person, firm, association or corporation, shall be guilty of a misdemeanor and shall be disqualified from acting in any official capacity in the department. In addition thereto, such officer shall be liable in damages to any person, firm, association or corporation for all injury resulting from such unlawful disclosure.

§ 6. Report to governor. The director shall make a report to the governor at least sixty days before the commencement of each biennial session of the legislature. Such report shall give an account of all matters pertaining to his department, together with any recommendations, and shall specifically set forth a statement of expenditures made by the department during the period up to and including the thirtieth day of June preceding said session. There shall also be set forth in such report a statement of the organization plan of the department,

together with the number and classes of officers and employees in the department and the compensation paid the same.

§ 7. Duty of attorney general. The attorney general shall be the legal adviser of the department in all matters relating to the department and to the powers and duties of its officers. Upon request of the director, the attorney general, or under his direction, the district attorney of any county in which the action is brought, shall aid in any investigation, hearing, prosecution or trial had under the laws which the director is required to administer, and shall institute and prosecute all necessary actions or proceedings for the enforcement of such laws and for the punishment of all violations thereof. The sheriffs and constables in the several counties shall execute all lawful orders of the director in such counties.

§ 8. Powers of existing boards, etc., transferred. Offices abolished. The director of the department of agriculture shall succeed to and is hereby vested with all the duties, powers, purposes, responsibilities and jurisdiction of the state commissioner of horticulture, of the state board of horticultural examiners, of the state dairy bureau, of the state veterinarian, of the stallion registration board, of the state board of viticultural commissioners, of the board of citrus fruit shipments, of the cattle protection board and of the several officers of such bodies and offices; and whenever by the provisions of any statute or law now in force or that may hereafter be enacted as a duty or jurisdiction is imposed or authority conferred upon any of said bodies, offices or officers, such duty, jurisdiction and authority are hereby imposed upon and transferred to the director of the department of agriculture the same as though the title of the director of the department of agriculture had been specifically set forth and named therein. Said bodies, offices and officers whose duties, powers, purposes and responsibilities are so transferred to and vested in the director of the department of agriculture, are and each of them is hereby abolished and shall have no further legal existence, but the statutes and laws under which they existed and all laws prescribing their duties, powers, purposes and responsibilities and jurisdiction together with all lawful rules and regulations established thereunder, are hereby expressly continued in force. The department of agriculture shall also succeed to and be in control of all records, books, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal, now or hereafter held for the benefit or use of said bodies, offices and officers.

§ 9. Laws to be enforced. Powers transferred to director. The director of the department of agriculture is hereby vested with the power and is charged with the duty of administering and enforcing the following laws:

An act to regulate the sale of commercial fertilizers or materials used for manurial purposes, and to provide penalties for the infractions thereof, and means for the enforcement of the act, approved March 20, 1903, and all acts amending or supplementing said act.

An act to prevent the propagation by the production of seed of that certain plant known as *Sorghum halepense*, otherwise known as Johnson grass, approved March 20, 1903, and all acts amending or supplementing said act.

An act to regulate the manufacture, sale, adulteration and misbranding of insecticides or fungicides or materials used for insecticidal or fungicidal purposes and to provide penalties for the infraction thereof and to appropriate money therefor, approved May 1, 1911, and all acts amending or supplementing said act.

An act to regulate the production of certified milk, cream, ice-cream, butter and cheese; and repealing an act entitled "An act to regulate the production of certified milk," approved March 18, 1909, and all acts and parts of acts inconsistent with this act, approved April 25, 1913, and all acts amending or supplementing said act.

An act prohibiting the destruction of foodstuffs, food products or food articles, approved June 5, 1913, and all acts amending or supplementing said act.

Wherever in any of the statutes enumerated in this section or in any of the statutes amending or supplementing the same, a duty or jurisdiction is imposed or authority conferred upon any state board, commission, office or officer to administer the provisions of any of said statutes, such duty, jurisdiction and authority are hereby imposed upon and transferred to the director of the department of agriculture and the officers thereof with the same force and effect as if the name of the director of the department of agriculture occurred in the statute in each instance in lieu of the name of any board, commission, office or officer, or in lieu of the name of any member, deputy, assistant or employee thereof, as the case may be.

§ 10. Authority to spend money on hand. From and after the date upon which this act takes effect, the director shall be and is hereby authorized and empowered to expend the moneys in any appropriation or in any special fund in the state treasury now remaining or made available by law for the administration of the provisions of any of the statutes enumerated in section nine hereof or for the use, support, or maintenance of any board, commission, office or officer that is abolished by the provisions hereof and whose duties, powers and functions are, by the provisions of this act, transferred to and conferred upon the department of agriculture. Such expenditures by the director shall be made in accordance with law in carrying on the work for which such appropriations were made or such special funds created.

ACT 78g.

An act appropriating money for co-operation with the United States government under the provisions of an act of congress of the United States entitled "An act to provide for the co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act of congress approved July 2, 1862, and of acts supplementary thereto and the United States department of agriculture," approved by the President of the United States May 18, 1914.

[Approved May 22, 1919. Stats. 1919, p. 828.]

§ 1. Appropriation. Agricultural extension work. The sum of one hundred four thousand eight hundred fifty-six dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, to be used in agricul-

tural extension work in co-operation with the United States government under the provisions of an act of congress of the United States entitled: "An act to provide for the co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act of congress approved July 2, 1862, and of acts supplementary thereto and the United States department of agriculture," approved by the President of the United States May 18, 1914.

TITLE 12.

ALAMEDA CITY.

ACT 85.

Charter of. [Stats. 1907, p. 1051.]

Amended 1913, pp. 1454, 1720. See new charter of 1917, post Act 85a.

ACT 85a.

Charter of. [Stats. 1917, p. 1752.]

Amended 1919. See Stats. 1919, p. 1481.

ACT 86.

An act granting to the city of Alameda the salt marsh, tide and submerged lands of the state of California, including the right to wharf out therefrom to the city of Alameda, and regulating the management, use and control thereof.

[Approved June 11, 1913. Stats. 1913, p. 707.]

Amended 1917, p. 907.

The amendments of 1917 follow:

§ 1. **Tide-lands granted to Alameda.** Conditions of grant. There is hereby granted to the city of Alameda, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to the salt marsh, tide and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

That said lands shall be used by said city and its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, warehouses, factories, storehouses, structures and appliances necessary or convenient for the promotion, benefit and accommodation of commerce and navigation, and said city, or its successors, shall not, except as herein authorized, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatever; provided, that said city, or its successors, may grant franchises thereon, for limited periods, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, for purposes con-

sistent with the trusts upon which said lands are held by the state of California and this grant, for a term not exceeding twenty-five years, and on such other terms and conditions as said city may determine, including a right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases, and said lease or leases may be for any and all purposes which shall not interfere with navigation or commerce, with reversion to the said city on the termination of such lease or leases of any and all improvements thereon, and on such other terms and conditions as the said city may determine, but for no purpose which will interfere with navigation or commerce; subject also to a reservation in all such leases or such wharfing out privileges of a street, or of such other reservation as the said city may determine for sewer outlets, and for gas and oil mains, and for hydrants, and for electric cables and wires, and for such other conduits for municipal purposes, and for such public and municipal purposes and uses as may be deemed necessary by the said city, upon compensation being made for the injury and damage done to any improvement or structure thereon.

Provided, further, that in the granting of any and all such leases the city council shall, whenever in its judgment it can reasonably do so, give preference to the owners of upland abutting on the salt marsh, tide or submerged land proposed to be leased; provided, however, that the said city of Alameda may grant, give, convey and alien such lands or any portion thereof, forever to the United States for public purposes of the United States; provided, however, that no such grant shall be made unless authorized and approved by a vote of the majority of the electors of such municipal corporation voting up on the proposition of making such grant at an election therein, at which such proposition shall have been submitted.

This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands or wharfing out privileges hereby granted.

The state of California shall have, at all times, the right, together with the city if there be no lessee or licensee, or together with the lessee or licensee, if there be a lessee or licensee, to use, without charge, all wharves, docks, piers, slips, quays constructed on said lands or any part thereof, except wharves, docks, piers, slips, quays or other improvements constructed on such lands by the United States for public purposes of the United States, for any vessel or other water craft, or railroad, owned or operated by the state of California.

No discrimination in rates, tolls or charges for use or in facilities for any use or service in connection with wharves, docks, piers, slips or quays or property operated by the city, or property leased, the use of which is dedicated by the lessee or licensee for a public use, shall ever be made, authorized or permitted.

There is hereby reserved in the people of the state of California the right to fish in the waters on which said lands may front with the right of convenient access to said waters over said lands for said purpose, such enjoyment of access and right to fish to be regulated by ordinance of the city of Alameda, so as not to interfere, obstruct, retard or limit

the right of navigation or the rights of lessees or licensees under lease or license given.

All leases and licenses granted by ordinance of the city of Alameda prior to the first day of April, one thousand nine hundred seventeen, and the terms and conditions expressed therein are affirmed. [Amendment approved May 24, 1917; Stats. 1917, p. 907.]

§ 2. **Expenditures required.** Section two of said act, approved June 11, 1913, is hereby repealed. [Approved May 24, 1917; Stats. 1917, p. 909.]

TITLE 13.

ALAMEDA COUNTY.

ACT 96b.

An act to increase the number of judges of the superior court of the county of Alameda, and for the appointment of such additional judges.

[Approved May 5, 1917. Stats. 1917, p. 242. In effect July 27, 1917.]

§ 1. **Judges increased in Alameda county.** The number of judges of the superior court in the county of Alameda, state of California, is hereby increased from six to eight.

§ 2. **Appointment. Election.** Within thirty days after this act becomes a law the governor shall appoint two additional judges of the superior court in the county of Alameda, state of California, who shall hold office until the first Monday after the first day of January, A. D. 1919. At the next general election, to be held in November, A. D. 1918, two additional judges of said superior court shall be elected in the said county, who shall be the successors to the judges appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. **Salary.** The salary of such additional judges shall be the same in amount and be paid in the same manner and at the same time as the salaries of the other judges of the superior court of said county now authorized by law.

TITLE 15a.

ALBANY.

ACT 118.

An act granting certain tide-lands and submerged lands of the state of California to the city of Albany, and regulating the management, use and control thereof.

[Approved May 6, 1919. Stats. 1919, p. 310. In effect July 22, 1919.]

§ 1. **Tide-lands granted to city of Albany.** There is hereby granted to the city of Albany, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty in and to all tide-lands and submerged lands, whether filled or unfilled, which are included within the present boundaries of the city of Albany, to be forever held by said city and by its successors in trust for the use and purposes, and upon the express conditions following, to wit:

(a) **Conditions of grant.** That said lands shall be used by said city and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city or its successors shall not, at any time, grant, convey, give or alien said lands or any part thereof to any individual, firm or corporation, for any purposes whatever; provided, that said city or its successors may grant franchises thereon, for limited periods, but in no event exceeding fifty years for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, but in no event exceeding fifty years, for the purposes consistent with the trusts upon which said lands are held by the state of California, and with the requirements of commerce or navigation at said harbor.

(b) **Same.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California.

(c) **Same.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

(d) **Same.** There is hereby reserved, however, in the people of the state of California the absolute right to fish in all the waters of said harbor, with the right of convenient access to said waters over said land for said purpose.

TITLE 25.

ANIMALS.

ACT 184a.

An act to create a cattle protection board, to define its powers and duties, to protect the breeders and growers of cattle from theft, to provide for the registration of cattle brands and the licensing of cattle slaughterers and sellers of the meat thereof, to provide for the inspection of cattle and cattle hides for brands and marks, to provide for the collection of license and inspection fees, to provide for the creation of a fund to be known as the cattle protection fund, and to provide penalties for violation of the provisions hereof.

[Approved May 28, 1917. Stats. 1917, p. 1237. In effect July 27, 1917.]

§ 1. **Cattle protection board created. Term. Appointees. Cattle protection fund. Duty of board.** That there be and is hereby created a cattle protection board, to be appointed by the governor of the state of California, which shall consist of three members, two of whom shall be identified with and experienced in the cattle industry of the state of California and the other shall be the state veterinarian. Said board

shall elect one of their number chairman. The members of said board shall each receive ten dollars per day for the time by him necessarily employed in discharging the duties required in this chapter; provided, however, that in no one year shall the board be in session more than sixty days, except upon the call of the governor.

The members of said board shall hold office during the pleasure of the governor. Said board is hereby authorized to appoint a secretary, counsel, inspectors, and such clerks as may be necessary to carry out the provisions of this act, and fix the salaries of said appointees. Such per diem and expenses of said members of the cattle protection board, as well as the salaries and expenses of all appointees of said board, including all other additional expenses incurred by enforcement of this act as hereinafter provided, shall be paid out of the cattle protection fund which fund is hereafter provided.

Said board is hereby authorized, and it is made its duty, to exercise a general supervision over, and protect the cattle of this state from theft and to make such rules and regulations as may be necessary to carry out the purposes and intent of this act.

§ 2. Cattle brands. Record. Districts. Every person owning cattle in this state except as hereinafter provided may adopt a brand with which to brand his cattle; provided, such brand be not similar to the brand heretofore adopted by any other person, except by special permit issued by the cattle protection board. Said board shall cause said brands to be recorded in books kept for that purpose. The recording of a brand shall consist of depicting in the brand book a facsimile of the design of the brand adopted, together with an entry in said book bearing a statement of the name, residence, and postoffice address of the person adopting the same, the date the brand was presented for record, the place upon the animal where the brand is proposed to be used, the number of the district and a statement of the location of the range whereon such animals are to range. Before any such record shall be made, proof shall be made that the person applying to have such brand recorded is the owner thereof and entitled to use the same.

The said board may divide the state into a number of districts. Such districts may be changed from time to time, so that all of the persons engaged in raising cattle within the state of California may adopt and record a brand, without requiring that any one brand shall be adopted or recorded in any two contiguous districts; provided, however, that where cattle in two or more contiguous districts are owned by one person, said person shall have the right to the use of said brand in contiguous districts.

§ 3. Fees. Forfeiture. The sum of two dollars shall be paid to said board for the recordation of any brand; for the right to the continued use of said brand, under the provisions of this act, the owner thereof shall before the first day of January of each year after its recordation transmit to the board the sum of one and one-half dollars. A failure to make such payment shall forfeit the right to use said brand.

When the right to any brand recorded hereunder shall have become forfeited, said brand shall not be recorded by any other person until after the expiration of one year from the date of the forfeiture thereof.

§ 4. Unrecorded brand. No person shall brand any cattle in this state with a brand that has not been recorded under the provisions of this act, nor use any device to obliterate a brand.

§ 5. Sale of range cattle. Upon the sale or transfer of any range cattle in this state, the actual delivery of such animal shall be accompanied by a written bill of sale, giving the number, kind and marks and brands of each animal, which bill of sale shall be signed by the party giving the same and acknowledged by him before two subscribing witnesses who have been freeholders of the county for at least two years.

§ 6. Not applicable to registered, etc., cattle. It is hereby expressly provided that the provisions in this act shall not apply to registered purebred cattle or purebred cattle which can be identified as being entitled to registration, or to the dressed carcasses of veal with unmarked or unbranded hides thereon, or cows actually used for dairy purposes.

§ 7. License to slaughter cattle. Bond. Annual fee. Monthly report to board. Forfeiture of license on failure to make statement. It shall be unlawful for any person to slaughter any cattle or offer for sale, barter or exchange the meat thereof, unless he shall have a license therefor issued in accordance with the provisions of this act, except as herein otherwise provided.

Every person slaughtering cattle as a business shall do so in a designated slaughter-house, and before he shall begin the business of slaughtering cattle or selling the meat thereof, he shall first procure from the board a license to carry on such business, under the conditions and upon the payment of the fees herein provided for. After procuring such license and before engaging in such business he shall execute a bond to the state of California, in the penal sum of one thousand dollars (\$1,000) to be approved by the secretary of the board, conditioned that such person shall not slaughter, sell or expose for sale any cattle or the meat thereof, without first being the legal and equitable owner thereof, or being authorized to so slaughter, sell or expose for sale such animal, or the meat thereof, by such owner, and that in case he shall violate any of the provisions hereof, he shall pay therefor double the value of such animal. The amount so recovered shall be paid as follows: One-half to the owner of such animal and the remaining one-half to the cattle protection fund.

Said board shall grant to every applicant therefor, who complies with all the provisions of this act a license to slaughter cattle and sell the meat thereof for the unexpired portion of the calendar year in which said license is granted. Every applicant for such a license shall pay to said board the following annual fee which shall be paid in advance: For applicants who slaughter less than ten head per month, one dollar per annum. For applicants who slaughter more than ten head and less than fifty head per month, ten dollars per annum. For applicants who slaughter more than fifty head per month, twenty-five dollars per annum. For a shorter term than one year a proportionate part of said fee shall be paid. The applicant for such license shall state in his application where his slaughter-house is located, and during the term of such license he shall not slaughter any cattle at any other place than that specified in his license. If the holder of a license desires to change

the location of his slaughter-house, he shall apply to said board to have such license transferred and the board may reissue such license without any additional fee.

Every holder of such a license shall, at the expiration of each calendar month, make a written report and send the same by registered mail to said board. Such report shall include the following:

(a) The number and sex of the cattle slaughtered in such establishment during the calendar month just past.

(b) The names and addresses of persons from whom said cattle were purchased or otherwise obtained.

(c) The brands and marks on said cattle.

(d) The dates on which said cattle were purchased or otherwise obtained and the dates on which said cattle were slaughtered.

Said statement shall be signed by such licensee or his duly authorized agent. Upon failure or neglect of said licensee or his duly authorized agent for a period of fifteen days to file such a statement in the manner as herein provided, the said board shall have the power and it shall be its duty to forfeit the license of such licensee; and thereafter it shall be unlawful for the owner of said slaughtering establishment, or for any other person to slaughter any cattle in said establishment until a new application is made by him to said board, accompanied by a fee of twenty-five dollars; provided, however, that said board shall have the power and it shall be its duty to refuse to renew the license of any slaughterer who has knowingly slaughtered cattle without the consent of the owner thereof.

§ 8. Record by butcher of meat purchased. Slaughter by ranchman for own consumption. Every peddler, butcher or retailer of meats, purchasing the meat of any bovine animal, must enter in a book to be kept for that purpose and exhibit the same on demand, the name of the person from whom said meat was purchased or otherwise obtained, the date of said purchase and the quantity so purchased.

It shall be unlawful for any peddler or retailer of meat, or person in control of any butcher-shop, to purchase the meat of any slaughtered bovine animal from any person not known to him to be licensed under the provisions of this act.

Any person who fails on demand to inform any officer of this state where and from whom he has obtained any meat of any bovine animal that he has in his possession, shall be deemed guilty of a misdemeanor.

Nothing in this act shall be so construed as to prohibit an owner of property, or a ranchman located on a definite property as a tenant, lessee or purchaser under contract, from slaughtering cattle in small numbers on said premises for his own consumption, and nothing herein shall be so construed as to prohibit such ranchman from selling or giving away a portion thereof; provided, that such person shall not be required to take out a license.

§ 9. Hides retained. Record of cattle slaughtered. The hides of all such cattle slaughtered by the owner thereof, or removed from any cattle which have died from any cause, shall be retained in the possession of the owner where the same may be inspected, with the brands attached thereto, and without any alteration or disfiguration thereof, for a period

of at least fifteen days after the death of said cattle, or until said hides are inspected.

Every ranchman, who so slaughters cattle on such premises, shall keep a record in a book to be kept for that purpose of all the cattle so slaughtered by him, with a description thereof, including all the marks and brands of such slaughtered cattle, the date of slaughter, and shall at the end of each month, make a true and correct copy of such record and send the same by registered mail to the office of the cattle protection board, and shall likewise exhibit the said record on demand of any officer of this state.

§ 10. No cattle slaughtered until inspected. No cattle except cattle shipped for slaughter and which have been inspected as herein provided prior to shipment, shall be slaughtered until they shall have been first inspected and certified to as being the property of the person slaughtering same or causing same to be slaughtered or being duly authorized by the owner thereof to slaughter said cattle; provided, that, any person licensed hereunder to slaughter cattle after twenty-four hours' notice in writing, addressed to the local inspector demanding his presence at a specified time and place for the purpose of inspecting such cattle for slaughtering, may, without the certificate of inspection of said inspector slaughter said cattle, providing he makes a written statement designating the general description of the animal or animals slaughtered, such as the age, color, weight, etc., and specifying in detail the earmarks and brands of such animal or animals; and provides, further, that he retain the hides of such animal or animals for at least fifteen days thereafter as hereinbefore provided.

§ 11. Certificate of brand, etc., before shipment. It shall be unlawful for any common carrier to receive any cattle, or the hides of any cattle, for transportation to points within or without this state until such carrier shall have been furnished with duplicate certificates signed by an inspector, showing, in the case of cattle, the brands and earmarks of such cattle, the number of cattle of each earmark and brand, the names of shipper and consignee and also the origin and destination of said cattle. In the case of cattle hides, the certificates shall state the number of hides, the names of shipper and consignee and also the origin and destination of said hides. One copy of said certificates shall be mailed forthwith by the agent or other person in control of the common carrier at the point at which said cattle are received for shipment, to the consignee.

§ 12. Inspection of cattle to be shipped. It shall be the duty of inspectors to inspect all cattle for marks and brands which are offered for transportation to any common carrier at the loading stations thereof.

If upon such inspection cattle shall be found not belonging to the shipper, all such cattle shall be taken by the inspector and dealt with in accordance with the rules of the board in such cases made.

Inspectors must inspect all cattle subject to inspection immediately, and when inspected, the one in charge thereof shall at once pay to the inspector therefor the sum of five cents per head, whereupon the inspector shall certify that said cattle have been inspected.

§ 13. Volumes for recordation of marks and brands. It shall be the duty of the said board to prepare volumes for the recordation of said marks and brands, and to keep a true record of all its official transactions. When cattle or the hides thereof have been shipped or slaughtered, each record thereof must be entered under the name of the owner of said mark or brand, and must be entered in such a manner as to disclose under the record of each particular mark or brand, the number of cattle bearing any other marks or brands. An index shall be kept of unrecorded brands, as well as of those that have been recorded under the provisions hereof.

§ 14. Driving cattle off range. Any person, not being the owner, or having the right of possession, of any cattle, who shall be found driving such cattle off its usual range, without the consent of the owner thereof, shall be guilty of grand larceny.

§ 15. Report of fees by secretary. The secretary of the cattle protection board, at least as often as once each month, shall report to the state controller the total amount of fees collected, and at the same time he shall pay into the state treasury the entire amount of such receipts. All such receipts shall be credited to the cattle protection fund, which fund is hereby created, and shall be held subject to the uses of the cattle protection board, as defined in this act.

§ 16. "Range." "Person." "Cattle." The term "range" for the purpose of the interpretation and application of this act shall be understood to mean the inclosed or uninclosed lands outside of cities, towns and villages in this state, whether of the public domain or in private ownership, upon which by custom, license or otherwise, cattle are kept or permitted to roam and feed.

The term "person" wherever used includes every person, persons, firm, association or corporation.

The term "cattle" wherever used includes every kind of animal of the bovine species.

§ 17. Penalty. Any person violating any provisions of this act shall, unless otherwise specifically designated herein, be guilty of a misdemeanor.

§ 18. Repealed. All acts and parts of acts in conflict herewith are hereby repealed.

ACT 196b.

An act providing for the control and the destruction of predatory animals, vesting in the state commissioner of horticulture the administration of the provisions hereof, and defining his powers and duties in relation thereto.

[Approved May 2, 1919. Stats. 1919, p. 178. In effect July 22, 1919.]

§ 1. Control of predatory animals. The state commissioner of horticulture is hereby directed to investigate reports of the depredations occasioned by predatory animals, to assist in instituting control measures in localities where depredations are known to be serious and co-operate with county board of supervisors. He may co-operate with the bureau of biological survey of the United States department of agri-

culture, and may enter into contracts with said bureau, determining the method of such co-operation, establishing uniform control methods, and governing the supervision of all persons employed in such work.

§ 2. Predatory animal fund. The state commissioner of horticulture is hereby authorized to accept on behalf of the state donations of money from individuals, associations, corporations, county boards of supervisors, and other agencies interested in the control of coyotes and other harmful predatory animals, all such moneys to be paid into the state treasury and credited to the predatory animal fund which is hereby created to be expended only in the control of coyotes and other harmful predatory animals in accordance with the terms and conditions fixed by the state commissioner of horticulture acting by and through the rodent control division of his office. Moneys thus made available by any county board of supervisors shall be expended solely within the boundaries of the county making the appropriation, unless otherwise authorized by the supervisors of that county.

§ 3. Study and report on control measures. The state commissioner of horticulture is hereby directed to investigate and make a study of control measures and of existing laws of this and other states providing for the control and destruction of predatory animals, and to prepare a report, accompanied by a draft of such legislative measures as he may recommend to the legislature for adoption. Such report shall be printed by the superintendent of state printing, and shall be submitted to the governor on or before the first day of November in the year 1920, and shall be presented by him to the legislature at the opening of the forty-fourth session.

ACT 196c.

An act to prevent trespass upon real estate by livestock.

[Approved May 11, 1919. Stats. 1919, p. 464. In effect July 22, 1919.]

§ 1. Trespass by livestock. It shall be unlawful for any person or persons to herd or graze any livestock upon the lands of another in the counties of Plumas, Lassen and Modoc without having first obtained the consent of the owner or owners of the land so to do; provided, that the person claiming to be the owner of said lands has the legal title thereto, or an application to possess the same, with first payment made thereon.

§ 2. Damages. The livestock which is herded or grazed upon the lands of another, contrary to the provisions of the first section of this act, shall be liable for all damages done by said livestock while being unlawfully herded or grazed on the lands of another, as aforesaid, together with costs of suit, and said livestock may be seized and held by a writ of attachment issued in the same manner provided by the general laws of the state of California, as security for the payment of any judgment which may be recovered by the owner or owners of said lands for damages incurred by reason of a violation of any of the provisions of this act, and the claim and lien of a judgment or attachment in such case shall be superior to any claim or demand which arose subsequent to the commencement of this action.

§ 3. Exception. This act shall not apply to any livestock running at large on the ranges or commons.

ACT 196d.

An act to regulate the herding and grazing of the livestock of nonresidents and foreign corporations upon uninclosed land in the state of California and providing a penalty for any violation of any of the provisions of this act.

[Approved May 18, 1919. Stats. 1919, p. 753. In effect July 22, 1919.]

§ 1. Nonresidents must have license for herding and grazing of livestock. Exemptions. It shall be unlawful for any person or for any corporation who or which does not have his or its principal home ranch and livestock headquarters in the state of California, except as herein provided, to herd or graze, or to cause to be herded or grazed, upon any uninclosed lands in the state of California any sheep or bovine cattle without having first obtained from the tax collector of the county in which such herding or grazing or some portion thereof is done, a valid license authorizing such herding and grazing in the state of California. Such license shall be issued by said tax collector to and in the name of such person or corporation upon compliance by him or it with the provisions of section two of this act, and shall be valid only for the calendar year in which it is dated; provided, that any person or any corporation which does not have its principal home ranch and livestock headquarters in the state of California, owning or leasing land in the state of California, shall be exempt from any license or the payment of any license for five head of sheep for each acre so owned or leased, and three head of bovine cattle for each acre so owned or leased.

§ 2. Affidavit of applicant for license. As conditions precedent to the issuance of said license, the applicant therefor shall:

1. File with said tax collector an affidavit which shall explicitly and truly state the following facts:

(a) If the applicant is a nonresident person, his name and place of residence; or, if the applicant is a corporation, its name, the state under whose laws it is incorporated, the date of its incorporation, its principal place of business, and the names and addresses of its officers;

(b) The location of his or its principal home ranch and livestock headquarters;

(c) The number of acres of land owned or leased in the state of California, together with a description thereof.

2. Pay to the said tax collector the sum of fifty cents a head for each of the sheep, and the sum of two dollars a head for each of the bovine cattle proposed to be herded or grazed in the state of California, after deducting the number of sheep and cattle as exempted from the payment of said tax.

§ 3. Number of animals that may be grazed or herded. No such person or corporation shall herd, graze, or cause to be herded or grazed upon any uninclosed land in any county in California any greater number of livestock than that for which he or it has previously obtained such license, and which is exempted under the provisions of this act.

§ 4. Disposal of license fees. The tax collector collecting such license moneys shall be allowed to retain for his own compensation and in addition to his salary or other fees now provided by law six per centum of the said license moneys by him collected, and shall quarterly pay the remainder of such moneys into the general county road fund.

§ 5. Penalty. Any person or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding five hundred dollars, and shall be prohibited from herding, grazing, or causing to be herded or grazed any livestock in the state of California until such fine is paid.

§ 6. When act shall become void. If any law passed at the present session of the legislature in any of the states bordering on California, similar to this bill affecting the citizens and corporations of the state of California, shall be declared unconstitutional and invalid by a court of last resort in any of said states, then this act shall immediately become inoperative and void.

TITLE 30.

APPROPRIATIONS.

ACT 217.

An act making appropriations for the support of the government of the state of California for the seventy-first and seventy-second fiscal years.

[Approved May 27, 1919. Stats. 1919, p. 1311.]

This act contained the following provisions (p. 1329 et seq.):

§ 2. Expenditures for printing, etc. The various sums herein appropriated for printing, binding, ruling, materials and all other work provided for by law to be done in the state printing office shall be expended only upon requisitions to be approved by the state board of control, and said board is authorized and given power to reduce the amount of such requisitions either in whole or in any item thereof. When any state publication is printed and paid for out of any appropriation in this act, the disposition of the same shall be subject to the provisions of section two thousand two hundred ninety-five *a* of the Political Code of the state of California. The sums that are herein appropriated for expenses of the senate and assembly shall be disbursed under the direction of the bodies to which they respectively belong, and shall not be subject to any of the provisions of section six hundred seventy-two of the Political Code; provided, that the state controller shall not be required to draw any warrants until the original claims and vouchers, itemized and properly sworn to, are filed with him. The sums herein appropriated for the expenses of the national guard shall be audited by the adjutant-general, as required by sections two thousand eighty-three and two thousand eighty-five of the Political Code. Not more than five hundred dollars of the money hereby appropriated for the support of the institutions of the state shall be used in each fiscal year for permanent improvements, but shall be used solely for the payment of salaries and traveling expenses of the commissioners or directors having charge of the same (when such salaries or expenses are allowed by law), the salaries of employees, the purchase of material and supplies for the use of said institutions, and for such incidental and current expenses as may be necessarily incurred for the proper management and support of said institutions.

§ 3. Biennial statement of state officers. Original bills required. Revolving fund. All persons having demands against the state, and various state officers, and the officers of all institutions under the con-

trol of the state, except the governor, to whom and for which appropriations other than salaries are made under the provisions of this act, shall, with their biennial report, submit a detailed statement, under oath, of the manner in which all appropriations for their respective departments and institutions have been expended, and the state board of control, is hereby expressly prohibited from allowing any demand payable out of any such appropriations until the same are presented in itemized form, accompanied by affidavit and voucher for money expended by them, stating specifically the service rendered, by whom performed, time employed, distance traveled, and necessary expenses thereof; if for articles purchased, the name of each article, together with the price paid for each and of whom purchased, with the date of the purchase; provided, that in instances where the duties of any state officer or board make necessary the use of moneys for purposes of a confidential nature, the board of control may audit claims for such expense without requiring itemization or vouchers; but such claims must be accompanied by a statement of the facts surrounding the expenditure, which statement must be filed in the office of the board of control; provided, further, that the total amount so allowed for such confidential purposes from the moneys herein appropriated shall not exceed in any one fiscal year the sum of two thousand dollars. All bills and vouchers, which shall be presented for supplies furnished or services rendered, shall be original bills and vouchers of the parties furnishing supplies and rendering services; provided, that no officer shall use or appropriate any money, appropriated by this act, for any purpose whatsoever, unless authorized thereto by law; and provided, that any officer, board, commission or department for whom any appropriation is made herein, may, with the permission of the board of control, and without at the time furnishing vouchers and itemized statements, draw from such appropriation, a sum not to exceed one thousand dollars for any such officer, board, commission or department. The sum so drawn shall be used as a revolving fund where cash advances are necessary, and at the close of each fiscal year, or at any other time, upon the demand of the board of control, must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control and the controller.

§ 4. Amounts expendable monthly. Not more than one twenty-fourth of the amount appropriated under this act for each department or institution for the two years ending June 30, 1921, shall be expended during any one month without the consent of the state board of control, and not more than one-half of such appropriation shall be expended during the seventy-first fiscal year, unless the same has been expressly authorized by this act.

§ 5. Expenditures forbidden. The officers of the various departments, boards, commissions and institutions for whose benefit and support appropriations are made in this act are expressly forbidden to make any expenditure in excess of such appropriations, except the unanimous consent of the state board of control be first obtained, and a certificate, in writing, duly signed by every member of said board, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the state in violation of the provisions of this section shall be absolutely null and void; and shall not be allowed by said

act and on such terms and conditions as said city may determine and specify, subject to the right of said city to terminate said lease at the end of the first twenty-five years or refuse to renew the same, or to terminate the lease so renewed during the term of such renewed lease on such just and reasonable terms for compensation for improvements at the then value of said improvements as said city may determine and specify.

Upon obtaining such lease and wharfing out privileges such person, firm or corporation, their heirs or assigns, shall quitclaim to said city any right they or any of them may claim or have to the said lands hereby granted.

This grant shall carry the right to such city of the rents, issues and profits in any manner hereafter arising from the lands or wharfing out privileges hereby granted.

The state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands or any part thereof, for any vessel or other water craft, or railroad owned or operated by the state of California.

No discrimination in rates, tolls or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors in the management, conduct or operation of any of the utilities, structures or appliances mentioned in this section.

There is hereby reserved in the people of the state of California the right to fish in the waters on which said lands may front with the right of convenient access to said waters over said lands for said purpose.

TITLE 38.

ASEXUALIZATION.

ACT 248.

An act to provide for the asexualization of inmates of state hospitals for the insane, the Sonoma State Home, of convicts in the state prisons, and of idiots, and repealing an act entitled "An act to permit asexualization of inmates of the state hospitals and the California Home for the Care and Training of Feeble-minded Children and of convicts in the state prisons," approved April 26, 1909.

[Approved June 13, 1913. Stats. 1913, p. 775.]

Amended 1917; Stats. 1917, p. 571.

The amendment of 1917 follows:

§ 1. Asexualization of inmates of hospitals for insane before release. Before any person who has been lawfully committed to any state hospital for the insane, or who has been an inmate of the Sonoma State Home, and who is afflicted with mental disease which may have been inherited and is likely to be transmitted to descendants, the various grades of feeble-mindedness, those suffering from perversion or marked departures from normal mentality or from disease of a syphilitic nature, shall be released or discharged therefrom, the state commission in lunacy may in its discretion, after a careful investigation of all the circumstances of the case, cause such person to be asexualized, and such asexualization whether

with or without the consent of the patient shall be lawful and shall not render the said commission, its members or any person participating in the operation liable either civilly or criminally.

TITLE 47.

BANKS AND BANKING.

ACT 297.

An act to define and regulate the business of banking.

[Approved March 1, 1909. Stats. 1909, p. 87.]

Amended 1911, pp. 7, 958, 1003, 1008; 1911 (Ex. Sess.), pp. 2, 115; 1913, pp. 136, 335; 1915, pp. 297, 1104, 1138, 1139; 1917, pp. 586, 598, 622; 1919, pp. 186, 622.

The amendments of 1917 and 1919 follow:

§ 5. "Commercial bank." May act as insurance agent in cities of less than five thousand. The term "commercial bank," when used in this act, means any bank authorized by law to receive deposits of money, deal in commercial paper or to make loans thereon, and to lend money on real or personal property, and to discount bills, notes or other commercial paper, and to buy and sell and advertise for purchase or sale such securities as are permissible for investment by commercial banks, gold and silver bullion, or foreign coins or bills of exchange; provided, any commercial bank located and doing business in any place the population of which does not exceed five thousand persons, as shown by the last preceding federal census, or any subsequent census compiled and certified under any law of this state, may, under such rules and regulations as may be prescribed by the superintendent of banks, act as the agent for any fire, life, or other insurance company authorized by the authorities of the state of California to do business in this state, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said bank and the insurance company for which it may act as agent; provided, however, that no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal; and provided, further, that said bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance. [Amendment approved May 15, 1919; Stats. 1919, p. 622.]

§ 7. Foreign corporations. Capital and deposits kept separate. Loans. Income as profits. Attorney. Service of process. Trust company as executor. Branch office prohibited. May lend money. No foreign corporation shall transact a banking business in this state without first complying with all the requirements of the laws of this state relative to banks as defined in this act, and without having assigned to its business in this state the amount of paid-up capital and surplus required by this act for the transaction of such business within this state. No foreign banking corporation shall transact business in this state until such corporation has made the assignment of capital required by this section and has received a certificate from the superintendent of banks; provided, that a foreign banking corporation shall not be permitted to accept deposits of money in this state but may receive a certificate from

the superintendent of banks to transact in this state only the business of buying or selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans; and provided, further, that those foreign banking corporations that now have power to do a banking business in this state and which now receive deposits of money shall be permitted to continue to accept money on deposit. Any foreign banking corporation transacting business in this state shall become subject to the supervision of the state superintendent of banks. Every foreign banking corporation, including those which were on January second, nineteen hundred thirteen, transacting business in this state, which receives any deposits or transacts any other banking business or transacts its business in such a manner as might lead the public to believe that its business is that of a bank shall conduct all its business in accordance with the statutes governing incorporated banking institutions organized under the laws of this state. The capital of any such foreign banking corporation assigned to its business in this state and all funds and deposits of money received by any such corporation in this state or for or in connection with its business in this state and all accounts and transactions of said business transacted by any such foreign corporation in this state shall be kept separate and apart from the general business, assets and accounts of such foreign corporation in the same manner as if the business of such foreign corporation conducted within this state was that of a separate and independent corporation organized under the laws of this state for the purpose of doing a banking business and all of the provisions of this act affecting investments, loans of money, receiving deposits and conducting business in any respect shall be deemed to apply to such assigned capital, investments, loans, deposits, assets, funds and business in the same manner as if such assigned capital, investments, loans, deposits, assets, funds and business were that of such separate and independent corporation; provided, that loans may be made by any such foreign corporation based on its entire paid-up capital and surplus in case such foreign corporation shall have assigned to its business in this state a paid-up capital and surplus as above provided equal to twenty per centum of the deposit liability of such branch agency or office to residents of this state. Such funds and investments or loans thereof shall be appropriated solely to the security and payment of such deposits, and shall not be mingled with the investments of the capital stock or other money or property belonging to such corporation or be liable for the debts or obligations thereof. All income received from the investment of said funds over and above such funds as may be paid to depositors as interest or shall be carried to the surplus fund, as provided in section twenty-one of this act, shall accrue as profits to the corporation and may be transferred to its general funds. No such foreign corporation shall transact any banking business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent his successor in office, its true and lawful attorney, upon whom all process issued by authority of or under any law of this state may be served, with the same effect as if such corporation was formed under the laws of this state and had been lawfully served with process therein. Such service upon such attorney shall be deemed personal service on such corporation. The superintend-

ent of banks shall forthwith forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this section, addressed to the manager or agent of such corporation, at its principal place of business in this state. For each copy of process, the superintendent of banks shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of the service, to be recovered by him as a part of his taxable costs if he succeed in the suit or proceeding. No foreign corporation shall have or exercise in this state the power to receive deposits of trust moneys, securities or other personal property from any person or corporation or any of the powers specified in section six of this act, nor have or maintain an office in this state for the transaction of, or transact, directly or indirectly, any such or similar business, except that a trust company incorporated in another state may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act and may be appointed and may accept appointment and may act in this state as executor of or trustee under the last will and testament of any deceased person, upon giving the bond required in such cases of individuals unless waived by the last will and testament making such appointment and by taking and subscribing an oath for faithful performance of such trust by the president, vice-president, secretary, manager or trust officer of said corporation; provided, that such superintendent of banks, for the time being, shall be attorney of such foreign corporation qualifying or acting in this state as such executor or trustee, upon whom process against such foreign corporation may be served in any action or legal proceeding against such executor or trustee affecting or relating to the estate or property represented or held by such executor or trustee, or any act or default of such foreign corporation in reference to such estate or property, and it shall be the duty of any such foreign corporation so qualifying or acting to file in the office of said superintendent of banks a copy of its articles of incorporation, or of the statute chartering such corporation, certified by its secretary under its corporate seal, together with the postoffice address of its home office, and a duly executed appointment of said superintendent of banks as its attorney to accept service of process as above provided, and said superintendent of banks, when any such process is served upon him, shall at once mail the papers so served to the home office of such corporation; and provided, further, that no foreign corporation which may have or exercise in this state such powers as are permitted to foreign corporations by the provisions of section ninety of this act or having authority to act as executor of or trustee under the last will and testament of any deceased person shall establish or maintain, directly or indirectly, any branch office or agency in this state, or shall in any way solicit, directly or indirectly, any business as executor or trustee therein, and that for any violation of this proviso, the court having jurisdiction of such executor or trustee in said proceeding may in its discretion, revoke the right of such foreign corporation thereafter to act as executor or trustee therein; provided, that nothing in this act shall limit or affect the right of any foreign corporation doing a banking business in this state, to lend within this state, moneys of such corporation which do not form a part of the moneys, deposits or assets of such corporation assigned or belonging to its business in this state.

This section shall not be construed to prohibit foreign banking corporations, which do not maintain an office in this state for the transaction of business, from making loans in this state secured by mortgages on real property, nor from accepting assignments of mortgages covering real property situated in this state, nor from making loans through correspondents which are engaged in the business of banking in this state under the laws of this state. [Amendment approved May 17, 1917; Stats. 1917, p. 598.]

§ 8. Copy of articles of incorporation. Every corporation, at the time it applies for a certificate of authority to do a banking business, must file with the superintendent of banks a certified copy of its articles of incorporation, or of the statute chartering such corporation, a certified copy of its by-laws, and also a certified copy of all instruments amending or altering such articles of incorporation or charter or by-laws. Thereafter a certified copy of each amendment or certificate designed to increase or decrease the capital stock, to change the number of directors, to amend the articles of incorporation, to change the principal place of business, or the name of such corporation, or to effect any other organic change shall likewise be so filed before such instrument takes effect. Each certification required by the provisions of this section other than that of by-laws must be by the secretary of state. [Amendment approved May 15, 1919; Stats. 1919, p. 623.]

This section was also amended in 1917. See Stats. 1917, p. 601.

§ 9. Approval for opening branch office. Capital. Discontinuance. Certificate of authority. Fee. Savings banks in schools. Penalty. No bank in this state, or any officer or director thereof, shall hereafter open or keep an office other than its principal place of business, without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; provided, that no bank or any officer or director thereof, shall open or maintain any such branch office unless the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act by the sum of twenty-five thousand dollars for each branch office opened and maintained in the place where its principal business is transacted; and provided, that for each branch office opened or maintained by any bank, other than a bank transacting only the business described in section six of this act, in any place in this state other than the place where the principal business of such bank is transacted, the capital of such bank, actually paid in, in cash, shall exceed the amount required by this act in the sum required by this act for every bank hereafter organized in the place where each branch office is to be opened or maintained, exclusive of the capital required for a trust department; and provided, also, that for each branch office opened or maintained by any corporation which has power to transact only such business as is described in section six of this act or in section four hundred fifty-three of the Civil Code, in any place in this state other than the place where the principal business of such corporation is transacted, the capital of such corporation, actually paid in, in cash, shall exceed the amount required by this act in the sum of

twenty-five thousand dollars; and provided, further, that no branch office may be discontinued without the previous written approval of the superintendent of banks.

Every bank, before it opens a branch office, shall obtain the certificate of authority of the superintendent of banks for the opening of each of said branch offices. The applicant shall pay for such certificate a fee of fifty dollars; provided, however, that, in order to encourage saving among the children of the schools of this state, a bank may, with the written consent of and under regulations approved by the superintendent of banks and, in the case of public schools, by the board of education or board of school trustees of the city or district in which the school is situated, arrange for the collection of savings from the school children by the principal or teachers of such schools or by collectors. The principal, teacher or person authorized by the bank to make collections from the school children shall be deemed to be the agent of the bank and the bank shall be liable to the pupil for all deposits made with such principal, teacher or other person, the same as if the deposits were made by the pupil directly with the bank. Every bank and every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one hundred dollars for every day during which any branch office hereafter opened shall be maintained without such written approval. [Amendment approved May 17, 1917; Stats. 1917, p. 601.]

§ 10. Qualifications for bank director. Bank without capital stock. No person shall be eligible for election as director of a bank having a capital stock unless he is a stockholder of the bank, owning, in his own right, shares thereof of the par value of at least five hundred dollars; and every person elected to be director who, after such election, shall cease to be the owner in his own right of the amount of such stock aforesaid, or shall hypothecate or in any way pledge such stock as security for any loan or debt shall immediately notify the superintendent of banks in writing of such sale or hypothecation and such director may be removed from the office of director by the superintendent of banks; provided, however, that any executor or executrix, administrator or administratrix holding shares of a bank of the par value of five hundred dollars, in his or her representative capacity shall be eligible for election as a director thereof. If a bank be organized without capital stock, no person shall be eligible as a director thereof unless he is both a member and a depositor of such bank. [Amendment approved May 17, 1917; Stats. 1917, p. 602.]

§ 12c. Foreign corporations may lend money in state. Representative. License. Fee. Any corporation organized under the laws of any country or state other than this state which has complied with all of the laws of this state pertaining to foreign corporations and is not engaged in the business of banking or receiving money on deposit in this state may lend money or buy and sell bonds in this state and, for that purpose, may maintain offices in this state, and sue and be sued in this state under its proper corporate name, notwithstanding any prohibitions contained in this act as to the use of any words in the name, signs or advertising matter of corporations not under the supervision of the superintendent of banks; provided, that nothing in this act shall be

construed to prohibit any representative of any foreign banking corporation from maintaining an office in this state as the office of a representative and not the place of business of a bank or trust company, nor to prohibit such representative from making use of any office sign at the place where such representative's office is maintained having thereon words indicating that such office is the place of business of a representative of a foreign bank or trust company; and provided, further, that any representative of a foreign bank maintaining an office within this state may make use of such foreign bank's letterheads, circulars and other printed matter in the transaction of business as such representative; and provided, further, every representative of any foreign bank or trust company before opening an office as a representative shall have received a license from the superintendent of banks to open such representative's office. Such license may be issued upon application to the superintendent of banks and the payment of an annual license fee of fifty dollars and may be refused or revoked by the superintendent of banks at his discretion. [Amendment approved May 17, 1917; Stats. 1917, p. 603.]

§ 13. Corporation forbidden to engage in banking. Express companies, etc., may transmit money. No corporation, domestic or foreign, other than a corporation formed under or subject to the banking laws of this state or of the United States, except as permitted by such laws, or other than an express company as hereinafter defined in this section, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying and selling bills of exchange, or of issuing bills, notes or other evidences of debt for circulation as money, or of engaging in any other form of banking; nor shall any such corporation, except an express company having contracts with railroad companies for the operation of an express service upon the lines of such railroad companies, or a transatlantic steamship company, or a transpacific steamship company, or a telegraph company, or a telephone company, possess the power of receiving money for transmission or of transmitting the same, by draft, traveler's check, money order or otherwise. [Amendment approved May 17, 1917; Stats. 1917, p. 603.]

§ 16. Deposits of married women and infants. Joint deposits. Withdrawal of deposits of deceased persons over one thousand dollars. [Repealed 1919; Stats. 1919, p. 623.]

§ 19. Capital and deposit liabilities. The aggregate of paid-up capital together with the surplus, of every commercial bank, must equal ten per centum of its deposit liabilities. The aggregate of paid-up capital and surplus of every savings bank having a capital stock, and the reserve fund of every savings bank without a capital stock, must equal the following percentages of its deposit liabilities:

(a) Ten per centum of any amount up to and including two million dollars.

(b) Seven and one-half per centum of any amount in excess of two million dollars up to and including five million dollars.

(c) Five per centum of any amount in excess of five million dollars up to and including fifteen million dollars.

(d) Two and one-half per centum of any amount in excess of fifteen million dollars up to and including forty million dollars.

(e) One per centum of any amount in excess of forty million dollars.

The deposits shall not be increased if such proportion of paid-up capital and surplus or reserve fund to deposit liabilities is not maintained, and in no event shall said paid-up capital be less than the minimum paid-up capital provided by this act; provided, that such deposit liabilities shall be exclusive of United States and postal savings deposits and deposits of the state of California and of any county and municipality in the state of California which are secured as required by law. [Amendment approved May 15, 1919; Stats. 1919, p. 623.]

§ 20. Total reserves of commercial banks. If member of federal reserve bank. Penalty for not maintaining reserves. Reserve deposits. Restoration of reserves. Every commercial bank shall maintain total reserves against its aggregate deposits, exclusive of United States and postal savings deposits and deposits of the state of California and of any county and municipality in the state of California, which are secured as required by law, as follows:

1. Eighteen per centum of such deposits if such bank has its principal place of business in a city having a population of one hundred thousand or over.

2. Fifteen per centum of such deposits, if such bank is located in a city having a population of fifty thousand or over and less than one hundred thousand.

3. Twelve per centum of such deposits if such bank is located elsewhere in the state.

At least one-half of the total reserves shall be maintained as reserves on hand and shall consist of gold bullion or any form of money or currency authorized by the laws of the United States, and the remainder of the total reserves required by the provisions of this section shall be maintained as reserves on deposit or as reserves on hand; such reserves on hand to consist of gold bullion or any form of money or currency authorized by the laws of the United States; provided, however, that all or any part of the reserves may be deposited, subject to call, with a federal reserve bank in the district in which such bank is located.

If any bank shall have become a member of a federal reserve bank, it shall comply with the reserve requirements of the federal reserve act and its amendments, and its compliance therewith shall be in lieu of, and shall relieve such bank from compliance with, the provisions of this section.

If any bank shall not maintain the total reserves required the superintendent of banks may impose a penalty upon it, based upon the length of time such encroachment upon its total reserves amounting to one per centum or more of its aggregate deposits shall continue, at the following rates:

1. At the rate of six per centum per annum upon any such encroachment not exceeding two per centum of such deposits.

2. At the rate of eight per centum per annum upon any additional encroachment in excess of two and not exceeding three per centum of such deposits.

3. At the rate of ten per centum per annum upon any additional encroachment in excess of three and not exceeding four per centum of such deposits.

4. At the rate of twelve per centum per annum upon any additional encroachment in excess of four per centum of such deposits.

The superintendent of banks shall, in his discretion, upon the nomination of any bank, designate a depository or depositaries for the reserves on deposit of such bank provided for by this act. Except as otherwise provided in this section, such depository shall be a bank or national banking association located in this state. Every reserve depository, which has its principal place of business in a judicial township or in a city located in this state in which the population is less than fifty thousand, shall have at all times as its total reserves an amount equal to the total reserves required by the provisions of this section for every bank which has its principal place of business in a city having a population of fifty thousand or over and less than one hundred thousand. But no bank or national banking association shall hereafter be designated as a depository of any such reserves unless it shall have a combined capital and surplus of not less than the following amounts:

1. Two hundred fifty thousand dollars, if located in a city which has a population of three hundred thousand or over;

2. Two hundred thousand dollars, if located in a city which has a population of one hundred thousand or over and less than three hundred thousand;

3. One hundred fifty thousand dollars, if located in a city which has a population of fifty thousand or over and less than one hundred thousand;

4. One hundred thousand dollars, if located elsewhere in the state.

Such depository may also be a banking corporation with a capital and surplus of one million dollars or more, located in any city in the United States.

If the total reserves of any bank shall be less than the amount required by this section, such bank shall not increase its liabilities by making any new loans or discounts, otherwise than by discounting bills of exchange on sight, or by paying any dividends from profits until the full amount of its total reserves has been restored. The superintendent of banks may notify any bank whose total reserves shall be below the amount herein required, to restore such total reserves; and, if it shall fail for thirty days thereafter to restore such total reserves, such bank shall be deemed insolvent and may be proceeded against under the provisions of this act; provided, that all deposits of money herein permitted or required shall comply with the provisions of section forty-three of this act.

The term, "reserves on hand," when used in this act, means the reserves against deposits kept, pursuant to the provisions of this act, in the vault of any bank or in any safety deposit box in any other bank in this state, said box to be under the exclusive control of the depositing bank.

The term, "reserves on deposit," when used in this act, means the reserves against deposits maintained by any bank pursuant to this act in reserve depositories, or in a federal reserve bank in the district in

which such bank is located and not in excess of the amount authorized by this act.

The term, "total reserves," when used in this act, means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this act.

The term, "reserve depository," when used in this act, means a bank, trust company or banking corporation designated by the superintendent of banks on the nomination of the depositing bank as a depository for reserves on deposit. [Amendment approved May 15, 1919; Stats. 1919, p. 623.]

This section was also amended in 1917. See Stats. 1917, p. 604.

§ 21a. Preference to depositors. No bank, banker, or bank officer, shall give preference to any depositor or creditor except as otherwise authorized by law; provided, that any commercial bank or commercial department of a departmental bank, is authorized and empowered for temporary purposes, to borrow money, or to borrow money and pledge or hypothecate as collateral security therefor, its assets not exceeding fifty per centum in excess of the amount borrowed, but only to the extent and upon terms and conditions as follows:

(1) **Terms and conditions on which bank may borrow money.** Any amount up to, but not exceeding the amount of its capital and surplus, without consent of the superintendent of banks; provided, however, that any amount borrowed, except as otherwise provided in this section, in excess of the amount of its capital and surplus, at such time actually paid in and remaining undiminished by losses or otherwise, must first be approved in writing by the superintendent of banks; provided, also, that no excess loan made to any such bank shall be invalid or illegal as to the lender, even though made without the consent of the superintendent of banks; provided, also, that the rediscounting with or without guarantee or indorsement with a federal reserve bank, of notes, drafts, bills of exchange and loans secured by obligations of the United States, is hereby authorized and shall not be limited by the terms of this act, and shall not be considered as borrowed money within the meaning of this section.

(2) Any amount of California, state, county, city, city and county funds, or any other public money, in the manner it is or may be authorized by law to borrow and receive such public money on deposit without the approval of the superintendent of banks.

(3) Any amount of the United States moneys and postal savings moneys of the United States, and receive such moneys on deposit, and pledge or hypothecate such of its securities and upon such terms as may be required by the laws of the United States or the rules and regulations of the secretary of the treasury of the United States, without the approval of the superintendent of banks.

(4) Any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States.

(5) To rediscount with and sell to a federal reserve bank any and all such notes, drafts, bills of exchange, acceptances and any other securities, with no other restrictions, and as fully, and to the same extent as this privilege is given to national bank members under the

terms of the federal reserve act, or by regulations of the federal reserve board made pursuant thereto.

(6) No bank shall make partial payments upon any certificate of deposit.

(7) In no case shall an overdraft of more than ninety days' standing be allowed as an asset of any bank.

(8) Any debt due to any commercial bank, on which interest is past due and unpaid for the period of one year, unless the same is well secured, and is in process of collection, shall be considered a bad debt and shall be charged off to the profit and loss account at the expiration of that time. [Amendment approved May 15, 1919; Stats. 1919, p. 626.]

§ 28. Signs must show kind of bank. "Branch." Every bank in this state must, on all its window signs and in advertising, and on letter-heads and other stationery on which its business is transacted, use the word "savings" if it conducts a savings business, or the word "trust" if it conducts a trust business, and the word "commercial" if it conducts a commercial business. Every bank, which maintains a branch office, must on all window signs and in advertising, and on letter-heads and other stationery on which the business of said branch office is transacted, use in letters and type, equal in prominence to that used in its corporate name, the word "branch" and the name of the place where its principal business is located. [Amendment approved May 17, 1917; Stats. 1917, p. 606.]

§ 31a. Consolidation of banks. Ratification by stockholders. Notice. Publication. Articles of incorporation and consolidation. Certificate of authorization. Obligations not impaired. Right to increase stock. Any bank incorporated under the laws of this state may consolidate with one or more banks incorporated under the laws of this state, its capital stock, properties, trusts, claims, demands, contracts, agreements, obligations, debts, liabilities and assets of every kind and description, upon such terms and in such manner as may be agreed upon by their respective boards of directors, a copy of which agreement must be filed in the office of the superintendent of banks; provided, that such agreement shall be subject to the approval of the superintendent of banks and shall not be valid until such approval be obtained; provided, further, that no such consolidation shall take effect until such agreement shall have been ratified and confirmed in writing by the stockholders of the respective banks holding of record at least two-thirds of the issued capital stock of their respective banks, or such agreement may be submitted to the stockholders of each of such corporations at a meeting thereof to be called upon notice specifying the time, place and object thereof, addressed to each stockholder at his last known postoffice address and deposited in the postoffice, postage prepaid, at least two weeks prior to the date fixed for said meeting, and published for at least two successive weeks, prior to the date of said meeting, in a newspaper in each of the counties of the state in which any of such banks shall have its principal place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately by the vote or ballot of the stockholders owning at least two-thirds of the stock of each such bank, the same shall be the agreement of such banks. In

case of such consolidation "articles of incorporation and consolidation" must be prepared, setting forth:

First—The name of the new corporation;

Second—The purpose for which it is formed;

Third—The place where its principal business is to be transacted;

Fourth—The term for which it is to exist, which shall not exceed fifty years;

Fifth—The number of its directors (which shall not be less than three) and the names and residences of the persons appointed to act as such until their successors are elected and qualified;

Sixth—The amount of its capital stock and the number of shares into which it is divided;

Seventh—The amount of stock actually subscribed, and by whom;

Eighth—The names of the constituent corporations.

Said articles of incorporation and consolidation must be signed and countersigned by the president and secretary of each constituent corporation and sealed with their corporate seals. There must be annexed thereto the approval of the superintendent of banks and memoranda of the ratification and confirmation thereof by the stockholders of each constituent corporation, which must be respectively signed and acknowledged by stockholders representing at least two-thirds of the capital stock of their respective corporations. When completed as aforesaid said articles must be filed in the office of the county clerk of the county in which is located the principal place of business of the new corporation, and a copy of the articles of incorporation and consolidation certified by such county clerk must be filed in the office of the secretary of state, who must issue, over the great seal of the state, a certificate that a copy of the articles of incorporation and consolidation containing the required statement of facts has been filed in his office. The secretary of state must file in his office a duplicate of the certificate hereinbefore provided for and copies thereof, duly certified by the secretary of state, shall have the same force and effect in evidence as the original. A copy of the articles of incorporation and consolidation, certified by said secretary of state, must be filed in the office of the superintendent of banks, and also in the office of the county clerk of any county in which were filed the original articles of incorporation of either of the constituent corporations. When the superintendent of banks issues the certificate of authorization provided for by section one hundred twenty-eight of this act the new or consolidated corporation shall be a body politic and corporate by the name stated in the certificate, and for the term of fifty years, unless it is, in the articles of incorporation and consolidation, otherwise stated and thereupon each constituent corporation named in the articles of incorporation and consolidation must be deemed and held to have become extinct in all courts and places, and said new corporation must be deemed and held in all courts and places to have succeeded to all their several capital stocks, properties, trusts, claims, demands, contracts, agreements, assets, choses and rights in action of every kind and description, both at law and in equity, and to be entitled to possess, enjoy, and enforce the same and every thereof, as fully and completely as either and every of its constituents might have done had no consolidation taken place. Said consolidated or new corporation must also, in all courts and places, be deemed and held to have become subrogated to its several constituents and each thereof, in respect to all

their contracts and agreements with other parties, and all their debts, obligations, and liabilities, of every kind and nature, to any persons, corporations, or bodies politic, whomsoever, or whatsoever, and said new corporation must sue and be sued in its own name in any and every case in which any or either of its constituents might have sued or might have been sued at law or in equity had no such consolidation been made. Nothing in this section contained shall be construed to impair the obligation of any contract to whom any of such constituents were parties at the date of such consolidation. All such contracts may be enforced by action or suit, as the case may be, against the consolidated corporation, and satisfaction obtained out of the property which, at the date of the consolidation, belonged to the constituent which was a party to the contract in action or suit, as well as out of any other property belonging to the consolidated corporation, and the stockholders of each constituent corporation so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them at or before such consolidation to the same extent as if the same had not been made. The right of said new corporation to increase or decrease its capital stock, to change the number of its directors, to amend its articles of incorporation, to change its principal place of business, or its name, or to effect any other organic change shall be governed by the general corporation laws of this state and by the bank act, and the procedure to effect any such change shall be that defined by the general corporation laws and the bank act.

The superintendent of banks shall transmit to the secretary of state a duplicate of the certificate of authorization hereinbefore referred to and the secretary of state shall file the same in his office. The superintendent of banks shall also file a duplicate of such certificate in his own office. [Amendment approved May 17, 1917; Stats. 1917, p. 606.]

§ 35. Consent to purchase certain contracts. No bank shall purchase any contract arising from the sale of real estate or any note or bond in which contract, or note, or bond any director, officer, employee, or controlling stockholder of such bank is personally or financially interested, directly or indirectly, for his own account, for himself, or as the partner or agent of others, without the previous consent in writing of the superintendent of banks. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 37. Investment in capital stock of corporations. Stock of trust company. Stock of safe deposit corporation. No bank shall, except as otherwise provided in this act, purchase or invest its capital or surplus or money of its depositors, or any part of either, in the capital stock of any corporation unless the purchase or acquisition of such capital stock shall be necessary to prevent loss to the bank on an obligation owned or on a debt previously contracted in good faith. Any capital stock so purchased or acquired shall be sold by such bank within six months thereafter if it can be sold for the amount of the claim of such bank against it; and all capital stock thus purchased or acquired must be sold for the best price obtainable by said bank within three years after such purchase or acquisition unless the superintendent of banks shall extend the time of its sale for a period not to exceed two years.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold the whole or any part of the capital stock of not more than one trust company organized and existing under the laws of this state, and doing business in the same city in which the principal place of business of such bank is located; provided, however, that not more than an amount equal to twenty-five per centum of the capital and surplus of any such bank may be at any one time invested in the capital stock of such trust company or such other corporation; and provided, further, that no such trust company shall engage in or combine the business of a commercial bank or a savings bank or a title insurance company.

Any bank, with the previous written consent of the superintendent of banks, may purchase or otherwise acquire and hold, the whole or any part of the capital stock of not more than one corporation authorized and empowered to conduct a safe deposit business, which such corporation is organized and existing under the laws of this state and doing business in the same city in which the principal place of business of such bank is located; provided, however, that not more than an amount equal to ten per centum of the capital and surplus of any such bank may be at any one time invested in the capital stock of such safe deposit corporation. [Amendment approved May 15, 1919; Stats. 1919, p. 627.]

§ 41. Consent for officer to purchase assets at discount. No officer, director, agent, or other employee of any bank shall directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of such bank's obligations or assets for a less sum than shall appear upon the face of any such obligations or assets to be the value thereof except with the previous consent of all the directors of said bank, such consent to be evidenced by a resolution adopted by said directors. A certified copy of said resolution shall immediately be transmitted to the superintendent of banks. Every person violating any provision of this section, shall for each offense forfeit to the people of the state, twice the face value of any such obligations or assets so purchased. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 43. Deposit of funds in another bank. No bank shall deposit any of its funds in any other bank, except a federal reserve bank, unless such other bank has been nominated as a depository for its funds by the vote of a majority of the directors or trustees of the bank making the deposit, and such other bank has been designated by the superintendent of banks as such depository.

The superintendent of banks may in his discretion revoke such a designation. [Amendment approved May 15, 1919; Stats. 1919, p. 627.]

This section was also amended in 1917. See Stats. 1917, p. 609.

§ 45. Interest unpaid. Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend; nor shall any bank, except with the previous written consent of the superintendent of banks, enter or at any time carry on its books any of its assets at a valuation exceeding its actual cost to such bank. [Amendment approved May 17, 1917; Stats. 1917, p. 609.]

§ 48a. National banking association under federal reserve act. Charge by state banking department for services. Any national banking association, whose principal place of business is in this state, is hereby authorized to act in fiduciary capacities in all respects as provided by the acts of congress, approved December 23, 1913, and amendments thereof, commonly known as the federal reserve act, and all acts herein provided to be performed by the state treasurer, the superintendent of banks or other public officials for or in respect of trust companies, shall be performed for such national banking association equally with trust companies. Every such national banking association which shall be authorized to exercise said fiduciary powers, and which has qualified by making the deposit of securities required by the law of this state, may act, or may be appointed by any court to act in any such capacity in like manner as an individual. The superintendent of banks shall inspect and examine the books, records and assets of the trust department of each national banking association which conducts a trust department in this state to the same extent that the said superintendent of banks exercises visitorial supervision over trust companies organized and existing under the laws of this state.

The charge by the state banking department for all services rendered to any national banking association by the superintendent of banks, in accordance with the provisions of this section, shall be paid by the national banking association requiring such services. Such charge for services shall be determined by the superintendent of banks, and shall be no higher than the charge for a similar service to trust companies organized under the laws of this state.

The cost of all regular and ordinary service shall be calculated upon the amount of the securities deposited by each such national bank with the treasurer of the state for the due execution and faithful performance of its court and private trusts at the same ratio as is applied to the capital and surplus of trust companies organized under the laws of this state in determining the cost to them for such services.

The cost of all special and extraordinary services shall be the same as that provided for in section one hundred twenty-four of this act. [New section added May 15, 1919; Stats. 1919, p. 628.]

§ 54. Real estate to be sold within five years. Appraisal of value. Notice of sale. Minimum price. Fees. Costs. All real estate purchased by any bank at sales under pledges, mortgages or deeds of trust for its benefit for money loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon and all other real estate owned or held by it, which is not necessary for carrying on its business, must be sold or exchanged for other real estate by such bank within five years after title thereto shall have vested in it by purchase or otherwise; provided, however, that no exchange of such real estate for other real estate shall be made unless and until written consent thereto shall first be given by the superintendent of banks; and provided, further, that any real estate so taken in exchange may be held for such period of time as the superintendent of banks may fix but not to exceed five years. Parcels of such real estate not sold or exchanged within said time may be purchased by any person wanting the same upon the conditions and proceedings following: The intending purchaser may file a petition in the superior court in and for the county wherein said

real estate or any portion thereof is situated; upon the filing of such petition a citation shall be issued out of said court directed to the bank owning such real estate requiring such bank to show cause on a day certain which shall be not earlier than ten days after the service of such citation, why commissioners should not be appointed by said court for the purpose of appraising the value of the real estate described in the petition and of selling the same at public auction under the provisions of this section. If there shall be any liens or encumbrances of record against such real estate the person or persons holding such liens or encumbrances shall likewise be cited and the court shall in its final decree distribute the proceeds of such sale, if a sale thereof shall be made, according to the equities of the parties. If it shall appear at the hearing of such petition that the real estate therein sought to be purchased is held by such bank in violation of the provisions of this section or of the constitution of this state, the court shall appoint three commissioners to appraise the value thereof and sell the same at public auction at the county seat of the county wherein said real estate or any part thereof is located. Notice of which said sale shall be given to the bank owning said real estate and to any other persons interested therein as shown by the records of such county at least ten days before the date of such sale and shall be published once a week for three successive weeks in some newspaper published in the county where such real estate or any part thereof may be located, or if no newspaper shall be published in such county then in a newspaper published in some neighboring county. Such notice shall state the time and place of such sale and shall describe the real estate to be sold with common certainty and state the value thereof as fixed by the appraisement of such commissioners and state that no bid less than such appraised value will be received therefor. No sale shall be made for an amount less than the appraised value of such real estate fixed by said commissioners, and in the event that no bid is received at such sale at least equal to said appraised value of said real estate no intending purchaser can institute the proceedings provided for in this section within one year thereafter. In case of any sale made under the provisions of this section and of the refusal of any bank owning such real estate or of any lienholder or encumbrancer to execute the conveyances or releases necessary or proper to vest the title of such bank, lienholder or encumbrancer in the purchaser thereof the court shall have power in such proceedings to direct said commissioner to execute such deeds, conveyances or releases upon the payment to them of the purchase price therefor. The fees of such commissioners and cost of sale shall be fixed by the court, upon making such appointment, but the entire expense thereof shall not exceed one hundred dollars. The cost of any such proceedings shall be borne by the intending purchaser if no sale shall be made, but if a sale shall be made the cost of such proceedings shall be borne by the purchaser of the property and the person who filed the petition and advanced the costs of such proceedings shall be reimbursed in case he shall not become such purchaser. All sales hereunder shall be returned to the court having jurisdiction of the matter in the same manner as in the case of sales, by commissioners, of real estate on foreclosure of mortgages. Nothing in this section contained shall be deemed to affect the power of the superintendent of banks to require the writing down of the value of real estate held by any bank, at any time, when

such writing down shall be proper. [Amendment approved May 17, 1917; Stats. 1917, p. 622.]

§ 56. Authority to become member of federal reserve bank. Powers. Subject to federal reserve examinations. Any bank is hereby authorized and empowered to become a member of a federal reserve bank.

Nothing in this act shall prohibit any such bank from becoming a member of a federal reserve bank, in the manner provided in the federal reserve act, nor from investing any part of its capital or surplus or reserve fund in the capital stock of such federal reserve bank, in accordance with the terms and provisions of such federal reserve act; provided, that such investment shall in no case exceed the minimum amount required to join or associate itself with or maintain membership in such federal reserve bank; provided, also, that such investment may be carried in either the commercial, savings, or trust department, or may be apportioned to any two or all three of such departments of any departmental state bank member.

Any bank joining or associating itself with such federal reserve bank shall have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member bank in any such federal reserve bank, by the provisions of the federal reserve act and the regulations of the federal reserve board. Such member bank and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by the bank act and by any other law of this state.

Any bank which shall have become a member of a federal reserve bank shall be subject to the examinations required under the terms of the federal reserve act, and the superintendent of banks may, in his discretion, accept such examination in lieu of the examination required under the provisions of this act, and he, his agents and employees, may furnish to the federal reserve board, the federal reserve bank, or to examiners duly appointed by the federal reserve board or the federal reserve bank, copies of all examinations made, and may disclose to such federal reserve board, federal reserve bank, or examiner, any information with reference to the condition or affairs of state bank members. [Amendment approved May 15, 1919; Stats. 1919, p. 628.]

§ 56a. Bank converting into national banking association. Nothing in this act shall prevent or prohibit any bank from converting into a national banking association under the provisions of section five thousand one hundred fifty-four of the United States Revised Statutes, or section eight of the Federal Reserve Act, or any other federal or state law; provided, however, that no savings bank and no departmental bank having a savings department, organized and existing under the laws of the state of California, shall convert into a national banking association except upon the following conditions:

1. **Notice of intention.** Coincident with its application to the controller of the currency, any such savings or departmental bank shall file with the superintendent of banks formal notice of intention to convert into a national banking association.

2. **Notice of conversion.** Prior to conversion, any such savings or departmental bank shall place in the hands of the superintendent of banks—

(a) A constructive notice for newspaper advertisement, directed to its savings depositors, of the fact of conversion;

(b) Actual notice addressed to each and every savings depositor, at his or her last known address, inclosed in stamped and addressed envelopes ready for mailing, this notice to be as follows:

"You are hereby notified that the undersigned, formerly the —, now the —, has converted from a banking corporation existing under the laws of California into a national banking association; and has therefore ceased to be under the jurisdiction and direction of the California state banking department and the bank act of California, and is now under the jurisdiction and control of the federal reserve act and the national act." No other matter may be inclosed with this notice unless by permission of the superintendent of banks.

3. Surrender of state license. Upon conversion said bank shall file with the superintendent of banks a copy of its authorization as a national banking association, certified by the controller of the currency; and shall surrender to the superintendent of banks its license as a state banking corporation.

4. Advertisement of conversion. Immediately following the conversion of a state bank, the superintendent of banks shall cause the publication of the notice provided in subdivision (a) of paragraph two of this section; same to be at least once a week for four successive weeks in a newspaper of general circulation, printed and published in every town where said bank transacts its business and if there be no such paper in any such town or towns, then in the county where such bank transacts its business, and the superintendent of banks shall cause to be mailed the notices provided in subdivision (b) of paragraph two of this section. The advertisement shall be at the expense of the converting bank, prepaid to the department. [New section added May 15, 1919; Stats. 1919, p. 629.]

§ 58. Application for permission to engage in foreign banking. Information regarding foreign branches. Regulation by superintendent. Any bank possessing a capital and surplus of one million dollars or more may file application with the superintendent of banks for permission to exercise, upon such conditions and under such regulations as he may prescribe, either or both of the following powers:

First—To establish branches in foreign countries or in dependencies or insular possessions of the United States for the furtherance of the foreign commerce of this state and of the United States.

Second—To invest an amount not exceeding in the aggregate ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the state of California, and principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Such application shall specify the name and capital of the bank filing it, the powers applied for and the place or places where the banking operations proposed are to be carried on. The superintendent of banks shall have power to approve or to reject such application in whole or

in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Every bank operating foreign branches shall be required to furnish information concerning the condition of such branches to the superintendent of banks upon demand, and every bank investing in the capital stock of banks or corporations described under subparagraph two of the first paragraph of this section shall be required to furnish information concerning the condition of such banks or corporations to the superintendent of banks upon demand, and the superintendent of banks may order special examinations of the said branches, banks or corporations at such time or times as he may deem best. The cost of such special examinations shall be paid by said branches, banks or corporations.

Before any bank shall be permitted to purchase stock in any such corporation the said corporation shall enter into an agreement or undertaking with the superintendent of banks to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said superintendent of banks may prescribe for the place or places wherein such business is to be conducted. If at any time the superintendent of banks shall ascertain that the regulations by him are not being complied with, said superintendent of banks shall be authorized and shall have power to institute an investigation of the matter and to send for persons and papers, subpoena witnesses and administer oaths in order to satisfy himself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the bank or banks which may be stockholders therein, to comply with the regulations laid down by the said superintendent of banks, such banks may be required to dispose of stock holdings in the said corporation upon thirty days' notice, and in the event of their noncompliance with such order the superintendent of banks may institute proceedings for forfeiture of license.

Every such bank shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accruing to each branch as a separate item. [New section added May 15, 1919; Stats. 1919, p. 630.]

§ 61. Purchase of real or personal property by savings banks. Limitations on purchase of personal property. Purchase of bonds. Any savings bank may purchase, hold and convey real or personal property as follows:

1. The lot and building in which the business of the bank is carried on; furniture and fixtures, vaults and safe deposit vaults and boxes necessary or proper to carry on its banking business; such lot and building, furniture and fixtures, vaults and safe deposit vaults and boxes shall not, in the aggregate, be carried on the books of such bank as an asset to an amount exceeding its paid-up capital and surplus; and hereafter, the authority of a two-thirds vote of all of the directors shall be necessary to authorize the purchase of such lot and building, or the construction of such building.

2. Such as may have been mortgaged, pledged or conveyed to it in trust for its benefit in good faith, for money loaned in pursuance of the regular business of the corporation.

3. Such as may have been purchased at any sales under pledge, mortgage or deed of trust made for its benefit for money so loaned and such as may be conveyed to it by borrowers in satisfaction and discharge of loans made thereon.

No savings bank shall purchase, own, or sell personal property, except such as may be requisite for its immediate accommodation for the convenient transaction of its business, notes or bonds secured by trust deeds or mortgages on real estate, bonds, securities or evidences of indebtedness, public or private, gold or silver bullion and United States mint certificates of ascertained value, and evidences of debt issued by the United States. No savings bank shall purchase, own, hold or convey bonds, securities or evidences of indebtedness, public or private, except as follows:

(a) **United States bonds.** Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or those issued under authority of the United States;

(aa) **Foreign bonds.** Bonds or interest-bearing notes or obligations of England or the United Kingdom of Great Britain and Ireland, or France, or the Dominion of Canada, or those for which the faith and credit of any one or more of said countries are pledged for the payment of principal and interest; or bonds or interest-bearing notes or obligations of any other foreign country or government, which bonds or interest-bearing notes or obligations shall have first been approved by the superintendent of banks in writing;

(b) **State of California bonds.** Bonds of this state, or those for which the faith and credit of the state of California are pledged for the payment of principal and interest, or those of any county, city and county, city or school district of this state;

(c) **State bonds.** Bonds or stocks or notes of any state in the United States that has not, within five years previous to making such investment by such banks, defaulted in the payment of any part of either principal or interest, or those of any county, city and county, city or town, in any state of the United States other than the state of California, issued under authority of any law of such state, which county, city and county, city or town, had, as shown by the federal or state census next preceding such investment, a population of more than twenty thousand inhabitants; provided, however, that the entire bonded indebtedness of such county, city and county, city or town, including such issue of bonds or stocks or notes, does not exceed fifteen per centum of the value of the taxable property therein as shown by its last equalized assessment-roll; and provided, further, that such county, city and county, city or town, or the state in which it is located has not defaulted in payment of any part of either principal or interest due upon any legally authorized bond or stock or note issue within five years next preceding such investment;

(d) **District bonds.** Bonds of any district organized under the laws of the state of California which are required to be and are investigated

in part if for any reason
inexpedient, and shall
decrease the number of
carried on.

now or hereafter authorized by a law
investigation and give such approval and
said bonds are declared to be legal

Every bank open
information concern
intendent of bank
ital stock of bank
the first paragraph
tion concerning
intendent of
order specified
at such time
examination

any district organized under the laws
otherwise provided for in this section;
company organized under the laws of this
in this state; provided, that all bonds
first be certified by the superintendent
in manner and form as is provided
of this act; and provided, further, that no
company shall be certified by the super-
intendent of the company issuing said bonds shall have
been for a period of five years next preceding
certification and shall have served not less than
the lands entitled to service by said mutual
for a period of not less than three years next preceding
certification;

Before
corporation
taking
conduct

state
planning
financial
business

Rule for determination of income.
any railroad corporation incorporated under the
alifornia and operating exclusively therein; pro-
vided, that such corporation has had net earnings for the period herein fixed
not less than one and one-fourth times the interest on all its
outstanding indebtedness; or,

any railroad corporation incorporated under the laws
of the United States, operating at least five hundred miles
of track exclusive of sidings; provided, said corporation
has had for the period herein fixed net earnings amounting to at least
one and one-fourth times the interest on all its outstanding mortgage in-

any railroad corporation, the payment of which has
been guaranteed both as to principal and interest, by a railroad cor-
poration meeting the requirements of either subdivision (1) or (2) of
this section; provided, that such guaranteeing cor-
poration has had for the period herein fixed net earnings amounting
to not less than one and one-half times the interest on all its outstanding
indebtedness and, in addition thereto, sufficient, taken with
the net earnings of all corporations whose bonds it has guaranteed, to qual-
ify for investments for savings banks, as in this section provided, all
bonds guaranteed; provided, that the excess of income of any
corporation whose bonds have been so guaranteed, over the amount
required by this section for such corporation, shall not apply to or be
included in determining the income so required; provided, further, that
the guarantee of such bonds hereafter guaranteed must establish a lien
on the operating properties of the guaranteeing corporation, which
lien must take precedence over any subsequent issues of mortgage obli-
gations by said guaranteeing corporation.

In determining the income of any corporation specified in paragraph
one of subdivision three of this section, there shall be included the
income of any corporation or corporations out of which it shall have
been formed through consolidation or merger, and of any corporation

or corporations, the entire business and income producing property of which the corporation issuing such bonds has wholly acquired.

All bonds authorized for investment by paragraph (f) of subdivision three of this section must be secured by a mortgage or deed of trust which is, at the time of making such investment, either

I. **First mortgage.** A closed first mortgage or deed of trust; or,

II. **First mortgage.** A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or,

III. **Refunding mortgage.** A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said corporation, and restricting the issuance of further bonds until such time as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the additional bonds then proposed to be issued; or,

IV. **Trust deed on operative property. Guaranteed railroad bonds legal investments for savings banks.** An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes, and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust, or, if such income, maintenance charges or operating expenses cannot be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses, and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust; provided, however, that if the payment of the bonds secured by such underlying or divisional closed mortgage or deed of trust shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional closed mortgage or deed of trust to meet the requirements of this section.

No savings bank shall purchase the bonds of any railroad corporation deriving less than twenty per centum of its gross receipts from passenger revenues.

The term, "railroad corporation," when used in paragraph (f) of subdivision three of this section, shall have the meaning defined in the "public utilities act."

Public utility bonds. Security. Bonds of any street railroad corporation of any gas; water; pipe-line; light; power; light and power; and power; electrical; telephone; telegraph; or telephone and corporation or of any other "public utility" incorporated under of the state of California; and

operating exclusively in the state of California, provided said corporation has had, for the period herein fixed, net earnings amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or,

operating its property in part within the state of California, and said corporation has had, for each of its two fiscal years next preceding such investment, net earnings amounting to one and one-half times the interest on all its outstanding mortgage indebtedness; or,

payment of which is guaranteed, both as to principal and interest, by a public utility corporation meeting the requirements of

division (1) or (2) of paragraph (g) of this section, provided such guaranteeing corporation has had for the period re-

spective subdivisions of this paragraph relating thereto, net earnings amounting to at least one and one-half times the interest

on said guaranteeing corporation's outstanding mortgage indebtedness; in addition thereto, sufficient, taken with the earnings of

corporations whose bonds it has guaranteed, to qualify as investments in banks, as in this section provided, all such guaranteed

bonds, provided, that the excess of income of any corporation whose bonds have been so guaranteed, over the amount required by this section

for such corporation, shall not apply to or be included in determining the amount so required; provided, further, that the guarantee of such

bonds hereafter guaranteed must establish a lien upon all the operating property of the guaranteeing corporation which lien must take precedence over any subsequent issues of mortgage obligations by said

guaranteeing corporation.

In determining the income of any corporation specified in paragraph (g) subdivision three of this section, there shall be included the

income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation

whose business and income producing property of which the corporation issuing such bonds has wholly acquired.

Bonds authorized for investment by paragraph (g) of subdivision three of this section must be secured by a mortgage or deed of trust

as at the time of making such investment; either

First mortgage. A closed first mortgage or deed of trust; or,

First mortgage. A first mortgage or deed of trust containing provisions restricting the issuance of further bonds until such time as the

income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds,

to meet the earning requirements specified in the respective subdivisions of this paragraph applicable to such corporation after including the

additional bonds then proposed to be issued; or,

Refunding mortgage. A refunding mortgage or deed of trust providing for the retirement of all prior lien mortgage debts of said

corporation and restricting the issuance of further bonds until such time

as the income of said corporation shall have been at least sufficient, during the twelve months next preceding the issuance of any additional bonds, to meet the earning requirements of such corporation after including the additional bonds then proposed to be issued; or,

IV. Trust deed on operative property. Definitions. An underlying or divisional closed mortgage or deed of trust of property which forms a part of the operating system of the corporation then owning said property. In the case of bonds secured by an underlying or divisional closed mortgage or deed of trust, the net income required by this section shall be based exclusively upon the income, maintenance charges, operating expenses, taxes and mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust or, if such income, maintenance charges or operating expenses cannot be definitely ascertained, on the proper proportionate share of such property in the general income, maintenance charges, operating expenses and taxes of the corporation then owning such property and on the mortgage indebtedness of or against the property covered by such underlying or divisional closed mortgage or deed of trust; provided, however, that if the payment of the bonds secured by such underlying or divisional closed mortgage or deed of trust shall be guaranteed or assumed by the corporation then owning the property securing the same, such bonds shall be legal investments for savings banks, if the net income of such corporation from all sources shall equal the amount herein required, notwithstanding any insufficiency of the income derived from the property covered by such underlying or divisional closed mortgage or deed of trust to meet the requirements of this section.

The terms "street railroad corporation," "pipe-line corporation," "gas corporation," "electrical corporation," "telephone corporation," "telegraph corporation," "water corporation," and "public utility," when used in paragraph (g) of subdivision three of this section, shall have the meaning defined in the "public utilities act."

(h) Notes secured by first mortgage. Market value of oil and timber land. Notes or bonds secured by first mortgage or deed of trust or other first lien upon real estate, improved or unimproved; provided, that the entire note or bond issue shall not exceed sixty per centum of the market value of such real estate, or such real estate with improvements, taken as security; and provided, further, in case the said note or bond issue is created for a building loan on real estate, that at no time shall the entire outstanding note or bond issue exceed sixty per centum of the market value of the real estate and the actual cost of the improvements thereon taken as security.

In determining the market value of any real estate under the provisions of paragraph (h), subdivision three of this section, where such real estate, improved or unimproved, consists of oil or other mineral or timber land, the value represented by such oil or other mineral or timber shall not be included in fixing such market value. Nothing herein contained shall prevent savings banks from making loans secured by mortgage or deed of trust upon lands wherein redwood timber is included in fixing the market value thereof.

(i) Collateral trust bonds. Collateral trust bonds or notes when secured by either:

(1) Deposit of bonds authorized for investment by this section of a market value at least fifteen per centum in excess of the par value of the collateral trust bonds or notes issued; or,

(2) Deposit of bonds authorized for investment by this section and other securities of a combined market value at least twenty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of said collateral trust bonds or notes shall in no case exceed the market value of that portion of the security represented by bonds authorized for investment by this section.

(3) Deposit of any notes or bonds authorized for investment by this section and other securities of a combined market value of at least thirty per centum in excess of the par value of the collateral trust bonds or notes issued; provided, that the par value of such collateral trust bonds or notes issued shall in no case exceed the market value of that portion of the security represented by notes or bonds authorized for investment by this section; provided, further, that the collateral pledged consist of bonds authorized for investment by this section of the market value of at least seventy-five per centum of the par value of such collateral trust bonds or notes issued.

(j) **Legal investment in New York and Massachusetts.** Bonds legal for investment by savings banks in the states of New York or Massachusetts; provided, however, that as to bonds of the character specified in paragraph (c) of subdivision three of this section, such bonds shall also conform to the requirements of such paragraph.

(k) **Guaranteed payment. "Net earnings."** Bonds, etc., certified by superintendent of banks. **Legality of previous investments not affected.** **Investment value.** Bonds of public utilities. **State does not guarantee bonds.** **Advertisements of bonds as legal investments.** Notes or bonds secured by mortgage or deed of trust, payment of which is guaranteed by a policy of mortgage insurance, and mortgage participation certificates, issued by a mortgage insurance company in accordance with the provisions of chapter eight of title two of part four of division first of the Civil Code.

"Net earnings" as used in this section shall be deemed to mean the amount remaining after deducting from the gross earnings all taxes, maintenance charges and operating expenses except depreciation charges, sinking fund charges and interest on indebtedness.

Unless herein otherwise expressly provided the period for which any corporation must have "net earnings" sufficient to qualify its bonds as an investment for savings banks under this section shall be either the fiscal year of such corporation next preceding the investment therein by any savings bank or twelve consecutive months in the fourteen months next preceding such investment.

No notes, bonds, or other securities shall be deemed to come within or conform to the requirements of either of paragraphs (f), (g), (h), or (i) of subdivision three of this section, unless such notes, bonds or other securities shall, in the manner provided in this act, have been certified by the superintendent of banks to come within and fully conform to the requirements of one or the other of said paragraphs; provided, however, that any bank may, without such certification by the superintendent of banks, purchase any note or bond or issue of notes or bonds provided for in said paragraph (h), whenever such purchase constitutes the entire amount of notes or bonds executed by the makers thereof

and secured by the same real estate; provided, also, that no savings bank shall hold any such notes or bonds unless such holding constitutes the entire issue thereof at any time outstanding; and provided, also, that nothing in this paragraph shall be construed to permit savings banks to invest in notes or certificates evidencing participation in any mortgage on real estate unless in this act specifically authorized or in or on any form of obligation secured by any undivided interest in real estate designed to distribute the obligation so secured.

The legality of investments heretofore lawfully made pursuant to the provisions of this section, or of any law of this state as it existed on and subsequent to July 1, 1909, shall not be affected by any amendments to this section or this act; nor shall any such amendments require the changing of investments once lawfully made under this act.

Any bonds authorized by this section as a legal investment for savings banks may be carried on the books of said bank at their investment value, based on their market value at the time they were originally bought, unless the superintendent of banks shall require any or all of the bonds which may thereafter have a market value less than the original investment value to be written down to such new market value which shall be done gradually if practicable and in such manner as he may determine; or he may, by a plan of amortization to be determined by him, require such gradual extinction of premium as will bring such bonds to par at maturity.

When it shall be necessary to prevent loss to any savings bank on an obligation owned or on a debt previously contracted in good faith, it may, with the previous written consent of the superintendent of banks, purchase or acquire bonds of any railroad corporation incorporated under the laws of the state of California and operated exclusively therein, notwithstanding such bonds do not conform to the requirements in this section contained; provided, any bonds so purchased or acquired must be sold for the best price obtainable by any bank within five years after such purchase or acquisition.

No savings bank shall hereafter purchase or loan money upon any bond, note or other evidence of indebtedness, issued by any "public utility," subject to the jurisdiction, regulation or control of the railroad commission of this state under the provisions of the "public utilities act," approved December 23, 1911, and acts amendatory thereof or supplemental thereto, unless each such bond, note or other evidence of indebtedness was either:

- (a) Issued prior to the taking effect of the "public utilities act"; or,
- (b) Issued under authority of the railroad commission, in accordance with the provisions of said act; or,
- (c) A note issued for a period not exceeding twelve months, in accordance with the provisions of subdivision (b) of section fifty-two of said act.

No provision of this act, and no act or deed, done or performed under or in connection therewith, and no finding made or certificate issued under any provision thereof, shall be held or construed to obligate the state of California to pay, or be liable for the payment of, or to guarantee in any manner whatsoever, the regularity or the validity of the issuance of any stock or bond certificate, or bond, note, or other evidence of indebtedness certified under any provision of this act, by the superintendent of banks.

It shall not be lawful for any individual, firm, association, bank, trust company, stock company, copartnership or corporation to advertise by newspaper or circular or in any other manner that any securities are legal investments for savings banks in this state or to use any advertisement which might lead the public to believe that any securities conform to the requirements of law relating to investments by savings banks unless such securities are such as are specified in paragraphs (a), (aa), (b), (c), (d), (e), (j), or (k) of subdivision three of this section or shall, in the manner provided in this act, have been certified by the superintendent of banks to come within and fully conform to the requirements of one or the other of paragraphs (f), (g), (h), or (i) of subdivision three of this section or unless such advertisement shall have been approved in writing by the superintendent of banks prior to publishing, circulating or otherwise issuing the same. Any individual, firm, association, bank, trust company, stock company, copartnership or corporation who shall advertise any securities in violation of the provisions of this paragraph shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment. [Amendment approved May 15, 1919; Stats. 1919, p. 631.]

This section was also amended in 1917. See Stats. 1917, p. 586.

§ 61a. Superintendent of banks may investigate bonds. Opinions of attorneys. Certificates revoked. Renewal or extension of certificate. Expenses. The superintendent of banks shall have power, when any issue of bonds or securities is presented to him for that purpose, to investigate and ascertain whether such bonds or securities come within and fully conform to all the requirements of paragraphs (f), (g), (h), or (i) of subdivision three of section sixty-one of this act, or of either of said paragraphs. He may also investigate and ascertain for what period of time, and upon what conditions, any franchise granted to or held by any corporation issuing any such bonds or securities will remain in force, and any other facts or conditions bearing upon the value or sufficiency of such bonds. The superintendent of banks may accept and act upon the opinions and appraisements of any attorneys, engineers, or appraisers which may be presented by such person or corporation, so applying, and the reports of any of the executive officers of the corporation issuing such bonds or securities, on any question of fact concerning or affecting such bonds or securities, the security thereof, the franchise conditions herein mentioned, or the financial condition of the corporation issuing the same. In lieu of or in addition to such opinions, appraisements and reports, the superintendent of banks may, if he deems proper, have any or all such matters passed upon and certified to him by attorneys, engineers, appraisers or accountants of his own selection at the expense of the applicant. If the superintendent of banks shall find from such investigation that the bonds or securities so presented come within and fully conform to all the requirements of any of said paragraphs of subdivision three of section sixty-one of this act, and is satisfied from such investigation as to such franchise conditions, he shall so certify unless for any reason he shall be of the opinion that such bonds are not a safe or proper investment for savings banks, and in such event or if such bonds shall fail to meet the requirements of this act such certificate must be refused. The superintendent of banks

also shall have power to investigate and ascertain the status and sufficiency as investments for savings banks of any bonds specified in paragraph (e) of subdivision three of section sixty-one of this act. If upon such investigation it shall be determined in the opinion of the superintendent of banks that any bond specified in said paragraph (e) of subdivision three of section sixty-one of this act, constitutes a proper investment for savings banks he shall so certify.

Any certificate issued by the superintendent of banks under authority of the provisions of this section may be revoked at any time in his discretion. Any certificate issued in relation to notes or bonds specified in paragraphs (f), (g) or (i) of subdivision three of section sixty-one of this act shall expire not later than three months after the end of the then current fiscal year of the corporation issuing such notes or bonds.

Any such certificate so expiring may be renewed or extended by the superintendent of banks without application therefor from such corporation or other interested parties if he shall be satisfied that the notes or bonds referred to in said certificate are in conformity with the then requirements of section sixty-one of this act.

The actual expense of investigating any issue of bonds or securities so presented shall be paid by the person, district or corporation presenting the same for investigation, and the superintendent of banks, before making such investigation, may require a cash deposit of such amount as he may deem necessary to cover such expense. The superintendent of banks shall keep an official list of all bonds and securities certified by him. [Amendment approved May 15, 1919; Stats. 1919, p. 641.]

This section was also amended in 1917. See Stats. 1917, p. 594.

§ 62. Savings banks not to trade in real property. Drafts. Savings banks borrowing money. No savings banks shall, directly or indirectly, deal or trade in real or personal property in any other case or for any other purpose than is authorized by this act, and shall not contract any debt or liability for any purpose whatever other than for deposits, except as in this section provided.

Savings banks may pay regular depositors, when requested by them, by draft upon deposits to their credit with their banks, and charge current rate of exchange for such drafts.

No savings bank shall borrow money, or pledge or hypothecate any of its securities, except to meet the immediate demands of its own depositors, and then only in pursuance of a resolution adopted by a vote of a majority of its board of directors, duly entered upon their minutes, wherein shall be recorded the ayes and nays upon each vote; also with the written approval of the superintendent of banks, and he shall have the authority to fix the amount to be borrowed, the amount and character of the securities to be pledged or hypothecated, and the term and rate of interest thereon; provided, that any savings bank may, for the purpose of performing its functions and transacting its business as authorized by this act, rediscount, with or without guarantee or indorsement, with the federal reserve bank, its acceptances, notes or any other securities, available for rediscount with a federal reserve bank, in any amount up to but not exceeding its capital and surplus or reserve without consent of the superintendent of banks, and shall not be considered as borrowed money within the meaning of this section; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow the public

moneys of the United States, the state of California, the counties, cities and counties, and towns of said state of California and receive such public moneys on deposit; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow postal savings moneys of the United States, and receive such postal savings moneys on deposit; and provided, further, savings banks may borrow any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States, but only in pursuance of a resolution of a majority of its board of directors, duly entered upon their minutes, and without the previous approval of the superintendent of banks, but the fact of such transaction shall forthwith be reported in writing to the superintendent of banks. No excess loan made to any savings bank with or without pledge of assets shall be invalid or illegal as to the lender. [Amendment approved May 15, 1919; Stats. 1919, p. 641.]

§ 65. No loan to director or officer. Record and report of loan. Loan to agent or employee. Record and report of. Not applicable to what corporations. Loans to director on security. No loan shall be made, for himself or as agent or partner of another, directly or indirectly, to any director or officer of any savings bank by such bank, or on the indorsement, surety or guaranty of any such officer or director, except that loans may be made to any corporation in which any director or officer of such savings bank may own or hold a minority number of shares of stock, upon authorization of a majority of all the directors of such savings bank and the affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all other respects conform to and comply with all other provisions of this act. Such interested director or officer shall not vote or participate in any manner in the action of the board on such loan; provided, also, that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks are composed of the same persons. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the corporate name of the borrower, the name of each director or officer of such bank who is a member, stockholder, officer, or director of the corporation to which such loan is made, the amount of stock held by him in such borrowing corporation, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors or officers of such savings bank, except with the previous consent of the superintendent of banks.

A loan may be made to any agent or employee, other than an officer or director, of any savings bank by such bank upon authorization of a majority of all the directors of such savings bank and an affirmative

vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all respects conform to and comply with all other provisions of this act. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the name of the borrower, the nature of his employment, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of the security given therefor, and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. Any officer or director of any savings bank, who knowingly procures a loan from such savings bank, contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such savings bank may be members or officers, but in which they have no financial interest.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a savings bank on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested. [Amendment approved May 15, 1919; Stats. 1919, p. 642.]

This section was also amended in 1917. See Stats. 1917, p. 609.

§ 67. Limitation on loans. 1. No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years. No such loan shall be made on unsecured notes; provided, that a savings bank may discount or purchase bankers' or trade acceptances, notes, drafts and bills of exchange of the kind and character and maturities defined and made eligible for rediscount with a federal reserve bank; provided, also, that the same are accepted or indorsed without qualification by a bank or trust company, which bank or trust company has a paid-in capital of at least one million dollars; and provided, also, that a savings bank may discount or purchase a bill which must comply with the following requirements:

(a) **Requirements for bill of exchange.** It must be a bill issued by a solvent individual or firm or corporation engaged in mercantile or manufacturing business in the United States that makes statements of its condition duly ascertained and certified to by a public accountant.

moneys of the United States, the state of California, the counties, cities and counties, and towns of said state of California and receive such public moneys on deposit; provided, also, that savings banks may, in the manner authorized by law, and without the previous approval of the superintendent of banks, borrow postal savings moneys of the United States, and receive such postal savings moneys on deposit; and provided, further, savings banks may borrow any amount, in addition to the amounts authorized to be borrowed in this section, for the purpose of buying from the United States, United States bonds, United States treasury certificates, or notes or obligations of the United States, but only in pursuance of a resolution of a majority of its board of directors, duly entered upon their minutes, and without the previous approval of the superintendent of banks, but the fact of such transaction shall forthwith be reported in writing to the superintendent of banks. No excess loan made to any savings bank with or without pledge of assets shall be invalid or illegal as to the lender. [Amendment approved May 15, 1919; Stats. 1919, p. 641.]

§ 65. No loan to director or officer. Record and report of loan. Loan to agent or employee. Record and report of. Not applicable to what corporations. Loans to director on security. No loan shall be made, for himself or as agent or partner of another, directly or indirectly, to any director or officer of any savings bank by such bank, or on the indorsement, surety or guaranty of any such officer or director, except that loans may be made to any corporation in which any director or officer of such savings bank may own or hold a minority number of shares of stock, upon authorization of a majority of all the directors of such savings bank and the affirmative vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all other respects conform to and comply with all other provisions of this act. Such interested director or officer shall not vote or participate in any manner in the action of the board on such loan; provided, also, that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks are composed of the same persons. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the corporate name of the borrower, the name of each director or officer of such bank who is a member, stockholder, officer, or director of the corporation to which such loan is made, the amount of stock held by him in such borrowing corporation, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors or officers of such savings bank, except with the previous consent of the superintendent of banks.

A loan may be made to any agent or employee, other than an officer or director, of any savings bank by such bank upon authorization of a majority of all the directors of such savings bank and an affirmative

vote of all directors of such savings bank present at the meeting authorizing such loan; provided, however, that such loan shall in all respects conform to and comply with all other provisions of this act. Such authorization shall be entered upon the records or minutes of such savings bank. The fact of making such loan, the names of the directors authorizing such loan, the name of the borrower, the nature of his employment, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of the security given therefor, and the fact of final payment, when made, shall be forthwith reported in writing by the cashier or secretary of such savings bank to the superintendent of banks. Any officer or director of any savings bank, who knowingly procures a loan from such savings bank, contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such savings bank may be members or officers, but in which they have no financial interest.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a savings bank on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested. [Amendment approved May 15, 1919; Stats. 1919, p. 642.]

This section was also amended in 1917. See Stats. 1917, p. 609.

§ 67. Limitation on loans. 1. No savings bank shall loan money except on adequate security of real or personal property, and no such loan shall be made for a period longer than ten years. No such loan shall be made on unsecured notes; provided, that a savings bank may discount or purchase bankers' or trade acceptances, notes, drafts and bills of exchange of the kind and character and maturities defined and made eligible for rediscount with a federal reserve bank; provided, also, that the same are accepted or indorsed without qualification by a bank or trust company, which bank or trust company has a paid-in capital of at least one million dollars; and provided, also, that a savings bank may discount or purchase a bill which must comply with the following requirements:

(a) **Requirements for bill of exchange.** It must be a bill issued by a solvent individual or firm or corporation engaged in mercantile or manufacturing business in the United States that makes statements of its condition duly ascertained and certified to by a public accountant.

Copy of such a certified statement shall be on file in the office of the savings bank discounting or purchasing such bill in a file maintained for such purpose. Said statement shall have been issued within the preceding fourteen months and shall be the latest issued by said individual or firm or corporation. Said statement shall consist of a balance sheet showing quick assets, slow assets, permanent or fixed assets, current liabilities and accounts, short term loans, long term loans, capital and surplus. Accompanying said balance sheet shall be a copy of a statement from the borrower or public accountant concerning the following:

- (1) The nature of the business.
 - (2) All contingent liabilities such as indorsements or guarantees.
 - (3) Particulars respecting any mortgage debts and whether there is any lien on current assets.
 - (4) The maximum and minimum liabilities of the individual, firm or corporation during the twelve months previous to the date of audit.
- (b) It must be issued by an individual, firm or corporation whose net worth is not less than two times the amount of its outstanding liabilities, including any contingent liabilities arising from the rediscount of bills receivable or other accommodation indorsements, nor less than three hundred thousand dollars. The quick assets of said individual, firm or corporation, consisting of merchandise, finished, raw, and in the process of manufacture, accounts receivable, bills receivable, bonds or obligations of the government of the United States at the then market value of said bonds or obligations and cash, shall not be less than two times its outstanding quick liabilities including any contingent liabilities arising from the rediscount of bills receivable or other accommodation indorsements, as shown by said statement.
- (c) It must have a maturity of not more than six months.
- (d) It must have arisen out of actual commercial transactions; that is, be a bill which has been issued or drawn for industrial or commercial purposes or the proceeds of which have been or are to be used for such purposes.

Bills not eligible for discount or purchase. Credit reports. Limitation on amount. No bill shall be eligible for discount or purchase by a savings bank, the proceeds of which have been used or are to be used for any of the following purposes:

- (1) For investments of a merely speculative character whether made in goods or otherwise.
- (2) Must not have been issued for carrying or trading in stocks, bonds or other investment securities, except bonds of the government of the United States, and must not cover merely investments.
- (3) Must not be a bill of any individual, firm or corporation which has under pledge or hypothecation any of its personal assets.

The word "bill," when used in this section, shall be construed to include notes, drafts, or bills of exchange, and the word "goods" shall be construed to include goods, wares or merchandise.

Any savings bank purchasing or discounting such paper shall have in a file maintained for the purpose, letters from banks and merchants or mercantile reports bearing upon the credit and standing of the person, firm, copartnership or corporation whose paper is under discount.

No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, a combined total amount of bankers'

and trade acceptances, drafts and bills of exchange and bills of the character defined and limited by this section, greater than twenty per centum of the deposits of such bank, nor shall any savings bank at any time acquire or hold, directly or indirectly, by discount or purchase, an amount of bills, of the character defined and limited by this section, greater than twelve and one-half per centum of the deposits of such bank. No savings bank shall at any time acquire or hold, directly or indirectly, by discount or purchase, any such bankers' or trade acceptances, drafts and bills of exchange from any one acceptor in an amount which shall exceed five per centum of the capital and surplus or reserve of such savings bank nor shall any savings bank at any time acquire or hold, directly or indirectly, by discount or purchase, any such bills of any one person, firm, copartnership or corporation in an amount which shall exceed five per centum of the capital and surplus or reserve of such savings bank.

2. Loans on bonds. No savings bank shall invest or loan an amount greater than fifty per centum of its actual paid-up capital and surplus on any one note or bond issue of the class specified in paragraph (h), or on the securities issued by any one mortgage insurance company of the class specified in paragraph (k) of subdivision three of section sixty-one of this act, nor more than five per centum of its assets on any one bond issue of any other class, except bonds of the United States, or interest-bearing notes or obligations of the United States, or bonds of the state of California, bonds for which the faith and credit of the United States or of the state of California are pledged, or bonds of any county, city and county, city or school district in this state, or bonds of any irrigation district such as are legal for investment by savings banks.

3. Loans on bonds. No savings bank shall loan money:

(a) On bonds of the character specified in paragraphs (a), (aa), (b), (c) and (d) of subdivision three of section sixty-one of this act, or on bonds of the character specified in paragraph (e) of subdivision three of section sixty-one of this act the principal and interest of which are to be paid in whole or in part by taxes levied upon the property in the district issuing such bonds, unless such bonds shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

(b) On bonds of the character specified in paragraphs (f), and (g) or on bonds or notes of the character specified in paragraph (i) of subdivision three of section sixty-one of this act, when eligible as investments for savings banks pursuant to said section, or on bonds of the character specified in paragraph (e) of subdivision three of section sixty-one of this act other than those specified in the preceding paragraph of this section, unless such bonds or notes shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

(c) On bonds legal for investment by savings banks in the states of New York or Massachusetts, unless such bonds shall have a market value at least fifteen per centum in excess of the amount loaned thereon; or,

(d) On notes or bonds of the character specified in paragraph (h) of subdivision three of section sixty-one of this act when certified as

legal investments for savings banks under the provisions of section sixty-one a or on securities of the character specified in paragraph (k) of subdivision three of said section eligible for investment by savings banks, unless such bonds, notes or securities shall have a market value at least ten per centum in excess of the amount loaned thereon; or,

(e) On personal property unless such personal property shall have a market value at least fifty per centum in excess of the amount loaned thereon; or,

(f) On other bonds, or on capital stock of any corporation, unless such bonds or stock shall have a market value at least fifty per centum in excess of the amount loaned thereon; provided, however, that no loan shall be made upon the capital stock of any bank unless such bank has been in existence at least two years and has earned and paid a dividend on its capital stock.

4. Loans on real estate. No savings bank shall make any loan on security of real estate, except it be a first lien, and in no event to exceed sixty per centum of the market value of any real estate taken as security except for the purpose of facilitating the sale of property owned by such savings bank; provided, that a second lien may be accepted to secure the repayment of a debt previously contracted in good faith; and provided, also, that any savings bank holding a first mortgage or deed of trust on real estate may take or purchase and hold or loan upon another and immediately subsequent mortgage or deed of trust thereon, but all such loans shall not exceed in the aggregate sixty per centum of the market value of the real estate securing the same; provided, further, that a savings bank may loan not to exceed ninety per centum of the face value of a mortgage which constitutes a first lien upon real estate, but in no event shall any such loan exceed ninety per centum of sixty per centum of the market value of the real estate covered by said mortgage or deed of trust.

5. Loans on capital stock of corporations. No savings bank shall loan to any one borrower on the security of the capital stock of any corporation an amount exceeding ten per centum of the capital stock and surplus of such savings bank; provided, that all loans on the capital stock of any one corporation shall not exceed in the aggregate twenty-five per centum of the capital stock and surplus of such savings bank.

6. No loans on mining stock. No savings bank shall purchase, invest or loan its capital, surplus or the money of its depositors, or any part of either, in mining shares or stock and any president or managing officer who knowingly consents to a violation of any provision of this paragraph shall be guilty of a felony. [Amendment approved May 15, 1919; Stats. 1919, p. 642.]

This section was also amended in 1917. See Stats. 1917, p. 594.

§ 68. Total reserves of savings banks. Deposit of reserves. Reserves of member of federal reserve bank. Failure to maintain reserves. Dealings with commercial banks. Every savings bank or savings department of a bank shall at all times maintain total reserves equivalent to five per centum of the aggregate amount of its deposits, exclusive of United States, postal savings bank, state, county and municipal, and other public money deposits, which are secured as is required by law;

at least two and one-half per centum of such deposits shall be maintained as reserves on hand, which shall consist of gold bullion, or any form of money or currency authorized by the laws of the United States, and two and one-half per centum of such deposits may be maintained as reserves on hand, which shall consist of bonds, or interest-bearing obligations of the United States, of gold bullion, or any form of money or currency authorized by the laws of the United States or may be maintained as reserves on deposit subject to call with any reserve depository provided for in sections twenty and forty-three of this act; provided, however, that all or any part of the reserves may be deposited, subject to call, with a federal reserve bank in the district in which such bank is located; provided, also, that no savings bank or savings department shall be required to maintain reserves on hand in excess of four hundred thousand dollars, and when such reserves on hand reach that amount, the balance of total reserves necessary to make up the five per centum may be kept as reserves on deposit, subject to call, with any reserve depository provided for in sections twenty and forty-three of this act.

If any bank shall have become a member of a federal reserve bank, it shall at all times maintain the reserves required by the federal reserve act for time deposits, and in addition thereto shall be required to maintain a reserve of at least two per centum of its aggregate deposits, exclusive of United States, postal savings, state, county and municipal, and other public money deposits, which are secured as is required by law, which two per centum shall consist of gold bullion, or any form of money or currency authorized by the laws of the United States.

If any savings bank shall fail to maintain its total reserves in the manner authorized by this section, it shall be subject to the penalty provided for in section twenty of this act for commercial banks.

No new loan shall be made during any deficiency in the total reserves. Deposits with any commercial bank, or commercial department of a bank, on open account, as provided in this section, shall be permitted and shall not be construed as loans. Not more than five per centum of the deposits of any savings bank shall be deposited with any one bank, except with the consent of the superintendent of banks. Not more than fifteen per centum of the deposits of any savings bank shall be deposited with all commercial banks, except with the consent of the superintendent of banks. No savings bank or savings department shall receive deposits of other banks other than savings deposits and such deposits shall not be treated or considered as a part of the reserves on deposit of such depositing bank; provided, the sum so deposited shall not exceed thirty per centum of the paid-in capital and surplus of the depositing bank nor more than fifteen per centum of the paid-in capital and surplus of the depository bank. [Amendment approved May 15, 1919; Stats. 1919, p. 647.]

This section was also amended in 1917. See Stats. 1917, p. 611.

§ 70. Power to receive Liberty bonds. Every savings bank shall have power to receive as depository, or as bailee for safekeeping and storage, Liberty bonds or other bonds or securities issued by the United States government for war purposes or otherwise. [New section added May 15, 1919; Stats. 1919, p. 648.]

§ 80. Loans of commercial banks. No commercial bank shall make any loans, directly or indirectly, to any person, firm, copartnership or corporation, in an amount which, including therein any extension of credit to such person, firm, copartnership or corporation, by means of letters of credit, or by acceptance of drafts for, or the discount or purchase of the notes, bills of exchange or other obligations of, such person, firm, copartnership or corporation, shall exceed the following percentage of its capital and surplus:

1. **Without security.** Ten per centum without security, except where such capital stock and surplus is not more than twenty-five thousand dollars, in which event an amount not to exceed twenty per centum of such capital stock and surplus may be loaned without security, and where such capital stock and surplus is greater than twenty-five thousand dollars and does not exceed fifty thousand dollars, a sum not exceeding five thousand dollars may be loaned without security. Nothing herein shall prohibit any commercial bank from taking or receiving any kind, character or amount of security whatsoever, either real or personal, for the protection of any loan made under the provisions of this subdivision, but no such loan or any part thereof shall be considered or construed as a secured loan unless the whole thereof is loaned upon security worth at least fifteen per centum more than the amount of such loan; or,

2. **With security.** Fifteen per centum, in addition to the amount that may be loaned under the provisions of subdivision one of this section, upon security worth at least fifteen per centum more than the amount of such loan so secured; provided, the total amount which can be loaned under subdivisions one and two hereof cannot exceed twenty-five per centum in all; provided, however, that a separate note or notes shall be taken for the unsecured loans and a separate note or notes shall be taken for the secured loans, and the secured and unsecured loans shall not be combined in any way within one note, or notes; or,

3. **With security.** Twenty-five per centum upon security worth at least fifteen per centum more than the amount of its loans so secured; provided, however, that when secured loans to this amount or any amount in excess of fifteen per centum are made, then no unsecured loans shall be permitted in addition to such secured loans; or,

4. **With security. Restrictions not applicable to bills of exchange or Liberty bonds. Computing liabilities to commercial banks.** Forty per centum, provided such loans are upon commercial or business paper actually owned by the person negotiating the same to such bank, and are indorsed by such person without limitation; provided, however, that in addition to the amounts permitted to be loaned by subdivisions one, two or three of this section, an amount may be loaned on the securities fixed by subdivision four of this section, which taken with the amounts so permitted by said subdivisions one, two or three will not exceed forty per centum; provided, also, that the restrictions under this section shall not apply to bills of exchange or drafts, with bills of lading attached, drawn in good faith against actual existing values; provided, further, that any commercial bank, having first obtained in writing the consent of the superintendent of banks so to do and under such conditions and regulations as may be prescribed by him, may accept drafts

or bills of exchange drawn upon it running for a period of not longer than six months, but no commercial bank shall accept such drafts or bills of exchange in an amount greater at any time in the outstanding aggregate than one-half of its capital and surplus; but such acceptance or acceptances must be drawn by a person, firm, copartnership or corporation engaged in agricultural, industrial or commercial business directly connected with the production, manufacture, purchase, sale or consignment of the goods involved in the transaction in which the acceptance originated; provided, however, that no such acceptance or acceptances to any one person, firm, copartnership or corporation shall exceed ten per centum of the capital and surplus of such bank.

None of the limitations or restrictions contained in the previous subdivisions of this section shall apply to loans, discounts or other extensions of credit secured by Liberty bonds or by other bonds or securities issued by the United States government, if the market value of such Liberty bonds or other securities exceeds by ten per centum the amount of any such loan, discount or other extension of credit.

Loans which are made upon security available for loans in a savings bank may be made in a commercial bank upon the same margin of security as is permitted to savings banks anything in this section to the contrary notwithstanding, and all such loans shall be deemed to be secured loans within the meaning of this section.

In computing the total liabilities of any person to a commercial bank there shall be included all liabilities to the bank of any copartnership or unincorporated association of which he is a member, and any loans made for his benefit or for the benefit of such copartnership or unincorporated association; of any firm, copartnership or unincorporated association to a commercial bank there shall be included all liabilities of its individual members and all loans made for the benefit of such copartnership or unincorporated association or any member thereof; and of any corporation to a commercial bank there shall be included all loans made for the benefit of the corporation. [Amendment approved May 13, 1919; Stats. 1919, p. 649.]

This section was also amended in 1917. See Stats. 1917, p. 611.

§ 83. Loans to officer of commercial bank. Loans to director, agent or employee. Credit to directors, etc. Report to superintendent. Penalty. Not applicable to what corporations. Loan to corporation owned or controlled by directors. Loans to directors, etc., on security. No loan shall be made for himself or as agent or partner of another, directly or indirectly, to any officer of any commercial bank by such bank or on the indorsement, surety, or guaranty of any such officer; provided, that a loan may be made to a corporation of which any officer of a commercial bank, proposing to make such loan, is a minority stockholder, director, officer, agent or employee. Loans to any director, agent or employee other than an officer, or to any firm, copartnership or corporation of which any director, agent or employee other than an officer is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership or corporation on the indorsement, surety, or guaranty of any such director other than an officer, agent or other employee, can be made by any commercial bank; and provided, further, that a loan may be made or a line of credit may be given to any member of an advisory board or body of a commercial

bank, not otherwise an officer of such bank, or a loan may be made to any firm, copartnership or corporation of which any member of such advisory board or body is a member, stockholder, director, officer, agent or other employee, or to any person, firm, copartnership, or corporation on the indorsement, surety, or guaranty of any such member of such advisory board or body upon such conditions as are herein fixed for a loan, directly or indirectly, or a line of credit and the report thereof to any director of such bank. Loans herein authorized can be made only on authorization of or confirmation within thirty days after making such loan, by a majority of all the directors of such bank and the affirmative vote of all directors of such bank present at the meeting authorizing or confirming such loan. Such interested director shall not vote or participate in any manner in the action of the board on such loan; provided, that by and with the consent of the superintendent of banks previously obtained in writing, all directors may vote upon such a loan made by one bank to another bank where the entire capital stock of one is owned by or held in trust for the stockholders of the other bank and where all or a majority of the board of directors of each of said banks are composed of the same persons. The board of directors of any such bank may fix the total amount of credit that may at any one time during the twelve months next succeeding be given to any director, agent, or other employee, other than an officer, or to any firm, copartnership, or corporation in which any director, agent, or other employee other than an officer is a member, stockholder, director, officer, agent or other employee or to any corporation of which any officer of a commercial bank, proposing to fix such total amount of credit, is a minority stockholder, director, officer, agent or employee, and any or all loans made within or up to the total amount of such authorized credit may at any time during said twelve months be renewed from time to time, in whole or in part, by the officers of the bank without any further vote or action on the part of the board of directors. Each such authorization shall be entered upon the records or minutes of said bank. No director shall vote or participate in any manner in such action of the board fixing the total amount of credit that may at any one time be given to himself or to any firm, copartnership or corporation in which he is a member, stockholder, director, officer, agent or other employee. The fact of making such loan, the names of the directors authorizing such loan, the name of the director, agent or employee, obtaining such loan, or the name of the firm, copartnership or corporation in which such director, agent or employee is interested, or the name of the corporation, of which any officer of a commercial bank is a minority stockholder, director, officer, agent or employee, obtaining such loan, the amount of such loan, the rate of interest thereon, the time when the loan will become due, the amount, character and value of security given therefor, if any, and the fact of final payment when made shall forthwith be reported in writing by the cashier or secretary of such bank to the superintendent of banks. In case a loan is made to a corporation there shall be reported in the same manner the name of each director and officer of such bank who is a member, stockholder, director, officer or employee of such borrowing corporation and the amount of stock held by him in such borrowing corporation. All the provisions of this section relating to reports shall apply to the granting of credit and all loans made under any credit given and pay-

ments made thereon shall also be reported immediately after the same is made. In case of a loan made without the previous authorization of the directors, the fact of making such loan shall forthwith be reported and the action of the board of directors, in confirming or refusing to confirm such loan within thirty days thereafter, and the fact of final payment when made shall be reported in the same manner as herein required for loans made under previous authorization. Any officer, director, agent, or employee of a commercial bank, who knowingly procures a loan from such commercial bank contrary to the provisions of this section, shall be guilty of a felony. In case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks, as herein provided, any of the facts so required to be reported, or in case of the neglect or failure of the secretary or cashier of any such bank to report to the superintendent of banks any loan made contrary to the provisions of this section, the bank shall be liable therefor and shall forfeit to the people of the state of California twenty-five dollars per day for each day, or part thereof, during which such neglect or failure continues.

This section shall not apply to any loan made to a religious corporation, club, or other membership corporation of which one or more directors, officers, agents or employees of such commercial bank may be members or officers but in which they have no financial interest.

No loan may be made to any corporation, a majority of the stock of which is owned or controlled by any one or more of the directors or officers of such commercial bank, except with the previous consent of the superintendent of banks.

Loans may be made to any director, other than an officer, directly or indirectly, or to any agent or employee of a commercial bank, on the security of United States bonds, United States treasury certificates, or interest-bearing notes, or obligations of the United States, or those for which the faith and credit of the United States are pledged for repayment of principal or interest, or those issued under authority of the United States, notwithstanding anything in this section contained, and such loans may be made in the usual manner of making loans in which no director of such bank is interested. [Amendment approved May 15, 1919; Stats. 1919, p. 650.]

This section was also amended in 1917. See Stats. 1917, p. 613.

§ 90. Trust companies. *May receive deposits. Segregation of capital in cities under one hundred thousand. In cities over one hundred thousand. Separate kinds of capital. Oath by officer. Trust company as member of federal reserve bank. Authority of foreign corporation as trustee. Any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depository or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population does not exceed one hundred thousand persons and which has a capital of not less than one hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of

money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, and any corporation which has been or shall be incorporated under the laws of this state, which is authorized by its articles of incorporation to act as executor, administrator, guardian of estates, assignee, receiver, depository or trustee, under appointment of any court or by authority of any law of this state, or as trustee for any purpose permitted by law, which has its principal place of business in a city in which the population exceeds one hundred thousand persons and which has a capital of at least two hundred thousand dollars actually paid in, in cash, assigned to or available for the purpose of conducting business in any such capacity, or trust business of any character permitted by law, and which has made with the state treasurer the deposit of money or securities of the character and in the amount required by the terms of section ninety-six of this act, and which has received from the superintendent of banks the certificate of authority required by the terms of section one hundred twenty-seven of this act, to transact such business, may act, or may be appointed by any court to act, in any such capacity in like manner as an individual and when so qualified shall be known as a trust company. Any such trust company may, as provided in this act, accept or receive any deposit of money or personal property authorized, directed or permitted to be made with any such corporation by any court or law of this state, and may accept and execute any trust provided for in this act, or permitted by any law of this state, to be taken, accepted or executed by an individual. Any such trust company, if located in a city the population of which does not exceed one hundred thousand persons must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least fifty thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it and whenever such trust company shall, under the provision of sections ninety-six and ninety-eight of this act, be required to make the first additional deposit of securities with the state treasurer, such trust company must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside an additional fifty thousand dollars of paid-up capital as security for the faithful performance and execution of all court trusts accepted by it, and any such trust company, if located in a city, the population of which exceeds one hundred thousand persons, must segregate that portion of its capital and surplus assigned to or available for its trust business and must apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all private trusts accepted by it and must also apportion and set aside at least one hundred thousand dollars of such paid-up capital as security for the faithful performance and execution of all court trusts accepted by it; provided, that no such trust company shall at any time be required to apportion and set aside any portion of its

surplus as security for the faithful performance and execution of such private trusts, nor shall it be prohibited from so doing; and provided, further, that the respective amounts of capital or capital and surplus so apportioned and set aside shall be treated in all respects as the separate capital or capital and surplus of each respective kind or class of business, as though the same were conducted by separate and distinct corporations, and each shall be kept, held, used and disposed of wholly for the exclusive benefit, protection and security of the respective classes of trust business to which the same were respectively so apportioned and set aside. In all cases in which it is required that an executor, administrator, guardian of estates, assignee, receiver, depository or trustee, shall qualify by taking and subscribing an oath, or in which an affidavit is required, it shall be a sufficient qualification by such corporation if such oath be taken and subscribed or such affidavit be made by the president, vice-president, secretary, manager, trust officer, assistant trust officer or regularly employed attorney thereof, and such officer or employee shall be liable for the failure of such trust company to perform any of the duties required by law to be performed by an individual acting in like capacity and subject to like penalties; provided, any such appointment as guardian shall apply to the estate only, and not to the person.

Any trust company upon becoming a member of a federal reserve bank is authorized and empowered:

To continue to administer, execute, enjoy and exercise all court and private trusts as defined in the bank act, powers, rights, privileges, and other fiduciary relations, appointments and business it may have at the time of becoming such trust company member, and also to take, execute and administer all new court and private trusts as defined in said bank act, including the right to the appointment of all fiduciary capacities in which it may be named in wills theretofore and thereafter executed and probated, and other appointments, powers, privileges and business, of every kind and nature, as may be then or thereafter permitted to, but subject to the same requirements and limitations as may be imposed upon any corporation under all of the provisions of the bank act.

To hold, administer, execute, and in all respects generally handle, manage and dispose of, without charge, restriction, limitation or impairment of any nature, all of its investments, rights, interests, titles to property, contractual, legal and other rights, obligations or liabilities, of every kind or nature, court and private trusts as defined in the bank act, and other powers which it may be then permitted to exercise by law.

A foreign corporation may be authorized to act in this state as trustee for the following purposes:

- (1) To deliver bonds, and receive payment therefor.
- (2) To deliver permanent bonds in exchange for temporary bonds of the same issue.
- (3) To deliver refunding bonds in exchange for those of a prior issue or issues.
- (4) To register bonds, or to exchange registered bonds for coupon bonds, or coupon bonds for registered bonds.
- (5) To pay interest on such bonds, and to take up and cancel coupons representing such interest payments.

5) To redeem and cancel bonds when called for redemption, or to pay and cancel bonds when due.

7) The certification of registered bonds for the purpose of exchanging registered bonds for coupon bonds.

8) To act as trustee under any mortgage, deed of trust, or other instrument securing notes or bonds issued by any corporation. [Amendment approved May 15, 1919; Stats. 1919, p. 653.]

This section was also amended in 1917. Stats. 1917, p. 615.

§ 98. When trust funds amount to five hundred thousand dollars. When funds amount to one million dollars. Treasurer's receipt, "Trust funds." Penalty. Withdrawal of securities. Validity of act. Whenever any trust company, the principal place of business of which is located in a city the population of which does not exceed one hundred thousand persons, receives from court trusts accepted by it, trust funds, as herein defined, to the amount of five hundred thousand dollars, it shall forthwith notify in writing the superintendent of banks of such fact, and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and whenever any trust company receives from court trusts such funds to the amount of one million dollars it shall further notify in writing the superintendent of banks of such fact and within thirty days thereafter shall deposit with the state treasurer additional money or securities of the character mentioned and defined in section ninety-six of this act, approved as therein provided, in the amount of fifty thousand dollars; and for each additional five hundred thousand dollars of such trust funds thereafter received by any trust company from court trusts a similar notification in writing shall forthwith be given to the superintendent of banks, and a further deposit in the amount of twenty-five thousand dollars of such money or securities, or of securities, provided for in section ninety-seven of this act likewise approved, shall be made, within thirty days thereafter, by such trust company with said state treasurer, until five hundred thousand dollars of such securities have been so deposited. The treasurer shall give his receipt for any money or securities so deposited and each and all of such deposits of money or securities, shall be held by said state treasurer for the sole benefit of the beneficiaries of the class of business for the security and protection of which same were deposited. The state shall be responsible for the custody and safe return of any money or securities so deposited with said state treasurer. The term "trust funds" when used in this section shall be deemed to mean and shall mean personal property and cash, whether received with the original trust property or as rent, income or proceeds thereof, in connection with the trust, and shall not be deemed to include and shall not include real property. Any trust company failing to comply with the provisions of this section shall forfeit to the state of California one hundred dollars a day for each day during which such failure or default shall continue. Upon making a request in writing to the superintendent of banks, any such trust company shall be entitled to withdraw from the state treasurer, from time to time, a sufficient amount of such securities so that at all times the amount of such securities so deposited shall conform to the requirements of this act, and so that at no time shall such trust company be

required to have on deposit with the state treasurer an amount of securities in excess of the requirements of this act. Upon receiving such request in writing, and satisfactory proof of the facts warranting such withdrawal, it shall be the duty of the superintendent of banks to forthwith deliver to the state treasurer a written order directing the withdrawal of said securities so as to conform with the provisions of this section and it shall be the duty of the state treasurer to comply with such written order. The validity or legality of any act or proceeding done or taken by any such trust company, relating to or in connection with the administration of any such trusts shall not be affected or impaired by the neglect or failure of such trust company, or of any officer or employee thereof, to comply with any of the provisions of this act, but all such acts and proceedings done or taken prior to the revocation of its certificate of authority to do such business by the superintendent of banks, under the provisions of this act, or the revocation by any court or judge thereof of the appointment, order or decree theretofore entered in such trust matter shall be as valid and effective for all purposes as if any such neglect or failure had not occurred. [Amendment approved May 17, 1917; Stats. 1917, p. 617.]

§ 99. Evidence of title to accompany securities. When any part of the securities so deposited with the state treasurer consists of notes or bonds secured by mortgage or deed of trust, it shall be accompanied by a "Registrar of Titles" certificate as to the condition of the title if the notes or bonds are secured by mortgages covering property which has been brought under the operation of the Land Title Law, commonly called the Torrens Title Law, or a policy of mortgage insurance, or a complete abstract of title or an unlimited certificate of title or a policy of title insurance prepared or issued by a person, company or corporation designated or approved by the superintendent of banks and authorized by law or otherwise found by the superintendent of banks to be competent to issue such evidence of title, which shall be examined and approved by or under the direction of said superintendent of banks. The fees for an examination of such evidence of title by council to be paid by the trust company making the deposit shall not exceed twenty dollars for each title examined, and the fee for each appraiser not exceeding two, shall not exceed five dollars for each mortgage or deed of trust. [Amendment approved May 3, 1919; Stats. 1919, p. 185.]

§ 123. State banking fund created. Proportionate payment by each bank into state banking fund. Revolving fund. A fund is hereby created to be known as the state banking fund, and out of said fund shall be paid all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, examiners and other assistants, traveling expenses, furnishing of rooms and rent. Each bank shall pay annually its share of one hundred and ten thousand dollars, to be determined by the proportion which the capital and surplus which shall include all reserve and contingent funds, of any incorporated bank or the surplus, reserve and contingent funds of any bank organized without a capital stock bear to the capital, surplus, reserve and contingent funds in the aggregate of all such banks receiving certificates of authorization from the superintendent of banks, as shown by the last report of such bank to the superintendent of banks; provided, that the superintendent of banks may, in any fiscal year

and in the exercise of his discretion, collect from each bank a less sum to be determined by the proportion established in this section, if such less sum be sufficient to pay all the expenses incurred in and about the conduct of the business of the banking department, including the salary of the superintendent, chief deputy, attorney, examiners and other assistants, traveling expenses, furnishing of rooms and rent. All moneys collected or received by the superintendent of banks, under and by virtue of the provisions of this act, shall be by him delivered to the treasurer of the state, who shall deposit the same to the credit of said banking fund, and the unexpended balance of all moneys heretofore paid into the state treasury by any of the bank commissioners or the superintendent of banks, shall be retained and become a part of said fund; provided, however, that the superintendent shall have authority to retain in his possession and under his control the sum of two thousand dollars to be used by him as a revolving fund for the benefit of the state banking department until the end of the fiscal year at which time he shall make full settlement with the treasurer of the state. If any such bank shall fail to pay such charges as are herein required, the superintendent shall forthwith cancel the certificate of said bank. [Amendment approved May 15, 1919; Stats. 1919, p. 655.]

§ 124. Inspection of banks. Extra examinations. Administration of oaths. Audit. Every bank and the trust department of every title insurance company doing a trust business, shall be subject to the inspection of the superintendent of banks. The superintendent of banks, the chief deputy, or some competent person or persons to be appointed by the superintendent of banks, to be known as examiners, shall visit and examine every bank at least once each fiscal year. On every such examination inquiries shall be made by him as to the condition and resources of the bank, the mode of conducting and managing its affairs, the action of its directors, the investment and disposition of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held and whether the requirements of its articles of incorporation and the law have been complied with in the administration of its affairs, and as to such other matters as the superintendent may prescribe. Whenever, in the judgment of the superintendent of banks, the condition of any bank renders it necessary or expedient to make an extra examination or to devote any extraordinary attention to its affairs the superintendent of banks shall have authority to make any and all necessary extra examinations and to devote any necessary extra attention to the conduct of its affairs; and such bank shall pay for all such extra services rendered by the superintendent of banks at a price to be fixed by the superintendent of banks but not to exceed twenty dollars per day for the examination of the principal office of such bank and twenty dollars a day for the examination of each branch office of each bank. The superintendent of banks shall also have power to examine, or cause to be examined, every agency located in this state of any foreign bank or banking corporation, for the purpose of ascertaining whether it has complied with the laws of this state, and for such other purposes and as to such other matters as the superintendent may prescribe. The superintendent, chief deputy, and every such examiner shall have the power to administer an oath to any person whose testimony he may require on the examination of any bank, or on the examination

of any agency of any foreign bank or banking corporation, and to compel appearance and attendance of any such person for the purpose of any such examination. When a bank shall have been examined by any examiner, and he finds securities therein which are, in his judgment, of doubtful value, he shall report the same to the superintendent of banks, who thereupon shall be authorized to employ appraisers at the expense of such bank to appraise said securities, at a compensation to be fixed by the superintendent of banks. The superintendent of banks shall, whenever required to do so by any bank, provide an auditor to make an audit of the affairs of such bank. The compensation for making such audit shall be paid by the bank direct to the person making the audit. Nothing herein shall be deemed to authorize or require the superintendent of banks to inspect or supervise the private trust business or title insurance business of any corporation doing a trust business. [Amendment approved May 15, 1919; Stats. 1919, p. 656.]

§ 128. Certificate of authorization issued. When the certified copy of articles of incorporation of any bank shall have been filed with the secretary of state, and application made for the issuance of a certificate to do business as a bank, the superintendent of banks, provided he has not withheld granting his certificate for any of the reasons set forth in section one hundred twenty-seven hereof, shall ascertain, from the best sources of information at his command, whether the character and general fitness of the persons named as stockholders are such as to command the confidence of the community in which such bank is proposed to be located, and, if so satisfied, he shall, within sixty days after such application has been made to him, issue, under his hand and official seal, the certificate of authorization required by this act. The superintendent of banks shall file a duplicate of such certificate in his own office. [Amendment approved May 17, 1917; Stats. 1917, p. 619.]

§ 131. Three reports each year. The superintendent of banks shall call for the reports specified by section one hundred thirty of this act at least three times each year. The "past day designated by the superintendent" of banks under the provisions of section one hundred thirty of this act shall for at least three times be the day designated by the controller of currency of the United States for reports of national banking associations. [Amendment approved May 15, 1919; Stats. 1919, p. 657.]

§ 139. Duty of board of directors. Report. Contents of report. When no examination made. Special examination by superintendent of banks. Report. It shall be the duty of the board of directors of every bank to examine fully, or to cause a committee of at least three of its members, none of whom shall be an officer of the bank, to examine fully into the books, papers and affairs of the bank of which they are directors, and particularly into the loans and discounts thereof, with a special view to ascertaining the value and security thereof, and of the collateral security, if any given, in connection therewith, and into such other matters as the superintendent of banks may require; such examination to be made at least once a year, but no such subsequent yearly examinations shall be made within three months of the next preceding examination. Such directors shall have power to employ such assistance in making such examinations as they may deem necessary.

Within thirty days after the completion of such examination, a report in writing thereof, sworn to by the directors making the same, shall be made by the board of directors of such bank, and placed on file with the records of said bank, and shall be subject to examination by the superintendent of banks.

Such report shall particularly contain a statement of the assets and liabilities of the bank examined, as shown by its books, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security, which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and, if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the bank.

If the directors of such bank shall fail to make such examination or fail to cause it to be made, or shall fail to file such report of such examination in the manner and within the time specified, the superintendent of banks shall have authority to make or cause to be made an extra examination of such bank, at the expense of such bank.

Whenever the board of directors of any bank may determine by resolution, duly entered in its minutes, that a special examination shall be made or caused to be made by the superintendent of banks in lieu of the examination herein required to be made by the board of directors of such bank, a certified copy of such resolution shall be transmitted to the superintendent of banks, whereupon it shall be the duty of the superintendent of banks to make or cause to be made a special examination of the affairs of such bank in lieu of the examination of such bank by the board of directors thereof. Such special examination shall be made at such time as the superintendent of banks may determine but in any event such examination shall be made within sixty days after the receipt by the superintendent of banks of the resolution hereinbefore referred to. The cost of making such examination shall be a charge against the bank for which such examination is made.

Upon the completion of such examination the superintendent of banks shall cause a report thereof in writing to be prepared and delivered to the board of directors of such bank at such time as may be fixed by the superintendent of banks, but not later than thirty days after the completion of such examination. [Amendment approved May 17, 1917; Stats. 1917, p. 619.]

§ 142. Records deemed public documents. Official reports prima facie evidence. None of the records of the state banking department shall be deemed to be public documents nor shall any of such records be open to the inspection of the public. Every official report made by the superintendent of banks and every report duly verified of an examination made, shall be prima facie evidence of the facts therein stated, for all purposes in any action or proceedings wherein the superintendent of

banks is a party. [Amendment approved May 15, 1919; Stats. 1919, p. 658.]

This section was amended in 1917. See Stats. 1917, p. 620.

§ 145. Powers abridged, enlarged or modified. Investments made prior to July 1, 1909. The powers, privileges, duties and restrictions conferred and imposed upon any corporation or individual existing and doing business under the laws of this state are hereby abridged, enlarged or modified as each particular case may require to conform to the provisions of this act, notwithstanding anything to the contrary in their respective articles of incorporation or charters. All the provisions of this act shall apply with equal force and effect to all corporations which are now doing or which may hereafter do a banking business in this state, except where express exception or exemption may be made herein, and to such other persons, associations, copartnerships or corporations who shall, by violating any of its provisions, become subject to the penalties provided herein. The legality of investments heretofore made, or title to property heretofore acquired or conveyed through transactions heretofore had by any bank pursuant to any provision of law in force when such investments were made or transactions had, shall not be affected by the provisions of this act, except that any such investments made prior to July 1, 1909, when not complying with the provisions hereof, shall be changed to conform hereto; but such change shall be made gradually and in such manner as to prevent loss or embarrassment in the business of such bank, or unnecessary loss or injury to the borrowers on such security; provided that the legality of any investments heretofore lawfully made, pursuant to the provisions of this act as it existed on and subsequent to July 1, 1909, shall not be affected by the provisions of this section. [Amendment approved May 17, 1917; Stats. 1917, p. 620.]

ACT 298.

An act relating to the liquidation of banks by the superintendent of banks; empowering him to levy assessments against the members and stockholders of any bank in process of liquidation by him to an amount which he may determine to be necessary to promptly pay the creditors of such bank in full; to enforce such assessments by suit and empowering the superior court to determine the equities of the members and stockholders of any such bank to any surplus which may remain after the payment of the creditors of such bank in full and to award and distribute the same accordingly.

[Approved May 17, 1917. Stats. 1917, p. 581. In effect July 27, 1917.]

§ 1. Assessment of stockholders to pay creditors. Whenever the superintendent of banks shall hereafter take possession of the business and property of any bank doing business in this state for the purpose of liquidating its affairs, as provided by law, he may at any time during the process of such liquidation determine whether it shall be necessary to assess the members or stockholders of such bank in order to promptly pay the claims of the creditors of such bank in full and he shall make such assessments as he may determine to be necessary for that purpose.

§ 2. Complaint. Such determination shall be evidenced by a complaint or petition against all of the members and stockholders of such bank filed by the superintendent of banks in the superior court of the county where the principal place of business of such bank is or was located at the time of the taking of such possession.

§ 3. Further assessments. If such assessment, first made, shall prove inadequate to pay all of the creditors of such bank in full the superintendent of banks may make further assessments or assessments by filing supplemental complaints or petition in the same proceeding.

§ 4. Proceeds applied. In any such proceeding such assessment shall be enforced and collected and the proceeds thereof shall be added to the funds of such bank and applied by the superintendent of banks for the payment of just claims against the same.

§ 5. Payment of surplus. If after the payment of all just claims against such bank and the cost of liquidation any surplus shall remain said court shall determine the equities of the respective members and stockholders of such bank thereto and direct the payment thereof by the superintendent of banks accordingly.

§ 6. Action to collect assessments. The superintendent of banks shall have power to maintain an action in any other state or country to enforce and collect such assessments against any of such members or stockholders and the proceeds thereof shall become a part of the fund and be subject to the same disposition as if collected in the proceedings provided for in this act.

§ 7. Effect on prior actions. This act shall not affect any action or proceeding instituted by the superintendent of banks prior to its enactment.

§ 8. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act; and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional or its operation or application is or may be limited or controlled by any constitutional provision.

TITLE 50.

BENEFIT SOCIETIES.

ACT 313.

An act for the regulation and control of fraternal benefit societies.

[Approved May 1, 1911. Stats. 1911, p. 1320.]

Amended 1915, p. 1273; 1917, pp. 164, 785, 1651.

The amendments of 1917 follow:

§ 6. Beneficiaries. Beneficiaries of fraternal benefit societies. The payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law,

daughter-in-law, stepfather, stepmother, stepchildren, children by legal adoption, or to a person or persons dependent upon the member; provided, that if there is not living any person above designated, the member may designate any friend as his beneficiary, or may direct that said benefit be paid to his estate; provided, further, that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, he shall have the privilege, with the consent of the society, to make such institution his beneficiary. Within the above restrictions each member shall have the right to designate his beneficiary, and, from time to time, have the same changed in accordance with the laws, rules or regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of said member; provided, that any society may, by its laws, limit the scope of beneficiaries within the above classes. [Amendment approved May 21, 1917; Stats. 1917, p. 785.]

§ 23a. Provisions to insure future security. If the valuation of the certificates, as hereinbefore provided, on December 31, 1917, shall show that the present value of future net contributions, together with the admitted assets, is less than the present value of the promised benefits and accrued liabilities, such society shall thereafter at least maintain said financial condition at each succeeding triennial valuation in respect of the degree of deficiency as shown in the valuation as of December 31, 1917. If at any succeeding triennial valuation such society does not show at least the same condition, the insurance commissioner shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the society has failed to maintain the condition required herein, the insurance commissioner may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society, in accordance with the provision of section twenty-four of this act, or in the case of a foreign society, its license may be canceled in the manner provided in this act.

Any such society, shown by any triennial valuation, subsequent to December 31, 1917, not to have maintained the condition herein required, shall, within two years thereafter, make such improvement as to show a percentage of deficiency not greater than as of December 31, 1917, or thereafter, as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of section twelve of this act, applicable in the organization of new societies; provided, that the net mortuary or beneficiary contributions and funds of such new members shall be kept separate and apart from the other funds of the society. If such required improvement is not shown by the succeeding triennial valuation, then the said new members may be placed in a separate class and their certificates valued as an independent society in respect of contributions and funds. [Amendment approved April 24, 1917; Stats. 1917, p. 164.]

§ 23b. Value of certificates on "accumulation basis." Value of certificate on "tabular basis." Table of rates and credits. In lieu of the requirements of sections twenty-three and twenty-three a, any society accepting in its laws the provisions of this section may value its certificates on a basis, herein designated "accumulation basis," by crediting

each member with the net amount contributed for each year and with interest at approximately the net rate earned and by charging him with his share of the losses for each year, herein designated "cost of insurance" and carrying the balance, if any, to his credit. The charge for the cost of insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this state, and shall take into consideration the amount at risk during each year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit. If, after the first valuation, any member's share of losses for any year exceeds his credit including the contribution for the year, the contribution shall be increased to cover his share of the losses, and if the credit at the time any benefit becomes payable during the lifetime of the member, including any available funds does not equal such benefit, the contributions to be made by him or on his behalf shall be increased by the difference. Any such excess share of losses chargeable to any member may be paid out of a fund or contributions especially created or required for such purpose.

Any member may transfer to any plan adopted by the society with net rates on which tabular reserves are maintained and on such transfer shall be entitled to make such application of his credit as provided in the laws of the society.

Certificates issued, rerated or readjusted on a basis providing for adequate rates with adequate reserves to mature such certificates upon assumptions for mortality and interest recognized by the law of this state shall be valued on such basis, herein designated the "tabular basis"; provided, that if on the first valuation under this section a deficiency in reserve shall be shown for any such certificate, the same shall be valued on the accumulation basis.

Whenever in any society having members upon the tabular basis and upon the accumulation basis, the total of all costs of insurance provided for any year shall be insufficient to meet the actual death and disability losses for the year, the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve; or from increased contributions or by an increase in the number of assessments applied to the society as a whole or to classes of members as may be specified in its laws. Savings from a lower amount of death losses may be returned in like manner as may be specified in its laws.

If the laws of the society so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if an independent society, and the required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of other classes of the society.

A table showing the rates being paid by and the credits to individual members at each age and year of entry, and showing opposite each credit the tabular rates and the tabular reserve required, or at the option of the society the required reserve on a level rate equivalent to that being paid, according to assumptions for mortality and interest recognized by the laws of this state and adopted by the society, and, in either case, including any benefit payable at a specified age or on account of old age

disability shall be filed by the society with each annual report and also be furnished to each member before July first of each year.

In lieu of the aforesaid statement there may be furnished to each member within the same time a statement giving the data aforesaid for such member. No table or statement need be made or furnished when the reserves are maintained on the tabular basis.

For this purpose, individual bookkeeping accounts for each member shall not be required and all calculations may be made by actuarial methods.

Nothing herein contained shall prevent the maintenance of such surplus over and above the credits on the accumulation basis and the reserves on the tabular basis as the society may provide by or pursuant to its laws; nor be construed as giving to the individual member any right or claim to any such reserve or credit other than in manner as expressed in the contract and its laws; nor as making any such reserve or credits a liability in determining the legal solvency of the society. [New section added April 24, 1917; Stats. 1917, p. 164.]

§ 31a. Penalty for officer, etc., borrowing funds. Any officer, director, agent or employee of any fraternal benefit society who shall directly or indirectly for himself or as partner or agent of others borrow any of the funds of such society or become indorser or surety for loans to others or in any manner be obligor for moneys borrowed or loaned by such society shall be guilty of a felony. [New section added June 1, 1917; Stats. 1917, p. 1651.]

§ 31b. Penalty for officer, etc., receiving reward for aiding loan. Any officer, trustee, agent or employee of a fraternal benefit society who asks or receives or consents or agrees to receive any commission, emolument, gratuity or reward or any money, property or thing of value for his own personal benefit, or of personal advantage, for procuring or endeavoring to procure for any person, firm or corporation any loans from the trust funds of, or funds belonging to, a fraternal benefit society shall be guilty of a felony. [New section added June 1, 1917; Stats. 1917, p. 1651.]

ACT 316.

An act to provide whole family protection for members of fraternal benefit societies.

[Approved April 20, 1917. Stats. 1917, p. 144. In effect July 27, 1917.]

§ 1. Fraternal benefit society may insure children. Total benefits payable. Any fraternal benefit society authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday, for whose support and maintenance a member of such society is responsible. Any such society may at its option, organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at

time of death, respectively, as follows: Two, thirty-four dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight dollars; six, one hundred forty dollars; seven, one hundred sixty-eight dollars; eight, two hundred dollars; nine, two hundred forty dollars; ten, three hundred dollars; eleven, three hundred eighty dollars; twelve, four hundred sixty dollars; thirteen to fifteen, five hundred twenty dollars; and sixteen to eighteen years, where not otherwise authorized by law, six hundred dollars.

§ 2. Conditions of benefit certificate. No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner, in accordance with the laws of the society, nor shall any such benefit certificate be issued unless the society shall simultaneously put in force at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the "standard industrial mortality table" or the "English life table number six" and a rate of interest not greater than four per cent per annum, or upon a higher standard; provided, that contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws; and provided, further, that extra contributions shall be made if the reserves hereafter provided for become impaired.

§ 3. Reserve required. Any society entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section two, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized; provided, that a society may provide that when a child reaches the minimum age for initiation into membership in such society, any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the society, provided that such surrender will not reduce the number of lives insured in the branch below five hundred, and upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

§ 4. Separate financial statement. An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the insurance commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in section three, as long as any certificates

issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation, reinsurance, merger or other change in the condition of the status of the society.

§ 5. Specified payments. Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

§ 6. Continuation of certificate. In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions.

ACT 316a.

An act providing that any domestic society, organization or company, providing life insurance for its members or their beneficiaries upon the assessment plan, including any domestic fraternal benefit society organized or operating under the act entitled "An act for the regulation and control of fraternal benefit societies," approved May 1, 1911, as amended, may change into a corporation to transact a life insurance business as a legal reserve or level premium company, not affecting existing suits, rights or contracts, for the protection of which business may be transacted of the kind transacted before reorganization, and for the protection of which a fund is to be created under conditions set forth herein.

[Approved May 21, 1919. Stats. 1919, p. 759.]

§ 1. Company transformed into legal reserve or level premium company. Any domestic society, organization or company providing life insurance for its members or their beneficiaries upon the assessment plan, including any domestic fraternal benefit society organized or operating under that certain statute entitled "An act for the regulation and control of fraternal benefit societies," approved May 1, 1911, as amended, may upon a majority vote of its trustees or directors, or in any lawful manner, amend its articles of incorporation and by-laws, if already incorporated, or if not incorporated, may incorporate, in such manner as to transform itself into a legal reserve or level premium company, with the name by which it is already known or another name as its directors or trustees shall determine; and upon so doing and upon procuring from the commissioner of insurance a certificate of authority as prescribed by law to transact business in this state as a legal reserve or level premium life insurance company it shall incur the obligation and enjoy the benefits thereof the same as though originally thus incorporated; and such corporation under its articles and by-laws as so framed or amended shall be a continuation of the original organization, society or corporation and the officers thereof shall serve through their respective terms as provided in the original articles and by-laws, but their successors shall be elected

and serve as the law and its articles and by-laws provide; but such incorporation, amendment or reincorporation shall not affect existing suits, rights or contracts.

The said society, organization or company so reorganized shall have the power after reorganization to transact business of the same nature transacted by it before reorganization, as well as the powers conferred hereby and contemplated by its articles of incorporation, in order to protect and perform rights and contracts existing before reorganization.

§ 2. Capital stock of reorganized company. Fund when contributions not equal to benefits. Any society, organization or company so reorganized shall have a capital stock of which at least two hundred thousand dollars must be paid up previous to the issuance of any policies by it as a legal reserve or level premium company. All assets belonging to any such society, organization or company so reorganized, prior to reorganization, or arising or accruing from policies, certificates or benefit certificates issued upon the assessment plan, shall be used only for the benefit of the holders of such policies, certificates or benefit certificates and no portion thereof shall be used or considered as any part of the capital stock provided for by this act. If at the time of reorganization, or at any time thereafter, it shall appear from the last preceding annual report of any such society, organization or company filed with the commissioner of insurance, or as the result of any investigation made by said commissioner, that the present value of the contributions to be received from the holders of policies or benefit certificates on the assessment plan, together with all assets owned by the company that have been accumulated from assessments paid by members on that plan, are not equal to the present value of the benefits to be derived by members under the assessment plan, including all matured liabilities; then the society, organization or company so reorganized shall set aside and maintain a fund which with said present value of contributions and assets will equal the present value of said benefits together with all matured liabilities. Said fund shall be used for the payment of matured liabilities arising under the assessment plan when other assets applicable thereto are exhausted. Said fund may be derived from the capital stock of said reorganized company; provided, however, that the paid-up capital stock other than said fund shall not be less than two hundred thousand dollars. Said fund need not be maintained when the same is not required by conditions as herein expressed. Members in good standing of any such company prior to reorganization shall have the right after reorganization to transfer their insurance in said company to the legal reserve or level premium plan for the same amount without further medical examination, and at the legal reserve or level premium rates. The interest and the assets of the company of any person so transferring shall be transferred to and be a part of the assets of such company on the legal reserve or level premium plan.

§ 3. Powers of reorganized company. The society, organization or company so reorganized and its officials shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon organizations writing the kinds of insurance written by said society, organization or company so reorganized. Such organization and its officials shall exercise all the rights and powers and perform all the duties necessary to protect rights and contracts existing prior to reorganization.

The commissioner of insurance shall exercise the powers and discharge the duties concerning any such society, organization or company so reorganized that are applicable to companies writing insurance or issuing policies of the same class organized or operating in the state of California. The commissioner of insurance must issue a certificate of authority to any such society, organization or company so reorganized which is in a solvent condition and has fully complied with the laws of this state to transact insurance business in this state.

§ 4. Valuation of policies. Any assessment company or fraternal benefit society incorporated or reincorporated to transact a life insurance business as above provided shall value its assessment policies or certificates or benefit certificates according to the standard of valuation of assessment insurance used in this state, and its legal reserve or level premium policies according to the standard of valuation thereof in this state. The various kinds of insurance written shall be governed by the law applicable thereto.

ACT 316b.

An act to provide how fraternal benefit societies organized under the laws of this state may consolidate, merge or reinsure to their insurance risks, with any other fraternal benefit society, or assume or reinsure the risks of any other fraternal benefit society, and to provide penalties for the violation of the provisions hereof.

[Approved May 27, 1919. Stats. 1919, p. 1199. In effect July 27, 1919.]

§ 1. Merging, etc., of fraternal benefit societies. No fraternal benefit society organized under the laws of this state to do the business of life, accident, or health insurance, shall consolidate or merge with any other fraternal benefit society, or reinsure its insurance risks, or any part thereof, with any other fraternal benefit society, or assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, except as herein provided. No fraternal benefit society or subordinate body thereof shall merge, consolidate with or be reinsured by any company or association not licensed to transact business as a fraternal beneficiary society.

§ 2. Approval of contract by insurance commissioner. When any such fraternal benefit society shall propose to consolidate or merge its business or to enter into any contract of reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society the proposed contract in writing setting forth the terms and conditions of such proposed consolidation, merger or reinsurance shall be submitted to the legislative or governing bodies of each of said parties to said contract after due notice, and if approved, such contract as so approved, shall be submitted to the commissioner of insurance of this state for his approval and the parties to said contract shall at the same time submit a sworn statement showing the financial condition of each of such fraternal benefit societies as of the thirty-first day of December preceding the date of such contract; provided, that such insurance commissioner may, within his discretion, require such financial statement to be submitted as of the last day of the month preceding the date of such contract. The commissioner of insurance shall thereupon consider such contract of consolidation, merger or reinsurance, and if

satisfied that the interests of the certificate holders of such fraternal benefit societies, are properly protected, and that such contract is just and equitable to the members of each of such societies, and that no reasonable objection exists thereto, shall approve said contract as submitted. In case the parties corporate to such contract shall have been incorporated in separate states, or territories, such contract shall be submitted as herein provided to the commissioner of insurance of each of such incorporating states, or territories, to be considered and approved separately by each of such commissioners of insurance. When said contract of consolidation, merger or reinsurance shall have been approved as hereinabove provided, such commissioner or commissioners of insurance shall issue a certificate to that effect, and thereupon the said contract of consolidation, merger or reinsurance shall be in full force and effect. In case such contract is not approved the fact of its submission and its contents shall not be disclosed by the commissioner of insurance.

§ 3. Expenses of proceedings. All necessary and actual expenses and compensation incident to the proceedings provided hereby shall be paid as provided by such contract of consolidation, merger or reinsurance; provided, however, that no brokerage or commission shall be included in such expenses and compensation or shall be paid to any person by either of the parties to any such contract in connection with the negotiation therefor or execution thereof, nor shall any compensation be paid to any officer or employee of either of the parties to such contract for directly or indirectly aiding in effecting such contract of consolidation, merger or reinsurance. An itemized statement of all such expenses shall be filed with the insurance commissioner, or commissioners, as the case may be, subject to approval, and when approved the same shall be binding on the parties thereto. Except as fully expressed in the contract of consolidation, merger or reinsurance, or itemized statement of expenses, as approved by the commissioner, or commissioners of insurance, as the case may be, no compensation shall be paid to any person or persons, and no officer or employee of the state shall receive any compensation, directly or indirectly, for in any manner aiding, promoting or assisting any such consolidation, merger or reinsurance.

§ 4. Penalty. Any person violating the provisions of this act shall be guilty of a felony, and upon conviction shall be liable to a fine of not more than five thousand dollars, or to imprisonment for not more than five years, or to both fine and imprisonment.

TITLE 53.

BERKELEY.

ACT 332.

Charter of. [Stats. 1909, p. 1208.]

Amended 1913; Stats. 1913, p. 1502; 1917, p. 1814.

ACT 334.

An act granting to the city of Berkeley the salt marsh, tide and submerged lands of the state of California, including the right to wharf out therefrom to the city of Berkeley, and regulating the management, use and control thereof. [Approved June 11, 1913. Stats. 1913, p. 705.]

Amended 1915, p. 901; 1917, p. 915; 1919, p. 1089.

The amendments of 1917 and 1919 follow:

§ 1. Tide-lands granted to Berkeley. There is hereby granted to the city of Berkeley, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty in and to all tide-lands and submerged lands, whether filled or unfilled, which are included within the present boundaries of the city of Berkeley, to be forever held by said city and by its successors in trust for the use and purposes, and upon the express conditions following, to wit:

(a) **Use of lands.** That said lands shall be used by said city and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city or its successors shall not, at any time, grant, convey, give or alien said lands or any part thereof, to any individual, firm or corporation, for any purposes whatever; provided, that said city or its successors may grant franchises thereon, for limited periods, but in no event exceeding fifty years for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, but in no event exceeding fifty years, for the purposes consistent with the trusts upon which said lands are held by the state of California, and with the requirements of commerce or navigation at said harbor.

(b) **Improvement of harbor.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California.

(c) **Rates, tolls, etc.** That in the management, conduct or operation of said harbor, or any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

(d) **Right to fish reserved to people.** There is hereby reserved, however, in the people of the state of California, the absolute right to fish in all the waters of said harbor, with the right of convenient access to said waters over said land for said purpose. [Amendment approved May 25, 1919; Stats. 1919, p. 1089.]

§ 2. Issuance of one hundred thousand dollars in bonds before five years. [Repealed May 24, 1917; Stats. 1917, p. 915.]

TITLE 56a.

BLIND.

ACT 348b.

An act to provide a relief fund in the several counties or any city and county of the state for the needy blind, providing for and prescribing—

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ing the powers and duties of boards of supervisors in every county or city and county.

[Approved May 2, 1919. Stats. 1919, p. 188. In effect July 22, 1919.]

§ 1. Tax for relief of needy blind. The boards of supervisors of the several counties and cities and counties in this state are hereby authorized and permitted to levy, in addition to the taxes now levied by law for other purposes than those herein provided, a tax not exceeding two-tenths of one-mill per dollar on the assessed value of the property of their respective counties and cities and counties to be levied and collected as now provided by law for the assessment and collection of taxes, for the purpose of creating a fund for the relief of the needy blind of their respective counties and cities and counties.

§ 2. Needy blind person defined. A needy blind person shall be construed to mean any person who, by reason of loss of eyesight, is unable to provide himself with the necessities of life, and who has not sufficient means of his own to enable him to maintain himself.

§ 3. Residence qualification. A needy blind person, in order to receive relief under this act, must be a resident of this state at the time this act takes effect, or become blind while a resident of this state, and shall be a resident of the county for one year next preceding the date of the application provided for herein.

§ 4. Claims for relief. Amount. All persons claiming relief under this act shall file, at least ten days prior to action on said claims, with the board of supervisors a duly verified statement of the facts bringing him within the provisions of this act. The list of claims shall be filed in the order of filing in a book furnished for that purpose by the board of supervisors, and which record shall be open to the public. No certificate of qualification for drawing money under this act shall ever be granted until the board of supervisors shall be satisfied, from the evidence of at least two reputable residents of said county and city and county, one of whom shall be a duly and regularly licensed and practicing physician, that they know the applicant to be blind, and that he has the residential qualifications to entitle him to the relief asked for, which evidence shall be in writing, subscribed to by such witnesses, subject to the right of cross-examination by the board of supervisors or other persons. If the board of supervisors is satisfied upon such testimony that the applicant is entitled to relief hereunder, they shall issue an order therefor, in such sum as they find needed, not to exceed one hundred fifty dollars per annum, to be paid quarterly out of the fund herein provided for on the warrant of the county auditor, or auditor of the city and county, and such relief shall be in lieu of any other relief of a public nature.

§ 5. Annual examination of blind list. The board of supervisors shall annually examine as to the qualifications of anyone on the blind list and increase or decrease the allowance within the statutory limits, or if said board is not satisfied that the person so on the list is qualified to draw any money said board shall entirely remove him from the list and shall forthwith notify the auditor of such action.

§ 6. Examination of applicants. The board of supervisors of every county and city and county shall meet within thirty days after this act

takes effect and thereafter annually on such days as the board shall select and at such times as may be necessary and examine carefully the list of applications filed hereunder.

§ 7. Transfer of money from poor fund. The board of supervisors of every county or city and county are hereby authorized and directed to transfer from any money in the poor fund of any county to the blind fund, herein provided, for the year 1919, sufficient money to carry out the purposes of this act.

§ 8. False statement. Any person who shall make a false statement in order to secure for himself or another, the benefit herein provided, shall be guilty of perjury.

§ 9. Rules and regulations. It is hereby declared to be the duty of the board of supervisors in each county and city and county to adopt such rules, regulations and ordinances necessary to carry into effect the purposes, aims and objects of this act. It shall be competent for the board of supervisors mentioned herein to appoint such person or persons to act for such board in carrying out the object or objects and purposes of this act.

TITLE 58a.

BOARD OF CONTROL.

ACT 355.

An act granting state authority for the construction of a cut-off in the San Joaquin river to meet a public necessity.

[Approved April 15, 1919. Stats. 1919, p. 101. In effect July 22, 1919.]

§ 1. Cut-off in San Joaquin river authorized. The state board of control is by this act given authority to proceed with the securing of necessary rights of way and with co-operating agencies to procure the construction of a proper navigable cut-off in the San Joaquin river from a point below the mouth of Stockton channel to a point above the junction of the Calaveras river for the purpose of meeting a public necessity which is hereby declared to exist at this place.

ACT 356.

An act to authorize the state board of control to sell certain lands.

[Approved June 1, 1917. Stats. 1917, p. 1634.]

§ 1. Authority to sell certain lands. The state board of control is hereby authorized and empowered to sell in such manner and method and at such time as said board may deem best all or part of that certain property situated in the county of San Joaquin, state of California, and described as follows, to wit:

A portion of the east one-half of section eighteen of C. M. Weber's Grant El Rancho Del C. de Los Franceses, and being the south fifteen acres of the following described piece of land: Commencing for the same at a stake situated at the southwest corner of the Maxwell tract, and running thence along Betts west line south sixteen degrees, fifty-five minutes east, thirty-four and fifty one-hundredths chains to a stake; thence south seventy-three degrees five hundredths minutes west, eight

and sixty-two and one-half one-hundredths chains to a point in the center line of a proposed road, said center line of said road being the easterly line of land now owned by Edw. Floyd Jones; thence along said easterly line of said land of said Edw. Floyd Jones north sixteen degrees and fifty-five minutes west, thirty-four and fifty hundredths chains to a point in Gray south line; thence along said Gray south line north seventy degrees and fifty-one minutes east eight and sixty-two and one-half one-hundredths chains to the point of beginning, containing thirty acres, more or less. Also an undivided one-half interest in the right of way granted by A. McCloud to Samuel Hewlett by deed dated the eleventh day of October, eighteen hundred sixty-nine.

§ 2. Expenses. The state board of control is hereby authorized to pay, out of the proceeds of said sale, the expenses necessarily incurred by said board in making such sale; which said proceeds, less the expenses so paid, shall be duly transferred by said board to the state treasurer.

§ 3. Deed. The governor is hereby authorized and directed to execute to the purchaser or purchasers of said property for and on behalf of and in the name of the state of California, a deed of conveyance of said property in the usual form of grant, bargain and sale and to deliver the same upon the payment of the full amount of the purchase price of said property; and said deed shall be effectual to pass and convey to said purchaser or purchasers all of the right, title, interest and estate of the state of California in and to said property.

TITLE 61.

BONDS.

ACT 387a.

An act making bonds of municipal water districts legal investments for certain purposes.

[Approved April 20, 1917. Stats. 1917, p. 158. In effect July 27, 1917.]

§ 1. Municipal water district bond; legal investments. All bonds heretofore or hereafter issued by any municipal water district under and in pursuance of the provisions of an act entitled "An act to provide for the incorporation and organization and management of municipal water districts, and to provide for the acquisition or construction by said districts of waterworks, and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts," approved May 1, 1911, as subsequently amended, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings and trust companies, and for the state school funds, and whenever any moneys or funds may, by law now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the state of California, such moneys or funds may be invested in the said bonds of municipal water districts; provided, however, no bank shall invest or loan more than five per centum of its assets on any one such bond issue.

§ 2. Construction of act. This act is intended to be, and shall be considered, the latest enactment upon the matters herein contained, and

is supplemental to any and all other acts regulating, relating to and declaring what shall be, legal investments.

ACT 387b.

An act making farm loan bonds a lawful investment for insurance companies and a lawful deposit for foreign insurance companies and a lawful investment for all public and trust funds, and a lawful security for the performance of certain acts.

[Approved May 2, 1919. Stats. 1919, p. 270. In effect July 22, 1919.]

§ 1. Insurance companies may buy farm loan bonds. Insurance companies organized under the laws of California may, in addition to the kinds and classes of securities defined in section four hundred twenty-one of the Civil Code, invest their capital and accumulations in farm loan bonds issued under the provisions of the federal farm loan act approved July 17, 1916, and that foreign insurance companies required by section five hundred ninety-four *a* of the Political Code to deposit securities, be and they are hereby permitted to deposit such farm loan bonds in lieu of any other securities now permitted to be deposited by said last-mentioned section.

§ 2. Farm loan bonds may be purchased with public funds. Farm loan bonds issued under the federal farm loan act approved July 17, 1916, are hereby made a lawful investment in the state of California for all state, county, city and county, city, school, municipal and all other public funds, and a lawful investment in said state for the funds of executors, administrators, guardians, receivers, and trustees of every kind and nature, and that whenever any bonds may by any law now or hereafter enacted be used as security for the performance of any act or acts, such farm loan bonds may be so used.

ACT 389a.

An act to legalize bonds heretofore issued and sold, or to be issued and sold, by municipalities where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such municipality voting upon the question of incurring such indebtedness.

[Approved May 2, 1919. Stats. 1919, p. 144.]

§ 1. Municipal bond issues legalized. In all cases where the legislative branch of any municipality in this state has deemed it necessary to incur an indebtedness in excess of the ordinary annual income and revenue of such municipality, and has called an election for the purpose of submitting to the qualified electors of such municipality the question whether such indebtedness shall be incurred, and where at such election not less than two-thirds of all the qualified electors voting thereat shall have voted in favor of incurring such indebtedness, and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such municipality, the power of such municipality to issue such bonds and all the acts and proceedings of such municipality leading up to and including the issuance and sale or the proposed issuance and sale of such bonds are hereby legalized, ratified, confirmed and declared valid to all intents and purposes; and all such bonds, sold either before or

after the passage of this act for not less than their par value are hereby legalized and declared to be legal and valid obligations of and against such municipality so issuing and selling the same, and the faith and credit of such municipality is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

§ 2. This act shall not operate to legalize any bonds of any municipality that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors of such municipality voting at any such election, or any bonds which have been sold for less than their par value.

Former act. See Stats. 1917, p. 143.

ACT 391j.

An act authorizing the state treasurer, upon approval of the governor and the board of control, to enter into agreements to pay commissions on the sale of certain bonds of the state of California, and providing for the funds from which such commissions shall be paid.

[Approved May 13, 1919. Stats. 1919, p. 470. In effect July 22, 1919.]

§ 1. **Agreements to pay commissions on sale of harbor bonds authorized. Limitations. Application to resales.** The state treasurer, upon the approval of the governor and the board of control, is hereby authorized to enter into agreements to pay commissions for services rendered in the procuring of bids for all or any portion or portions of the state bonds issued under the provisions of an act entitled "An act for the issuance and sale of state bonds to create a fund for the improvement of San Francisco harbor by the construction by the board of state harbor commissioners of wharves, piers, state railroad, spurs, betterments and appurtenances, and necessary dredging and filling in connection therewith in the city and county of San Francisco; to create a sinking fund for the payment of said bonds; to define the duties of state officers in relation thereto; to make an appropriation of five thousand dollars for the expense of printing said bonds; and to provide for the submission of this act to a vote of the people," approved June 16, 1913.

No agreement shall be entered into by the state treasurer to pay a greater commission than ten per cent of the par value of the bonds sold, and no commission shall be paid for services rendered except to one who has procured and effected the sale and not until the money from the sale of such bonds has been paid into the state treasury, and no commission shall be paid on any sale of such bonds to any board, department or agency of the state authorized by law to purchase the same.

Should any purchase of said bonds or any thereof, hereafter be made by any board, department or agency of the state authorized by law to make such purchase, on any resale of such bonds so purchased or any thereof thereafter made by such board, department or agency, the foregoing provisions of the act as to entering into agreements to pay, and the payment of, commissions shall apply to such resales as well as to original sales of said bonds or any thereof.

§ 2. **Payment from harbor fund.** All commissions herein provided to be paid shall be paid out of and from the San Francisco harbor improvement fund, and the state controller is hereby directed to draw his warrants on said fund in favor of the person entitled to such commissions

and when entitled thereto, and sufficient money for such purpose is hereby appropriated from said San Francisco harbor improvement fund as and when said commissions become due.

§ 3. Collection of money. The board of state harbor commissioners is hereby authorized and directed by the collection of dockage, tolls, rents, crantage and other port charges to collect a sum of money sufficient for the purposes of this act, over and above the amount limited by section two thousand five hundred twenty-six of the Political Code of the state of California.

§ 4. Sale without commission. Nothing herein contained shall be construed to prevent an original sale, or a resale by any board, department or agency of the state, of said bonds or any thereof without the payment of such commission.

TITLE 69.

BUILDING AND LOAN ASSOCIATIONS.

ACT 428.

Building and loan commission act.

[Approved April 5, 1911. Stats. 1911, p. 607.]

Amended 1911 (Ex. Sess.), p. 6; 1915, pp. 238, 992; 1917, pp. 426, 918.

The amendments of 1917 follow:

§ 2. Building and loan commissioner. Secretary. The administration of said bureau shall be vested in a commissioner, to be known and designated as the "building and loan commissioner," who shall be appointed by the governor and commissioned to hold office at the pleasure of the governor. He must be a citizen of this state; and he must not be in any way connected with any association, corporation or society coming under his supervision. He shall appoint a secretary, who shall, *ex officio*, also be a deputy commissioner with full powers as such, and who must be a practical, skilled accountant, fully conversant with building and loan systems and accounts; he shall also appoint one deputy who shall be an accountant. [Amendment approved May 24, 1917; Stats. 1917, p. 918.]

§ 3. Salaries. Office in San Francisco. The commissioner shall receive a salary of three thousand six hundred dollars per annum, the secretary shall receive a salary of two thousand four hundred dollars per annum, and the deputy one thousand eight hundred dollars per annum, and such salaries shall be in full for all services rendered. There shall also be allowed and paid the necessary traveling expenses of the commissioner and the secretary, incurred while traveling in the line of their duties, not to exceed the sum of one thousand two hundred dollars per annum. The commissioner shall procure and have an office in the city of San Francisco, which office shall be kept open for business every business day, during such hours as are commonly observed by the banks of that city as banking hours. For such office there shall be allowed and paid a total rental of not exceeding seventy-five dollars per month. Said commissioner may also provide such fuel, stationery, printing, postage, office help and other necessary conveniences as may be requisite in such office, at a cost not to exceed in the aggregate the sum of one thousand six hundred dollars per annum. All said salaries and expenses shall be audited and paid in the same manner as the salaries and ex-

penses of other state officers. [Amendment approved May 24, 1917; Stats. 1917, p. 919.]

§ 15a. License to act as agent for sale of stock, etc. List of persons holding licenses. No person receiving compensation therefor, other than an officer, director or salaried employee, no part of whose compensation consists of commissions, or other than a local resident agent who has resided in the county in which he holds such local agency for a period of not less than one year prior to the time that he took such agency, of a building and loan association or other similar corporation or society which is duly licensed by the commissioner, shall act as solicitor or agent for the sale of the shares of stock, shares of membership, certificates or other securities or forms of investment issued by, or for the securing of loans from, any such association, corporation or society until he has first procured from the commissioner a license therefor. To obtain such license there must be filed with the commissioner a duplicate of the authorization or appointment issued to him by, together with a request from, a licensed association, corporation or society that a license be issued to him to act as an agent or solicitor for it, and accompanied by a fee of one dollar. All such licenses shall expire by limitation on the thirtieth day of June succeeding their issue, but may be renewed from time to time, for an additional period of one year upon a request therefor from the association, corporation or society originally applying, and payment of a renewal fee of one dollar. Any such license may be revoked at any time on the application of the association, corporation or society for whom it was issued, or may be revoked by the commissioner for cause.

The commissioner shall keep an alphabetical list of the names of persons to whom such licenses are issued with the date of issue and renewal, and the name of the association, corporation or society for whom such licensee is authorized to act. All such licenses shall be issued under rules and regulations to be prescribed by the commissioner. [New section added May 24, 1917; Stats. 1917, p. 919.]

§ 17. Suit to collect assessments. Building and loan inspection fund. The collection of all moneys assessed, as herein provided, for the payment of salaries and annual expenses, or forfeitable as fines for failure to make payments of assessments, procure licenses, or make and file reports as herein specified, and due from any such association, corporation or society coming within the provisions of this act, or imposed as a penalty for violation of any order or summons, may be enforced by the commissioner by action instituted in any court of competent jurisdiction; and all moneys collected or received by the commissioner under this act, shall be deposited with the state treasurer, to be credited to a fund to be known and designated as the "building and loan inspection fund"; which said fund shall only be used in defraying the salaries and expenses provided for by this act; provided, however, that the commissioner may retain in his possession and under his control a sum not exceeding three hundred dollars to be used for the benefit of his office, as a revolving fund, for making advance payment of office rent and office expenses prior to the presentation and allowance of the periodical claims therefor. [Amendment approved May 11, 1917; Stats. 1917, p. 426.]

TITLE 69a.**BUILDINGS.****ACT 431.**

An act to provide for the establishment within municipalities of districts or zones within which the use of property, height of improvements and requisite open spaces for light and ventilation of such buildings, may be regulated by ordinance.

[Approved May 31, 1917. Stats. 1917, p. 1419. In effect July 30, 1917.]

§ 1. Cities may create districts with which buildings and trades regulated. For the public interest, health, comfort, convenience, preservation of the public peace, safety, morals, order and the public welfare, the city council, board of trustees or other legislative body of any incorporated city and town of California, hereinafter referred to as the council, may by ordinance create or divide the city in to districts within some of which it shall be lawful and within others of which it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades or callings or within which the height and bulk of future buildings shall be limited.

§ 2. Restriction on location of industries, etc. The council may by ordinance regulate, restrict and segregate the location of industries, the several classes of business, trades or callings, the location of apartment or tenement houses, club houses, group residences, two-family dwellings, single family dwellings and the several classes of public and semi-public buildings, and the location of buildings or property designed for specified uses, and may divide the city into districts of such number, shape and area as the council may deem best suited to carry out the purposes of this act, subject to the provisions of section four hereof. For each such district regulations may be imposed designating the class of use that shall be excluded or subjected to special regulations and designating the uses for which buildings may not be erected or altered, or designating the class of use which only shall be permitted. Such regulations shall be designed to promote the public health, safety and general welfare. The council shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the direction of building development in accord with a well-considered plan.

§ 3. Regulations of height of buildings. Area of courts, etc. Uniform throughout district. The council may place reasonable regulations and limitations upon the height and bulk of buildings hereafter erected and regulate and determine the area of yards, courts and other open spaces, having due regard to the nature of the use and occupancy in such case. The council may divide the city into districts of such number, shape and area as the council may deem best suited to carry out the purpose of this act, subject to the provisions of section four hereof. The regulations as to the height and bulk of buildings and the area of yards, courts and other open spaces shall be uniform for each class of building throughout each district. The regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire and other dangers and to promote

the public health and welfare, and to secure provision for adequate light, air and reasonable access. The council shall pay reasonable regard to the character of buildings now erected in each district, the value of the land, and the use to which it may be put to the end that such regulations may promote public health, safety and welfare.

§ 4. Cities with planning commission. Hearing. In municipalities having a city planning commission the council shall require such commission to recommend the boundaries of such districts and appropriate regulations and restrictions to be enforced therein. Such commission shall make a tentative report and hold public hearings thereon at such times and places as said council shall require before submitting its final report. Said council shall not hereafter determine the boundaries of any district or impose any regulations until after the final report of the city planning commission is filed with the city clerk. Upon receiving such final report said council shall afford persons particularly interested, and the general public, an opportunity to be heard, at a time and place to be specified in a notice of hearing to be published in a newspaper to be designated for that purpose. Said newspaper to be a local newspaper, if there be one, otherwise a newspaper of general circulation within the municipality, and to be published not less than three times in any daily, or not less than once in any other newspaper of general circulation within the municipality, and, within the week within which said meeting is to be held.

§ 5. Cities without planning commission. In municipalities where there is no city planning commission the council may proceed in the manner prescribed in section four hereof and shall make the tentative report, arrange for and hold such public hearings, make such final report and afford all persons particularly interested and the general public, an opportunity to be heard at the time and place and in the manner prescribed in section four hereof.

§ 6. Penalties. The council may establish penalties for violations of such an ordinance once established and in effect.

ACT 431a.

An act authorizing and empowering municipalities to provide a procedure for the fixing and establishing of set-back lines on private property bordering on the whole or part of any street, avenue or highway, to prohibit the erection of buildings, fences or other structures between such set-back lines and the lines of any such street, avenue or highway, and to condemn any and all property necessary or convenient for that purpose.

[Approved May 31, 1917. Stats. 1917, p. 1421. In effect July 30, 1917.]

§ 1. City council may establish set-back lines. Whenever public interest or convenience may require, the city council of any municipality shall have full power and authority to provide a procedure for the fixing and establishing of set-back lines on private property bordering on the whole or part of any street, avenue or other highway, to prohibit the erection of buildings, fences or other structures between such set-back lines and the lines of any such street, avenue or other highway,

and to condemn any and all property necessary or convenient for that purpose.

§ 2. Procedure. The ordinance prescribing such procedure shall provide, among other things, for the passage of a resolution of intention describing the land deemed necessary to be taken or damaged therefor, also the exterior boundaries of the district of lands to be benefited by said work or improvement and to be assessed to pay the damages, costs and expenses thereof, and shall require that a written protest signed by the owners of a majority of the frontage upon the streets and parts of streets within the district to be assessed, and filed with such city council, shall be a bar to such proceeding for a period of six months from the date of the filing of such protest. The procedure shall provide for due notice and hearing to property owners liable to be assessed, also a method for the assessment and collection of benefits and the payment of damages, together with such other matters as may be necessary or convenient to promote the objects hereof.

ACT 431b.

An act to regulate the construction, reconstruction, moving, alteration, maintenance, use and occupancy of dwellings, and the maintenance, use and occupancy of the premises and land on which dwellings are erected or located, in incorporated towns, incorporated cities, and incorporated cities and counties, and to provide penalties for the violation thereof.

[Approved May 31, 1917. Stats. 1917, p. 1461. In effect September 1, 1917.]

§ 1. Title. This act shall be known as the "state dwelling-house act," and its provisions shall apply to incorporated towns, incorporated cities, and incorporated cities and counties of this state.

§ 2. Duty of building department. Duty of housing department. In case no such departments. Powers of commission of immigration and housing. It shall be the duty of the "building department" of every incorporated city, and incorporated city and county, to enforce all the provisions of this act pertaining to the erection, construction, reconstruction, moving, conversion, alteration, and arrangement of dwellings.

It shall be the duty of the "housing department" of every incorporated town, incorporated city, and incorporated city and county to enforce all the provisions of this act pertaining to the maintenance, sanitation, ventilation, use and occupancy of dwellings after said dwellings have been erected, constructed or altered, as the case may be.

In the event that there is no building department or no housing department in an incorporated town, incorporated city or incorporated city and county, it shall be the duty of the officer or officers who are charged with the enforcement of ordinances and laws regulating the erection, construction or alteration of buildings, or the maintenance, sanitation, ventilation or occupancy of buildings, or of the police, fire or health regulations in said incorporated town, incorporated city, or incorporated city and county to enforce all the provisions of this act.

Every incorporated town, incorporated city, or incorporated city and county in the state of California shall have, and it is hereby empowered

and given authority to designate and charge by ordinance any other department or officer than the department or officers mentioned herein, with the enforcement of this act, or any portion thereof.

The commission of immigration and housing of California shall have, and it is hereby empowered and given authority to enforce the provisions of this act, which do not pertain to the actual creation, construction, reconstruction, moving, alteration or arrangement of dwellings in all incorporated towns, incorporated cities, and incorporated cities and counties, in the state of California, whenever said commission finds or discovers a violation or violations of the provisions of this act and notifies the local department or officer, or departments or officers who are charged with the enforcement of the provisions of this act, in writing, of such violation or violations, and the said local department or officer, or departments or officers, fail, neglect or refuse to enforce the provisions of the said act within thirty days thereafter; provided, however, that the said commission of immigration and housing of California shall enforce the provisions of this act only in the instances specified in said written notice.

§ 3. Unlawful to construct dwelling contrary to act. It shall be unlawful for any person, firm or corporation, whether as owner, agent, contractor, builder, architect, engineer, superintendent, foreman, plumber, tenant, lessee, lessor, occupant, or in any other capacity whatsoever, to erect, construct, reconstruct, alter, build upon, move, convert, use, occupy or maintain, or to cause, permit or suffer to be erected, constructed, reconstructed, altered, built upon, moved, converted, used, occupied or maintained any dwelling or any portion thereof contrary to the provisions of this act, or to commit or maintain or cause or permit to be committed or maintained any nuisance in or upon any dwelling or any portion thereof, or any of the premises, which are a part thereof, or which are required by the provisions of this act; or to do or to cause to be done, or to use or cause to be used, any privy, sewer, cesspool, plumbing or house drainage affecting the sanitary condition of any dwelling or any portion thereof, or of the premises thereof, contrary to any of the provisions of this act.

§ 4. Alterations. It shall be unlawful for any person to make any alterations or changes of any kind whatsoever, to any dwelling erected prior to the passage of this act, or to any dwelling hereafter erected, in any manner which would be inconsistent with any of the provisions of this act, or in violation of the said provisions of this act; or in any manner to diminish the size of the windows, or to remove any window or windows from the rooms contrary to any of the provisions of this act.

§ 5. Building conveyed to use as dwelling. Building moved. A building not erected for, or which is not used as a dwelling at the time of the passage of this act, if hereafter converted to or altered for such use, shall thereupon become subject to all the provisions of this act affecting a dwelling hereafter erected.

A building used as a dwelling at the time of the passage of this act, if moved, shall be made to conform to all of the provisions of this act affecting dwellings hereafter erected, in so far as they pertain to unoccupied area.

§ 6. Penalty for violation. Procedure. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment.

Except as herein otherwise specified, the procedure for the prevention of violations of this act, for the vacation of dwellings or premises unlawfully occupied, or for the abatement of a nuisance in connection with a dwelling or the premises thereof, shall be as set forth in the charter and ordinances of the municipality in which the procedure is instituted.

§ 7. Power to enter building. The department or departments charged with the enforcement of this act in any incorporated town, incorporated city or incorporated city and county, and the authorized officers, agents or employees of such department or departments may, whenever necessary, enter dwellings or portions thereof, or the premises thereof, within the corporate limits of such towns, cities, or cities and counties, for the purpose of inspecting such buildings, in order to secure compliance with the provisions of this act and to prevent violations thereof.

The members of the commission of immigration and housing of California and the agents, officers or employees of said commission may, whenever necessary, enter dwellings or portions thereof, or the premises thereof, for the purpose of inspecting such buildings in order to secure compliance with the provisions of this act and to prevent violations thereof.

The owner or his authorized agent may, whenever necessary, enter dwellings, or portions thereof, or the premises thereof, owned by him, to carry out any instructions or to perform any work required to be done by the provisions of this act; provided, however, that the authority to enter buildings, as in this section given to the persons hereinbefore enumerated, shall not be construed or deemed to apply to the entering of any such building between the hours of six o'clock P. M. of any day and six o'clock A. M. of the succeeding day, without the consent of the owner or of the occupants of such buildings; but in no event shall the authority in this section given be construed as permitting any of the persons hereinbefore enumerated to enter any such buildings in the absence of the occupants thereof without a proper written order, duly executed by a competent court authorized to issue such orders.

§ 8. Definitions. For the purpose of this act, certain words and phrases are defined as follows, unless it shall be apparent from their context that they have a different meaning:

Words used in the singular include the plural, and the plural, the singular.

Words used in the present tense include the future.

Words used in the masculine gender include the feminine, and the feminine, the masculine.

Words "building department," "housing department," "department charged with the enforcement of this act," shall be construed as if followed by the words, "of the incorporated town, incorporated city, or incorporated city and county," as the case may be, in which the dwelling is situated.

"Apartment" is a room or suite of rooms which is occupied, or is intended or designed to be occupied by one family for living and sleeping purposes.

"Basement" is any story or portion thereof partly below the level of the curb or the actual adjoining ground level, the ceiling of which in no part is less than seven feet above the curb level or actual adjoining ground levels. If the adjoining ground is excavated to or below the curb level, such excavated space shall have not less than the minimum width and length required in this act for outer courts.

"Building" is a dwelling.

"Building department" means the commissioner of buildings, superintendent of buildings, chief inspector of buildings, or any officer or department charged with the enforcement of ordinances and laws regulating the construction and alteration of buildings or structures.

"Cellar" is any story or portion thereof, the ceiling of which is less than seven feet above the curb level and actual adjoining ground levels. "Curb level" is the curb level opposite the center of the front of lot, and in the event that a curb has not been established shall be deemed to be the average ground level at the front of lot.

"Department." Whenever the word "department" is used it means the building department, the housing department or such other department or officer, or department or officers, who are charged with the enforcement of the provisions of this act.

"Dwelling" is as follows:

(a) Any house or building, or any portion thereof, which contains not more than two apartments, or not more than five guest rooms, or,

(b) Any house or building, or any portion thereof, not more than one story in height, which contains more than two apartments, or,

(c) Any house or building, or any portion thereof, of more than one story and not more than two stories in height, which is designed, built, rented, leased, let or hired out to be occupied, or is occupied, as the home or residence of not more than four families (four apartments) and which is so arranged that each of the said families live independently of each other, and which building is constructed and arranged so that a separate section is or may be kept as a home or a residence of a separate family. Each such section having an entirely independent and separate entrance, and if a stairway is required, one separate stairway leading to each section from the street or from an outside vestibule on the level of the first floor of said building, and with no room, hallway, bathroom, water-closet or kitchen used in common by two or more families occupying the said building.

"Family" is one person living alone or a group of two or more persons living together in an apartment, whether related to each other by birth or not.

"Guest" is any person hiring and occupying a room for sleeping purposes, and shall include both boarders and lodgers.

"Guest room" is a room which is occupied, or is intended, arranged or designed to be occupied, for sleeping purposes by one or more guests.

"Housing department" is any department or commission charged with the enforcement of ordinances or laws regulating the occupancy and maintenance of dwelling-house buildings; and where no such department is maintained, shall be deemed to be the health commissioner, the de-

partment of health, health officer, or similar department charged with the enforcement of laws and ordinances regulating the maintenance and occupancy of buildings or structures and of the health and sanitary requirements.

"Lot" is a parcel or area of land on which is situated a dwelling, together with the land, and unoccupied spaces for such a dwelling, as required by this act; all of which land shall be owned by or be under the absolute lawful control and in the lawful possession of the dwelling.

"Nuisance" embraces public nuisance as known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health, and shall also embrace the overcrowding with occupants of any room, insufficient ventilation, or inadequate or insanitary sewerage or plumbing facilities, or uncleanness, and whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

"Person" is a natural person, his heirs, executors, administrators or assigns; also includes a firm, partnership or a corporation, its or their successors or assigns.

"Shall." Wherever this word is used it shall be mandatory.

"Street" is any public street, alley, thoroughfare or park having a minimum width of sixteen feet, measured from the front of lot to the opposite front of lot, and shall have been dedicated or deeded to the public for public use.

§ 9. Constructed in substantial manner. Every dwelling hereafter erected shall be constructed in a substantial manner; and the buildings shall be so constructed as to provide shelter to the occupants against the elements, and so as to exclude dampness in inclement weather.

§ 10. Sleeping in cellar. In no dwelling shall any room in the cellar be constructed, altered, converted or occupied for living or sleeping purposes.

§ 11. Rooms in basement. In no dwelling shall any room in the basement be constructed, altered, converted or occupied for living purposes unless it conforms to all of the requirements of this act for rooms in other parts of the building, and that the ceiling of each such room be in all parts not less than seven feet above the adjoining ground levels.

All the walls below the ground level and the floors of such a basement shall be dampproofed and waterproofed. Such dampproofing and waterproofing shall run through the walls and up as high as the ground level and continue throughout the floor.

Every basement in such buildings shall be illuminated and ventilated.

§ 12. Ventilation beneath floor. Floor area. In every dwelling hereafter erected there shall be provided a clear air space under the lowest floor thereof of at least six inches, except where there is a ventilated basement or cellar underneath such floor, which clear air space shall be inclosed and provided with a sufficient number of openings, with removable screens, or similar provisions, of a size to insure ample ventilation. The surface underneath the floor shall be kept dry, drained, clean and free from any accumulation of rubbish, debris or filth.

The provisions of this section shall not be deemed to apply to masonry floors laid directly on the scil, nor to any self-supporting masonry floor.

§ 13. Width and height. In every dwelling hereafter erected, every room used for living or sleeping purposes shall contain at least ninety square feet of superficial floor area.

Every such room shall at every point be not less than seven feet in width, nor less than eight feet in height measured from the finished floor to the finished ceiling; except that attic rooms and rooms where sloping ceilings occur need be eight feet in height in but one-half the area of the room.

Every water-closet compartment shall be not less than thirty-six inches in width and every such compartment and bath or shower compartment shall have a height of not less than seven feet six inches measured from the finished floor to the finished ceiling.

§ 14. Windows. Cornice. Opening into vent shaft. Opening through porch. In every dwelling hereafter erected, every room used for living or sleeping purposes and every kitchen, water-closet compartment, shower or bathroom, shall have at least one window, of the area fixed by this act, opening directly upon a street, or upon unoccupied area not less than four in its least dimension and containing an area of not less than thirty-six square feet, and located on the same lot.

A cornice may extend into the unoccupied area two inches for each one foot in width of such unoccupied area.

Windows herein required shall be located so as properly to light all portions of the room, and shall be made so as to open in all parts and so arranged that at least one-half of the window may be opened unobstructed; provided, however, that the windows required by this section in a water-closet compartment or bath or shower room may be opened directly into a vent shaft, such vent shaft to be in no dimension less than eighteen inches; provided, further, that windows required to open on to a street or on to unoccupied area may open through porches, provided that the said porches do not exceed seven feet in depth, measured at right angles to the windows and that at least seventy-five per cent of the entire side of the porch, bounded by the street or unoccupied area is left open, except that the open space may be inclosed with mosquito screens.

§ 15. Window area. In every dwelling hereafter erected the total window area in each room used for living or sleeping purposes shall be at least one-eighth of the superficial floor area of the room.

All measurements for window area shall be taken to outside of sash.

§ 16. Window area in water-closet. In every dwelling hereafter erected, the window area in a water-closet compartment or bathroom shall be not less than three square feet.

§ 17. Water-closets. Every dwelling hereafter erected shall be provided with one water-closet for each family living therein.

§ 18. Plumbing fixtures. In every dwelling hereafter erected every plumbing fixture shall be provided with running water.

Every plumbing fixture affecting the sanitary drainage system in dwellings hereafter erected shall be properly connected with the street sewer, if a street sewer exists in the street abutting the lot on which the building is located and is ready to receive connections. When it is

impracticable to connect such plumbing fixtures with a street sewer, then the plumbing fixtures shall be connected and drained into a cesspool constructed satisfactorily to the department charged with the enforcement of this act; or some other means of sewage disposal satisfactory to the department charged with the enforcement of this act may be made until such time as it may become practicable and possible to connect with the street sewer.

§ 19. Where no running water. Privy. Water-closets, baths, showers, sinks, slop-sinks, faucets and other plumbing fixtures required by this act need not be installed in the event that the dwelling hereafter erected, or an existing dwelling as the case may be, is situated where there is no running water and where there is no practical means of sewage disposal, until such time as it becomes practical and possible to obtain running water and means of sewage disposal; provided, in every such case the department charged with the enforcement of this act shall decide whether or not it is practicable and possible to provide running water, or proper means of sewage disposal; provided, further, that proper toilet facilities shall be provided for the use of the occupants of such building. Such facilities shall be made sanitary. A privy, or toilet other than a water-closet, erected under the authority of this section shall consist of a pit at least three feet deep, with suitable shelter over the same to afford privacy and protection from the elements. The openings of the shelter and pit shall be inclosed by fly screening, and the door to the shelter shall be made to close automatically, by means of a spring or other device. No privy pit shall be allowed to become filled with excreta to nearer than one foot from the surface of the ground, and the excreta in the pit shall be covered with earth, ashes, lime or similar substances at regular intervals.

§ 20. Earthenware bowls and seats. In every dwelling hereafter erected, and in every dwelling now existing, all plumbing fixtures shall be properly trapped and vented and all such plumbing made sanitary in every particular. Water-closets hereafter installed shall have earthenware bowls and shall have earthenware seats, or seats made of some nonabsorbent material integral with the bowls, or wooden seats, enameled or varnished or otherwise made nonabsorbent, attached directly to the bowls. All connections shall be of standard lead, iron, steel or brass.

No plumbing fixtures shall be inclosed with woodwork, but the space under and around the same must be left entirely open.

§ 21. Cooking in bath compartment. Sleeping in cellar, etc. Floor space for each occupant. It shall be unlawful for any person to cook or to prepare food, or to permit or suffer any person to cook or to prepare food in any bath, shower, slop-sink or water-closet compartment, or in any other place in the building which, in the judgment of the department charged with the enforcement of this act, is detrimental to the proper sanitation of such building.

It shall be unlawful for any person to live or sleep, or to permit or suffer any person to live or sleep, in any cellar, bath, shower or slop-sink room, water-closet compartment, hallway, closet or kitchen, or in any other place which, in the judgment of the department charged with

the enforcement of this act, would be dangerous or prejudicial to life or health by reason of want of light, windows, ventilation, drainage, or on account of dampness, offensive, obnoxious or poisonous odors or in any room that shall be so overcrowded as to afford less than the following floor space for each occupant in accordance with the age of the said occupant:

Number of persons over 12 years of age	Number of persons under 12 years of age	Superficial floor area required
1	2	60 square feet
2	4	120 square feet
3	6	180 square feet
4	8	240 square feet
5	10	300 square feet
6	12	360 square feet

Additional floor area in the same ratio shall be provided for additional persons.

§ 22. Repapering. No wall, partition or ceiling of any room in any dwelling shall be repapered, calcimined, or have any other covering placed thereupon unless the old wall paper or other covering shall have first been removed therefrom, and the said wall, partition or ceiling cleaned, disinfected and freed from bugs, insects or vermin.

§ 23. Repairs. Every dwelling shall be maintained in good repair. The roofs shall be kept waterproof and all storm or casual water properly drained and conveyed therefrom to the street sewer, storm drain or street gutter.

Every water-closet, bathtub, sink, slop-hopper or other similar plumbing fixture shall at all times be kept clean, sanitary and in good working order.

§ 24. Metal mosquito screening. There shall be provided, whenever it is deemed necessary for the health of the occupants of any dwelling or for the proper sanitation or cleanliness of any such building, metal mosquito screening of at least sixteen mesh, set in tight-fitting removable sash, for each exterior door, window or other opening in the exterior walls of the building.

§ 25. Garbage cans. There shall be provided by the occupant or tenant for each dwelling a tight metal receptacle, with close-fitting metal cover, for garbage, refuse, ashes and rubbish as may be deemed necessary by the department charged with the enforcement of this act. The receptacles shall be kept in a clean condition by the occupants or tenants.

§ 26. Room, etc., kept clean. Swill, etc., not to be deposited in plumbing fixtures. Every room, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain, water-closet compartment or room, toilet room, bathroom, slop-sink or wash-room, plumbing fixture, drain, roof, closet, cellar, or basement in any dwelling, and the lot, and the premises thereof, shall be

kept in every part clean and sanitary and free from all accumulation of debris, filth, rubbish, garbage or other offensive matter.

No person shall deposit, or cause or permit any person to deposit, any swill, garbage, bottles, ashes, cans or other improper substance in any water-closet, sink, slop-hopper, bathtub, shower, catch-basin, or in any plumbing fixture connection or drain therefrom, or otherwise to obstruct the same; or to place or cause or permit to be placed any filth, urine or other foul matter in any place other than the place provided for same; or to keep or cause or permit to be kept any urine or filth or foul matter in any room or apartment in any dwelling or in or about the said building or premises thereof for such length of time as to create a nuisance.

§ 27. No animals in dwelling. No horse, cow, calf, swine, sheep, goat, rabbit, mule or other animal, chicken, pigeon, goose, duck or other poultry shall be kept in any dwelling-house or any part thereof; nor shall any such animal or poultry, nor shall any stable, be kept or maintained within twenty feet of any window or door of such building.

§ 28. Action to abate nuisance. Authority to execute order. In case any dwelling, or any part thereof, is constructed, altered, converted or maintained in violation of any provisions of this act or of any order or notice of the department charged with its enforcement, or in case a nuisance exist in any such dwelling or building or structure or upon the lot on which it is situated, said department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said dwelling, building or structure, to prevent any illegal act, conduct of business in or about such dwelling or lot. In any such action or proceeding said department may, by affidavit setting forth the facts, apply to the superior court, or to any judge thereof, for an order granting the relief for which said action or proceeding is brought, or for an order enjoining all persons from doing or permitting to be done any work in or about such dwelling, building, structure or lot, or from occupying or using the same for any purpose, until the entry of final judgment or order. In case any notice or order issued by said department is not complied with, said department may apply to the superior court, or to any judge thereof, for an order authorizing said department to execute and carry out the provisions of said notice or order, to remove any violation specified in said order or notice, or to abate any nuisance in or about such dwelling, building or structure, or the lot upon which it is situated. The court, or any judge thereof, is hereby authorized to make any order specified in this section. In no case shall the said department or any officer thereof or the municipal corporation be liable for costs in any action or proceeding that may be commenced in pursuance of this act.

§ 29. Fine a lien. Every fine imposed by judgment under section six of this act upon a dwelling owner shall be a lien upon the house in relation to which fine is imposed, from the time of the filing of a certified copy of said judgment in the office of the recorder of the county in which said dwelling is situated, subject only to taxes and assessments and water rates, and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department charged with the enforcement of the provisions of this act, upon the

entry of such judgment, to file forthwith the copy as aforesaid, and such copy upon filing shall be forthwith indexed by the recorder in the index of mechanics' liens.

§ 30. Notice of pendency of action. In any action or proceeding instituted by the department charged with the enforcement of this act, the plaintiff or petitioner may file, in the county recorder's office of the county where the property affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Said notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards before final judgment or order, or at any time after the service of any notice or order issued by said department. Such notice shall have the same force and effect as the notice of pendency of action provided for in the Code of Civil Procedure. Each county recorder with whom such notice is filed shall record it and shall index it in the name of each person specified in a direction subscribed by an officer of the department instituting such action or proceeding. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending. The recorder of the county where such notice is filed is hereby directed to mark such notice and any record or docket thereof as canceled of record, upon the presentation and filing of a certified copy of such order.

§ 31. Time of service. Every notice or order in relation to a dwelling shall be served five days before the time for doing the thing in relation to which it shall have been issued.

§ 32. Manner of service. In any action brought by any department charged with the enforcement of this act in relation to a dwelling for injunction, vacation of the premises or other abatement of nuisance, or to establish a lien thereon, it shall be sufficient service of summons to serve the same as notices and orders are served under the provisions of the Code of Civil Procedure.

§ 33. Minimum requirements. Supplementary laws. Repealed. Power of cities not abrogated. The provisions of this act shall be held to be the minimum requirements adopted for the protection, the health and the safety of the community, and for the protection, the health and the safety of the occupants of dwellings. Nothing in this act contained shall be construed as prohibiting the local legislative body of any incorporated town, incorporated city, or incorporated city and county, from enacting from time to time, supplementary ordinances or laws imposing further restrictions or providing for fees to be charged for permits, certificates or other papers required by this act; but no ordinance, law, regulation or ruling of any municipal department, authority, officer or officers, shall repeal, amend, modify or dispense with any of the provisions of this act.

All statutes of the state and all ordinances of incorporated towns, incorporated cities and incorporated cities and counties, as far as inconsistent with the provisions of this act, are hereby repealed; provided, that nothing in this act contained shall be construed as repealing or abrogating any present ordinance or law of any incorporated town, incorporated city, or incorporated city and county, in the state which further

restricts the percentage of the lot to be covered by a dwelling, the occupation thereof, the materials to be used in its construction, or increasing the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

Nothing in this act contained shall be construed as abrogating, diminishing, minimizing or denying the power of any incorporated town, incorporated city, or incorporated city and county, by ordinance or law, to further restrict the percentage of the lot to be covered by a dwelling within said municipality, the occupation thereof, the materials to be used in its construction, or increasing the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

§ 34. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 35. In effect when. This act shall take effect and be in force from and after September 1, 1917.

TITLE 73.

BURNED OR DESTROYED RECORDS OR DOCUMENTS.

ACT 436.

An act to provide for the establishment and quieting title to real property in case of the loss or destruction of public records.

[Approved June 16, 1906. Stats. 1906 (Ex. Sess.), p. 78.]

Amended 1909, p. 163; 1911, p. 6; 1913, p. 135; 1917, p. 80. Supp. 1907, p. 950.

The amendment of 1917 follows:

§ 1. Title to real property when public records are destroyed. Whenever the public records in the office of the county recorder of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by flood, fire or earthquake, any person who claims an estate of inheritance, or for life in, and who is by himself or his tenant, or other person, holding under him, in the actual and peaceable possession of any real property in such county, or of any real property now in another county but which was formerly in the county of which all or a material part of the records were lost or destroyed as aforesaid, in the event that the records so lost or destroyed included all or a material part of the public records in the office of said county recorder covering all or a material part of the time when said last mentioned real property was in the county whose records were so lost or destroyed, may bring and maintain an action in rem against all the world, in the superior court for the county in which such real property is situate, to establish his title to such property and to determine all adverse claims thereto. Any number of separate parcels of land claimed by the plain-

tiff may be included in the same action. [Amendment approved April 6, 1917; Stats. 1917, p. 80.]

§ 9. Record of pendency of action. The plaintiff must, at the time of filing the complaint, and every defendant claiming any affirmative relief must, at the time of filing his answer, record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action containing the object of the action or defense, and a particular description of the property affected thereby; and the recorder shall record the same in a book devoted exclusively to the recordation of such notices and, if the property is still situated in the same county in which the records were destroyed, shall enter, upon a map or plat of the parcels of land, to be kept by him for that purpose, on that part of the map or plat representing the parcel or parcels so described a reference to the date of the filing of such notice and, when recorded, to the book and page of the record thereof. [Amendment approved April 6, 1917; Stats. 1917, p. 80.]

TITLE 74.

BUTTE COUNTY.

ACT 444.

Charter of Butte county. [Stats. 1917, p. 1791.]

TITLE 75.

BUTTER.

ACT 473.

An act to prevent the manufacture or sale of dairy products from unhealthy animals, or that are produced under unsanitary conditions; to prevent deception or fraud in the production and sale of dairy products, and in the manufacture and sale of renovated butter and oleomargarine; to license the manufacture and sale of renovated butter, and oleomargarine; to regulate the business of producing, buying and selling dairy products, oleomargarine, renovated or imitation butter and cheese; to provide for the enforcement of its provisions and for the punishment of violations thereof, and appropriating money therefor and to repeal section 17 of an act approved March 4, 1897, entitled "An act to prevent deception in the manufacture and sale of butter and cheese, to secure its enforcement, and to appropriate money therefor," and to repeal all acts and parts of acts inconsistent with this act.

[Approved April 21, 1911. Stats. 1911, p. 959.]

Amended 1913, pp. 332, 352, 1456; 1917, p. 1654; 1919, pp. 283, 297.

The amendments of 1917 and 1919 follow:

§ 1a. Milk containers to be cleansed. Every person, firm or corporation, not a common carrier, who receives from a common carrier in cans, bottles, vessels, or other containers, to be thoroughly cleansed and intended for human consumption, which has been transported over any railroad, or boat or freight line, or by other common carrier, or auto truck, which said cans, bottles, vessels, or other containers, are to be

returned to the consignor or shipper, shall cause the said empty cans, bottles, vessels, or other containers, any milk, cream and ice cream sterilized by boiling water or superheated steam before return shipment of the same; provided, further, that all empty cans, bottles, vessels, or other containers, delivered to the consumer by the retailer shall be thoroughly and immediately cleansed before returning the same to the dealer or distributor. [New section added June 1, 1917; Stats. 1917, p. 1657.]

§ 2. Unsanitary dairies. A dairy shall be deemed unsanitary within the meaning of this act, among other causes that render milk, or products made therefrom, unclean, impure, and unhealthy, in the following cases:

(a) If the drinking water is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter.

(b) If the yards or inclosures are filthy or unsanitary or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise where it is allowed to ferment and decay.

(c) If a suitable milk house or room is not provided and maintained, properly screened to exclude flies and insects, for the purpose of cooling, mixing, canning, and keeping the milk. Said milk house or room, shall not be located in or be a part of any residence, or dwelling-house, or any barn or poultry-house, and shall not be used for any other purpose whatsoever.

(d) If any milk or cream shall be cooled, stored, mixed,^o canned, or kept in any room or place which is occupied by any person or persons as a sleeping or living apartment, or occupied by horses, cows, hogs or other animals, or fowls of any kind, and if the milk or cream shall not be cooled to as low a temperature as practicable within one hour after it is drawn from the cows.

(e) If any ural, privy vault, open cesspool, horse stable, pig-pen, stagnant water, accumulation of manure or other filth shall be permitted within one hundred feet of any such milk house or room, or within fifty feet of any cow stalls or stanchions or other place where milking is done.

(f) If the walls become soiled with manure, urine or other filth.

(g) If to the interior of cattle stables, barns, milking-sheds, milk house or room, an application of lime whitewash is not made at least once in two years, or oftener if in the judgment of the agent of the state dairy bureau it is needed, or if in the mangers, or other receptacles from which cows are fed, decaying food or other material is allowed to accumulate.

(h) If the pails, cans, bottles or other containers of milk, or its products, or the strainers, coolers or other utensils coming in contact with the milk or its products, are not sterilized by boiling water or superheated steam each and every time the same are used.

(i) If the person or wearing apparel of the dairyman, his employees, or other persons, who come in contact with milk and its products, are soiled or not washed from time to time with reasonable frequency. [Amendment approved June 1, 1917; Stats. 1917, p. 1655.]

§ 9. Oleomargarine defined. For the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, milk or

cream, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef-fat, suet, lard, lard-oil, cocoanut-oil, peanut-oil, intestinal fat, and offal-fat made in imitation or semblance of butter, or when so made, calculated or intended to be sold as butter or for butter; or butter substitute; and for the purposes of this act, every article, substance, or compound, other than that produced from pure milk, or cream from the same, made in semblance of cheese, and designed to be used as a substitute for cheese made from pure milk or cream, is hereby declared to be imitation cheese; provided, that the use of salt, rennet, and harmless coloring matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation; and provided, that nothing in this section shall prevent the use of pure skimmed milk in the manufacture of cheese. [Amendment approved May 5, 1919; Stats. 1919, p. 297.]

§ 25. Weighing and sampling milk. Testing milk. License. It shall be unlawful for any hauler of milk, or cream, or any person, firm or corporation receiving or purchasing milk or cream by weight or test or both, or by measure or test or both, to fraudulently manipulate the weight, measure or test of milk or cream of any person or to take unfair samples thereof, or to fraudulently manipulate such samples. The hauler or other agent shall weigh or measure the milk or cream of each patron accurately and correctly and shall report such weights or measurements accurately and correctly to the creamery or factory. He shall thoroughly mix the milk or cream of each patron by pouring or stirring until such milk or cream is uniform and homogeneous in richness, before the sample is taken from such milk or cream. When the weighing or sampling is done at the creamery, shipping station or factory, the same rule shall apply.

It shall be unlawful for any person, firm or corporation, by himself or as the agent, servant, employee or officer of any person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein, to under-read, over-read or otherwise fraudulently manipulate the Babcock test used for determining the per cent of butter fat in milk or cream, or to falsify the records thereof or to read the test at any other temperature than the correct one, which is one hundred thirty degrees to one hundred forty degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six-tenths cubic centimeters for milk and nine grams or eighteen grams for cream; provided, that in all tests for cream the cream shall be weighed into the test bottle. All testing of milk or cream purchased on the basis of the amount of butter fat contained therein, shall be done by a licensed tester who shall supervise and be responsible for the operation of the Babcock test of milk or cream. The license shall be issued to such person by the state dairy bureau whose duty it shall be to examine into the qualifications of all applicants for such license, and every such applicant shall satisfy said bureau of his qualifications and comply with the provisions herein before any license shall be issued to him.

Every creamery, shipping station, milk factory, cheese factory, ice-cream factory, condensory, or any person, firm or corporation receiving or purchasing milk or cream on the basis of butter fat contained therein, shall be required to hold a license^{so} to do. The license shall be issued to such creamery, shipping station, milk factory, condensory, ice-cream factory, cheese factory, or person, firm or corporation by the state dairy bureau upon complying with all sanitary laws, rules and regulations of the state of California and upon complying with the provisions of this act and upon payment of a license fee as provided for in this section.

All licenses required herein shall expire on the thirty-first day of December of each year and the fee for issuing same shall be one dollar for a full year or twenty-five cents for each remaining quarter or fraction thereof. The licenses may be revoked by the state dairy bureau if, after due notice, the licensee fails or has failed to comply with the laws, rules, and regulations under which the license was granted; provided, that the provisions of this section shall not apply to individuals, hotels, restaurants, or boarding-houses buying milk or cream for private use.

The money for license fees as provided for in this section shall be paid by the state dairy bureau into the state treasury and shall become a part of the funds for the use of the state dairy bureau. [Amendment approved May 5, 1919; Stats. 1919, p. 298.]

This section was added in 1917. See Stats. 1917, p. 1657. The old section 25 was repealed June 1, 1917. See Stats. 1917, p. 1657.

§ 26. Inspection of Babcock test bottles. Fee for testing. Every person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test, shall use the standard Babcock test bottles, pipettes and accurate weights and scales as defined in this act, and all Babcock test bottles and pipettes shall have been inspected for accuracy by the state dairy bureau or its agent and shall be legibly and indelibly marked by the state dairy bureau or its agents with the letters "D. B."

It shall be unlawful for any firm or corporation or any of their agents to use any other than standard test bottles and pipettes which have been examined and marked as provided by this section, to determine the amount of fat in milk or cream received or purchased on the butter fat basis.

For all testing of glassware by the said state dairy bureau or its agent, a fee of five cents shall be paid by the owner of said glassware to the state dairy bureau for every piece of glassware so examined, and said fee shall be used by the state dairy bureau to defray the cost of testing such glassware. [New section added June 1, 1917; Stats. 1917, p. 1659. Old section 26, repealed June 1, 1917; Stats. 1917, p. 1659.]

§ 27. Specifications for standard Babcock testing glassware. Speed of tester. The term "standard Babcock testing glassware" shall apply to glassware and weights complying to the following specifications: (a) Graduation for milk test bottles. The total per cent graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches) and the graduation shall represent whole per cent, five-tenths per cent, and tenths per cent. The tenths per cent graduation shall not be

less than three millimeters in length; the five-tenths per cent graduations shall be one millimeter longer than the tenth per cent graduations, projecting one millimeter to the left; the whole per cent graduations shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per cent graduations. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters. The charge of the bottle shall be eighteen grams. The total height of the bottom shall be between one hundred fifty and one hundred sixty-five millimeters (five and seven-eighths and six and one-half inches).

(b) Two types of bottles shall be accepted as standard cream test bottles, a fifty per cent nine gram long-neck bottle, and a fifty per cent eighteen gram long-neck bottle.

Fifty per cent, nine gram, long-neck bottle: Graduation—The total per cent graduation shall be fifty. The graduated portion of the neck shall have a length of not less than one hundred twenty millimeters (four and three-quarters inches). The graduation shall represent five per cent, one per cent and five-tenths per cent. The five per cent graduations shall extend at least half way around the neck (to the right). The five-tenths per cent graduations shall be at least three millimeters in length and the one per cent graduations shall have a length intermediate between the five per cent and the five-tenths per cent graduations. Each five per cent graduation shall be numbered, the number being placed on the left of the scale.

Neck—The neck shall be cylindrical and of uniform internal diameter throughout. The cylindrical part of the neck shall extend at least five millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb—The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be nine grams. All bottles shall bear on top of the neck above the graduations, in plain legible characters, a mark defining the weight of the charge to be used (9 grams).

The total height of the bottle shall be two hundred ten to two hundred thirty-five millimeters (eight and one-fourth to nine and one-quarter

inches) and the maximum error in the total graduation or in any part thereof shall not exceed fifty per cent of the volume of the smallest unit of the graduation.

The fifty per cent, eighteen gram, long-neck bottle. The same specifications in every detail as specified for the fifty per cent, nine gram, long-neck bottle, shall apply, with the exception that the charge of the bottle shall be eighteen grams, and the mark defining the weight of the charge placed at the top of the neck shall be eighteen.

The total length of the standard Babcock pipette shall be not more than three hundred thirty millimeters (thirteen and one-fourth inches). Outside diameter of suction tube, six to eight millimeters. Length of suction tube, one hundred thirty millimeters. Outside diameter of delivery tube four and five-tenths to five and five-tenths millimeters. The length of delivery tube one hundred to one hundred twenty millimeters. Distance of graduation mark above bulb, thirty to sixty millimeters. Nozzle straight. Delivery seventeen and six-tenths cubic centimeters of water at twenty degrees centigrade in five to eight seconds.

The sensibility of all scales used for weighing cream samples into the test bottles shall be not more than thirty milligrams and the standard weights shall be nine grams and eighteen grams.

In all testing of milk or cream where the same is received or purchased upon the basis of the amount of butter fat contained therein, the Babcock tester shall be operated at the proper speed, which is as follows:

For tester with diameter of fourteen inches the speed shall be between eight hundred twenty-five and nine hundred seventy-five revolutions per minute.

For tester with diameter of sixteen inches, the speed shall be between eight hundred twenty-five and eight hundred seventy-five revolutions per minute.

For tester with diameter of eighteen inches, the speed shall be between seven hundred seventy-five and eight hundred twenty-five revolutions per minute.

For tester with diameter of twenty inches, the speed shall be between seven hundred twenty-five and seven hundred seventy-five revolutions per minute.

For tester with a diameter of twenty-four inches, the speed shall be between five hundred seventy-five and six hundred twenty-five revolutions per minute. [Amendment approved May 5, 1919; Stats. 1919, p. 300.]

This section was added June 1, 1917. Stats. 1917, p. 1659. The old section 27 was repealed June 1, 1917. See Stats. 1917, p. 1657.

§ 30a. Rules and standards for marketing. The following rules and standards must be observed by all persons, firms or corporations engaged in the preparation of dairy products for market or delivery thereto:

(1) The owner's name, or other identification mark, the nature of which shall be made known to the dairy inspectors shall appear permanently and in a conspicuous place on or be attached to every milk or cream bottle, can or container.

(2) All milk, cream and ice-cream cans, bottles and containers shall be kept clean and shall be thoroughly washed and sterilized after each using. [New section approved May 5, 1919; Stats. 1919, p. 284.]

§ 30b. Standards for carriers. All carriers of dairy products, whether producer, gratuitous private carrier other than the producer, private carrier for hire, or common carrier, in transporting milk and cream shipping containers shall observe and maintain the following standard:

(1) All cars or other vehicles, while hauling milk or cream, shall be kept clean and all containers shall be so covered as to protect the milk or cream at all times from dust and from the rays of the sun.

(2) All milk or cream cans or other shipping containers, while containing milk, cream, or other dairy products, shall be handled carefully, and kept right end up.

(3) Every vehicle, railway car or boat in which milk or cream is transported shall be kept in a sanitary condition. Every vehicle and every boat transporting milk or cream either shall be inclosed or shall provide canvas covering to protect the milk and cream at all times from the sun or from the outside warm air, except only while taking on or discharging freight. No fowls, fresh meat or other contaminating things shall be kept or carried on top or in close proximity to milk, cream, or other dairy products.

(4) No milk or cream and no empty cans, bottles or other containers shall be hauled in any vehicle for hauling manure or garbage or in any other unclean vehicle, car or boat.

(5) Nothing herein shall be construed to derogate from any powers or authority of the railroad commission of the state of California. [New section approved May 5, 1919; Stats. 1919, p. 284.]

§ 30c. Rules for assembled dairy products. Persons producing or marketing assembled dairy products must conform to the following rules: All the ingredients used in the process of assembling must conform to all the standards of purity set for such ingredients and must have been produced under the same sanitary conditions and regulations required for the production of milk and cream where such products are sold, and such products must be labeled as herein provided for assembled products in imitation of milk, cream and ice-cream.

All assembled dairy products to which has been added any condensed or evaporated milk, or any condensed or evaporated skimmed milk, or any dry milk or milk powder or any skimmed milk or skimmed powder or any butter or sweet butter or dairy products that have been produced by the mechanical assembling of any of the natural ingredients of milk or cream, shall be so labeled on each container thereof with the words "Assembled from milk, butter, milk powder, skim milk or other milk products," as the case may be, correctly naming on the label, bill of sale, invoice and bill of fare, all the ingredients used in such assembled goods, in plain letters of the English language at least one-eighth of an inch in height; and no other names or prefixes shall be used than those by which such ingredients are separately known to the commercial trade. [New section approved May 5, 1919; Stats. 1919, p. 284.]

§ 30d. Penalties. Any person who violates any provision of section thirty c of this act or who directs or knowingly permits an employee to violate any of said provisions, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five

dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and imprisonment.

Any firm, corporation, society or association which violates any of said provisions shall be guilty of a misdemeanor and upon conviction shall be fined as above provided.

In the event an officer, director, manager or managing agent of any firm, corporation, society, or association violates any of the provisions of section thirty c of this act, or directs or knowingly permits any employee to violate any of said provisions, such officer, director, manager or managing agent shall be guilty of a misdemeanor and upon conviction thereof shall be punished by fine or imprisonment or both as above provided; and, in such a case, the firm, corporation, society or association shall also be guilty and upon conviction shall be fined as above provided. One-half of all such fines shall be paid into the state treasury and placed to the credit of the general fund. [New section approved May 5, 1919; Stats. 1919, p. 285.]

§ 35. Branding cheese. Dairy bureau to issue brands. Grades of cheese defined. Unlawful to sell without brand. Every person, firm or corporation who shall manufacture cheese in the state of California, shall at the place of manufacture, brand distinctly and durably on each and every cheese manufactured, and upon the package or box, when shipped, the grade of cheese manufactured, as follows: "full-cream cheese," or "half-skim cheese," or "skim cheese."

All brands for branding the different grades of cheese shall be procured from the state dairy bureau, and said bureau is hereby directed and authorized to issue to all persons, firms or corporations, upon application therefor, uniform brands, consecutively numbered, of the different grades specified in this section. The state dairy bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the state of California other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change.

The different grades of cheese are hereby defined as follows: First: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or otherwise, and having not less than fifty per cent of butter fat in its water-free substance, which shall be conspicuously branded as "full-cream cheese." Second: Such cheese only as shall have been made from pure milk, and having not less than twenty-five per cent of butter fat in its water-free substance, which shall be conspicuously branded as "half-skim cheese." Third: Such cheese only as shall have been made from pure skim milk, which shall be conspicuously branded as "skim cheese."

No person or persons, firm, association or corporation shall sell or offer for sale in this state any cheese which is not branded either "full-cream cheese," "half-skim cheese," or "skim cheese," in accordance with its butter fat content. [Amendment approved June 1, 1917; Stats. 1917, p. 1656.]

§ 42. Disposition of fines. One-half of all the fines imposed for the violation of any of the provisions of this act shall be paid to the county

in which the fine is imposed. The other one-half shall be paid to the state treasurer and shall become part of the general fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1657.]

TITLE 81.

CALIFORNIA REDWOOD PARK.

ACT 508.

An act providing for the enlargement of the California redwood park, making an appropriation for the purchase of additional land therefor, and granting power to the California redwood park commission to purchase the same.

[Approved May 28, 1917. Stats. 1917, p. 1281. In effect July 27, 1917.]

§ 1. Appropriation: enlargement of California redwood park. The sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, and which shall be used for the purchase by the California redwood park commission of land contiguous to the California redwood park suitable for the enlargement of said park. Said appropriation shall be available at the rate of fifteen thousand dollars a year.

§ 2. Power of park commission to purchase land. The California redwood park commission shall have the power to purchase said land, or any portion thereof, as in its judgment shall seem most suitable for an addition to and enlargement of said California redwood park, considering the protection of said California redwood park from forest fires, and the conserving of the headwaters of the streams draining said California redwood park, and of the stand of timber or trees of the species known as *Sequoia sempervirens* on said lands to be purchased; or it may proceed by action at law to condemn the same, or any portion thereof.

§ 3. Examination of abstracts of title. No payment of any part of said sum shall be made until an abstract or abstracts of title shall have been furnished to the attorney general of the state of California, showing that the lands purchased, and the whole thereof, are free from any valid liens or encumbrances thereon, and it is hereby made the duty of said attorney general to examine said abstract or abstracts of title and render and deliver to said commission his opinion in writing, certifying that no valid liens or encumbrances exist thereon and that the title to said lands, and the whole thereof, is good and valid. Said opinion of the attorney general, together with said abstract or abstracts of title shall be filed in the office of the secretary of state.

TITLE 82.

CALIFORNIA SCHOOL FOR GIRLS.

ACT 511b.

An act to establish a state training school for girls; to provide for the maintenance and management of the same, and to make an appropriation therefor.

[Approved June 14, 1913. Stats. 1913, p. 857.]

Amended 1915, p. 53; 1917, p. 473.

The amendment of 1917 follows:

§ 2. Penalty for aiding escapes. Any person who knowingly permits or aids any inmate of the California School for Girls to escape therefrom or conceals her with the intent of enabling her to elude pursuit, shall be guilty of a misdemeanor. Any fugitive from said school, or from the parties with whom she has been placed on parole, may be arrested and returned to said school by any person, upon the written order of the superintendent thereof. [Amendment approved May 14, 1917; Stats. 1917, p. 474.]

§ 3. Officers of board of trustees. The board of trustees shall elect annually a president, a vice-president and a secretary, whose terms of office shall be one year or until their successors are elected and qualified. No one but a member of the board shall be elected president or vice-president thereof. The board shall appoint a superintendent, not of their own number, who shall be a woman qualified by training and experience for the character of work to be done at this school, and fix her salary at not to exceed three thousand six hundred dollars per annum. Such superintendent shall hold office at the pleasure of the board. [Amendment approved May 14, 1917; Stats. 1917, p. 473.]

TITLE 83.

CALIFORNIA STATE REFORMATORY.

ACT 512a.

An act providing for the control and management of a tract of land owned by the state of California and situated in the county of Napa, in said state.

[Approved May 5, 1917. Stats. 1917, p. 250. In effect July 27, 1917.]

§ 1. Board of control to manage land in Napa county. The board of control of the state of California is hereby authorized and directed to take charge of, manage and farm for the use and benefit of the state and its institutions, all of that certain tract of land with all improvements and appurtenances thereto attached, and formerly known as the "Fry Ranch," which said tract of land is situated near the town of Rutherford in the county of Napa, state of California, and being that certain property purchased by the state under the provisions of an act of the legislature of the state of California entitled: "An act to establish the California state reformatory; to provide for the purchase of land therefor, and the construction of buildings and other improvements in connection therewith; to provide for the commitment and transfer of prisoners thereto and therefrom; to provide for the equipment, conduct and management thereof; and to make an appropriation therefor," approved April 24, 1911.

§ 2. Use of water. Said board of control shall have power to take and conduct therefrom for the use and benefit of the state of California such quantity of water as may be determined by the state engineer to be necessary for the use of the Veterans' Home at Yountville and the Napa State Hospital, both in the county of Napa, and to acquire rights of way by purchase, lease or condemnation for such purpose.

§ 3. Use for agricultural purposes. In carrying out the provisions of this act the board of control shall have power if it shall be deemed advisable, to co-operate with the governing board of any state institution for the purpose of utilizing said property for agricultural or horticultural purposes or as a stock or dairy farm and to transfer to and maintain upon said property any stock, cattle, cows, or other animals now owned or hereafter acquired by any of such institutions and to distribute to such institutions by arrangement therewith the product of said property or of the animals maintained thereon.

§ 4. Prisoners, etc., not to be kept on property. From and after the passage of this act, no person shall be committed by any court to imprisonment or confinement upon said property in the county of Napa, and no prisoner from any state prison or reformatory, and no patient from any state hospital for the insane, shall be transferred to, kept, housed or retained upon said property by the state board of control, or by the superintendent or governing officer or board of any such institution.

TITLE 85.

CALIFORNIA STATUTES.

ACT 515.

An act providing for the publication of an index of the laws of California, and making an appropriation therefor.

[Approved May 23, 1919. Stats. 1919, p. 926.]

§ 1. Index to laws of California. The legislative counsel is hereby directed to prepare for publication and the superintendent of state printing is hereby directed to print, bind and distribute in accordance with the directions hereof, two thousand copies of an index of the constitution and laws of this state, including the laws enacted by the legislature at its forty-third session.

§ 2. Distribution. One copy of said index shall be distributed to each member of the legislature and to each state officer, and the balance of the copies printed shall be offered for sale to the public at a price sufficient to cover the cost of publication and distribution, all receipts to be paid into the state treasury.

§ 3. Appropriation. Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated the sum of six thousand dollars to carry out the provisions hereof.

For former acts, see Stats. 1893, p. 150, and Stats. 1907, p. 572.

TITLE 89a.

CARQUINEZ STRAITS.

ACT 542b.

An act providing for the disposition of certain property.

[Approved April 21, 1851. Stats. 1851, p. 305.]

Amended 1917; 1917, p. 193.

The amendment of 1917 follows:

§ 2. Leases limited to fifty years. The said property above described, and the proceeds thereof, shall be disposed of by the trustees of said town and their successors in office for the improvement of the said town, and for the benefit of commerce, by the construction of wharves, piers, and docks, and otherwise; provided, that these lands may be leased for a period not exceeding fifty years, subject to all of said uses and trusts. [Amendment approved April 24, 1917; Stats. 1917, p. 193.]

TITLE 90. CEMETERIES.

ACT 545.

An act to protect public health from infection caused by exhumation and removal of the remains of deceased persons.

[Approved April 1, 1878. Stats. 1877-78, p. 1050.]

Amended 1889, p. 130; 1917, p. 36.

The amendment of 1917 follows:

§ 2. Provisions for disinterring remains. Permits to disinter or exhume the bodies or remains of deceased persons, as in the last section, may be granted; provided, the person applying therefor shall produce a certificate from the coroner, registrar, the physician who attended such deceased person, or other physician in good standing cognizant of the facts, which certificate shall state the cause of death or disease of which the person died, and also the age and sex of such deceased; and provided, further, that the body or remains of deceased shall be inclosed in a metallic case or coffin, sealed in such manner as to prevent, as far as practicable, any noxious or offensive odor or effluvia escaping therefrom, and that such case or coffin contains the body or remains of but one person, except where the infant children of the same parent or parents, or parent and children are contained in such case or coffin. And the permit shall contain the above conditions and the words "Permit to remove and transport the body of —, age —, sex —," and the name, age, and sex shall be written therein. [Amendment approved April 5, 1917; Stats. 1917, p. 36.]

TITLE 95. CHARITIES AND CORRECTIONS.

ACT 576.

An act making provision for registration of and for publicity concerning the affairs of any charity for the support of which an appeal is made to the public, and prescribing penalties for violation of the provisions hereof.

[Approved May 27, 1919. Stats. 1919, p. 1356. In effect July 27, 1919.]

§ 1. Registration of charities. In any county or city and county in this state it shall be unlawful to make any appeal to the public for a charity either by soliciting donations or subscriptions or by promoting any bazaar, sale or exhibition, or by any similar means, unless the charity is registered with the county board of public welfare.

§ 2. Information given. For the purposes of this act, any charity may be registered with the county board of public welfare upon the giving of such information in respect to the conduct of its affairs as may be necessary to enable the board properly to investigate the charity. If the board of public welfare approves or disapproves of the proposed appeal to the public in a particular case, such approval or disapproval with the reasons therefor shall be entered in a separate book with the records of the board, and shall be open to public inspection. Such an approval shall not be deemed a guarantee or indorsement as to the proper conduct of the affairs of a charity, but it is hereby authorized for the purpose of making such information available to the public whenever an appeal is made.

§ 3. Registration with board of supervisors. In any county or city and county in which there is no board of public welfare, the registration herein provided for shall be made with the board of supervisors, and this board shall exercise the powers and duties hereby conferred or imposed upon the board of public welfare.

§ 4. Penalty. Any person, firm or corporation violating any of the provisions of this act is guilty of a misdemeanor.

§ 5. Exceptions. The provisions of this act shall not apply to the solicitation of gifts, contributions or donations for religious purposes; or for the specific personal aid of any particular individual or individuals; or for the meeting of extraordinary emergencies or calamities where time is of the essence of merited succor and relief.

TITLE 101.

CIVIL SERVICE COMMISSION.

ACT 606.

An act to provide for a general system, based upon investigation as to merit, efficiency and fitness, for appointment to and holding during good behavior of office and employment under state authority and, in that behalf, to create a state civil service commission, to prescribe its powers and duties, to make the willful violation of the provisions of this act a misdemeanor, to repeal all acts and parts of acts inconsistent herewith in so far as they may be inconsistent with the provisions of this act, and to make an appropriation therefor.

[Approved June 16, 1913. Stats. 1913, p. 1035.]

Amended 1919; Stats. 1919, p. 1338.

The amendments of 1919 follow:

§ 1. Definitions of terms. First—The term "commission" as used in this act means the "state civil service commission" herein created, and the term "commissioner" as used in this act means one of the three members of that commission, all unless such terms are plainly used with some other meaning.

Second—The terms "position" and "positions" as used in this act include all offices and employments under state authority, whether there be any salary or other compensation or emolument connected therewith,

except offices held by elective officers as such and also except the militia and all offices and employments as now or hereafter provided by virtue of or under article eight of the constitution of the state, and except county and township offices and employments.

Third—The term "appointing power" as used in this act includes all persons whether acting singly or in conjunction with others in any way whatsoever, either by nomination or confirmation or as a board or commission or otherwise, in selecting any one to hold any position as that term is so used in this act.

Fourth—The term "appointment" as used in this act includes all means of selecting and employing any one to hold any position as that term is so used in this act. [Amendment approved May 27, 1919; Stats. 1919, p. 1338.]

§ 3. Employees. The commission shall employ a chief examiner and secretary, which offices may be combined, and such other employees as it may deem necessary or proper to carry out the purposes of this act. Their compensation shall be fixed by the commissioner, and they may be paid necessary traveling expenses incurred in the discharge of their duties. The duties of the chief examiner, secretary and other employees shall be prescribed by the commission, subject to the provisions of this act. It shall be the duty of the secretary to keep the minutes of the meetings of the commission and perform such other services as may be assigned him by the commission. The commission may select suitable persons to assist in examinations under its direction. The compensation of such assistants shall not exceed five dollars per day, except in the case of special and expert examiners employed in the preparation of questions and rating of candidates; and when the persons so selected are in the official service of the state it shall be deemed a part of their official duty to serve as such assistants without additional compensation. [Amendment approved May 27, 1919; Stats. 1919, p. 1338.]

§ 4. Office accommodations. The commission is authorized to secure in the city of Sacramento suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted, for carrying on the work of the commission and the commission may order the necessary stationery, postage stamps, and official seal and other articles to be supplied, and the necessary printing to be done for its official use.

§ 5. Duties of commission. The commission shall:

Classify and grade positions. First—Classify positions to be held under state authority in accordance with the provisions of this act and in accordance with the duties attached to such positions. The commission shall grade all positions within each class with respect to salaries, to the end that like salaries shall be paid for like duties. Such classes and grades may from time to time be amended, added to, consolidated or abolished by the commission, but persons holding positions under the original classification or grade shall not be affected thereby; provided, that no person otherwise competent shall be excluded from any class on account of any physical defect or affliction unless such defect or affliction tends directly to incapacitate such person from performing the services required of that class, and that when any per-

with any such physical defect or affliction which does not tend to incapacitate such person from performing the duties required of persons in that class has been appointed to a position, such person shall be placed in a different grade as to salaries from other persons in the same class.

With examinations. Second—Hold examinations to determine the fitness of persons or applicants for positions, and prepare lists from applicants so examined.

At each examination shall be prepared under the supervision of the commission or chief examiner and delivered to the examination by one of the commissioners or chief examiner or by an examiner specially designated to perform such duties.

Enforce act. Third—Enforce the provisions of this act and prescribe and enforce suitable rules and regulations for carrying the same into effect and from time to time amend and repeal the same.

Keep minutes. Fourth—Keep minutes of its own proceedings, and records of its examinations and other official actions.

Efficiency records. Fifth—Records of individual efficiency of holders of positions in performing their duties must be established and posted monthly in all offices and places of employment affected by this act. Such records shall be made by the appointing power, unless otherwise directed by the commission, and under and in accordance with such rules and regulations as the commission may prescribe, and a copy of such records shall be filed with the commission. The commission shall investigate all such efficiency records and may make its own records, and shall rate upon such records the item of "ascertained merit" in examinations for promotion. The commission shall establish and enforce rules and regulations under which records of unsatisfactory service may lead to reduction in grade and compensation of the person holding the position concerned, and shall further provide for the manner in which persons falling below the standards of efficiency fixed by its rules and regulations may be removed from their positions by the commission proceeding substantially as provided in this act and with the same effect as in case of removals by the appointing power.

Make investigations. Sixth—Make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this act and the rules and regulations prescribed thereunder; inspect all state institutions, offices, places of employment and services affected by this act, and ascertain whether this act and all such rules and regulations are obeyed. Such investigation may be made by any commissioner, or chief examiner, or by any other authorized agent of the commission. In the course of such investigation any commissioner, or chief examiner or such other authorized agent of the commission, or the secretary of the commission, shall have power to administer oaths, subpoena and require the attendance in this state of witnesses and the production thereby of books, papers, documents and accounts appertaining to the investigation but not requiring the attendance of witnesses either with or without books, papers, documents or accounts unless residing within the same county or within thirty miles of the place of attendance.

Rules governing hearing. Compelling witnesses to appear. Depositions. Witnesses not excused from testifying. Seventh—All hearings and investigations before the commission, or any commissioner, or the chief examiner or such other authorized agent of the commission shall be governed by this act and by rules of practice and procedure to be adopted by the commission and in the conduct thereof neither the commission nor any commissioner nor the chief examiner nor such other authorized agent of the commission shall be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony before the commission or any commissioner, or the chief examiner or such other authorized agent of the commission shall invalidate any order, decision, rule or regulations made, approved or confirmed by the commission. The superior court in and for the county, or city and county, in which any inquiry, investigation, hearing or proceeding may be held by the commission, or any commissioner, or the chief examiner or such other authorized agent of the commission shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books, papers, documents and accounts, as required by any subpoena issued by the commission, or any commissioner, or such other authorized agent of the commission or the secretary. The commission, or the commissioner, or the chief examiner or such other authorized agent of the commission before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of such books, papers, documents, or accounts, and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce such books or papers or documents or accounts required by the subpoena, before the commission, or the commissioner, or the chief examiner, or such other authorized agent of the commission, in the matter named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceedings, and ask an order of said court, compelling the witness to attend and testify or produce such books or papers or documents or accounts before the commission, or any commissioner, or the chief examiner or such other authorized agent of the commission. The court, upon the petition of the commission, or any commissioner, or the chief examiner or such other authorized agent of the commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission, or such commissioner, or the chief examiner or such other authorized agent of the commission. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission, or any commissioner, or the chief examiner or other authorized agent of the commission, or the secretary, the court shall thereupon enter an order that said witness appear before the commission, or such commissioner, or the chief examiner or any other authorized agent of the commission at the time and place

fixed in said order, and testify or produce the required books, papers, documents and accounts, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not be construed to impair or interfere with the power of the commission, or a commissioner, or the chief examiner or any such other authorized agent of the commission to enforce the attendance of witnesses and the production of books, papers, documents and accounts.

The commission, or any commissioner, or the chief examiner or such other authorized agent of the commission may, in any investigation or hearing before the commission, or any commissioner, or the chief examiner or such other authorized agent of the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state and to that end may compel the attendance of witnesses and the production of books, papers, documents and accounts.

No person shall be excused from testifying or from producing any book, paper, document or account in any investigation or inquiry by or hearing before the commission, or any commissioner, or the chief examiner or such other authorized agent of the commission, when ordered to do so, upon the ground that the testimony or evidence, book, paper, document or account required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall, under oath, have testified or produced documentary evidence; provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained shall be construed as in any manner giving to any person immunity of any kind otherwise than is herein expressly provided.

Biennial report. Eighth.—Make a biennial report to the governor for transmission to the legislature, showing the action of the commission, including all the rules and regulations adopted by it during such period and those that are in force at the time of making such report, information as to exempted positions as required by this act and the effects of this act and of all proceedings under it and any suggestions the commission or any commissioner may deem practical for the more effectual accomplishment of the purposes of this act.

Meetings. Ninth.—Meet at Sacramento as often as the needs of the public service may require, and at such other places as the commission may designate. A majority of the members of the commission shall constitute a quorum. [Amendment approved May 27, 1919; Stats. 1919, p. 1339.]

§ 6. Duty of state officers. It shall be the duty of all persons subject to the authority of the state in that behalf (including all state officers and employees of all state institutions of every kind and character) to aid in all proper ways in carrying into effect the provisions of this act and the rules and regulations prescribed from time to time thereunder and especially, at the request of the commission, to allow the commission the reasonable use of public buildings and to heat and light the same

for the purpose of making examinations of applicants and investigations as provided by this act. Everyone subject to the authority of the state in that behalf shall afford to the commission and its members and employees all reasonable facilities and give inspection of all books, papers, documents and accounts applying or in any way appertaining to any and all offices subject to the authority of the state in that behalf, and shall also produce said books, papers, documents and accounts, and shall attend and testify when required to do so by the commission, or any commissioner, or the chief examiner, or the secretary or any other authorized agent of the commission. The attorney general shall advise and assist the commission, and the district attorneys of the counties shall prosecute violations of this act. The commission may employ special counsel. [Amendment approved May 27, 1919; Stats. 1919, p. 1343.]

§ 7. Appointments to be under act. Exceptions. Position may be declared exempt. The appointing power in all cases not excepted or exempted under the provisions of this act, or by virtue of the provisions of the constitution of the state, shall fill positions by appointment, including cases of transfers, reinstatements, promotions and reductions, in strict accordance with the provisions of this act and the rules and regulations prescribed from time to time hereunder, and not otherwise. Except only and to the extent that the appointing power otherwise requests as hereinafter provided, the positions held in the following specified classes are excepted from such method of appointment:

First—Appointees of the legislature and one person holding a position having a confidential relation whether as secretary or clerk or stenographer to each such appointee.

Second—Appointees of the governor and one person holding a position having a confidential relation, whether as secretary or clerk or stenographer to each such appointee.

Third—The chief deputy of and also one person holding a position having a confidential relation whether as secretary or clerk or stenographer to an elective officer.

Fourth—The secretary or executive officer, or both, and also the attorney and one stenographer of any board or commission appointed by the legislature or governor or elected by the electors, and all stenographers in the superior and appellate courts.

Fifth—The assistant and deputies of the attorney general and all special attorneys for boards and officers.

Sixth—The members of the appointing board of and any chief in any legislative reference or counsel bureau and one person holding a confidential relation to each such chief.

Seventh—One warden for each of the state prisons.

Eighth—One superintendent for each of the state reformatories, state hospitals or other state charitable or correctional institutions; also the parole officers for the state prisons, Preston School of Industry and Whittier State School.

Ninth—Persons employed by the University of California and the state normal schools, and the teaching force of the elementary, secondary, trades and technical schools.

Tenth—Persons engaged in work done by co-operation between the state and federal governments.

Eleventh—The state librarian, the chief deputy or assistant state librarian and also one person holding a position having a confidential relation to the state librarian, and appointees under provisions for court, law, teachers, school and county libraries.

Twelfth—The secretary, chief accountant and children's agents of the state board of control.

Thirteenth—The employees of the state railroad commission.

Fourteenth—Superintendents, chiefs, and heads of departments.

All provided that at any time any vacancy in any position in any of the above specified fourteen excepted classes may be filled by the appointing power in the manner provided by this act, in which case the person appointed shall hold, during the tenure of office of said appointing power, such position under the tenure of good behavior and subject to the provisions of this act as if that position had not been so excepted, but upon such appointee ceasing to hold such position that position shall be open as in such excepted class. Upon such appointee ceasing to hold such office by reason of the termination of the tenure of office of said appointing power, said appointee shall be restored to place upon the eligible lists in accordance with such rules and regulations as the commission may prescribe in that behalf. Any position subject to the provisions of this act may be declared exempted by resolution passed by concurrence of the three commissioners. Such resolution shall state separately the reasons for each exemption. Not more than one appointment shall be made to or under any position covered by such resolution unless permission to appoint a different number is given therein. Any exception thus made may be terminated at any time by resolution of the commission. Appointments to exempted positions shall be reported immediately to the commission. The names of each exempted position and the names of the incumbent and the reason for each exemption shall be stated in the biennial reports of the commission. [Amendment approved May 27, 1919; Stats. 1919, p. 1343.]

§ 8. Rules for classification of positions. Within three months after the commission is constituted, it shall make rules for the classification of positions to be held under state authority to be provided by this act, and subject to the provisions of this act; such rules shall govern appointments, transfers, reinstatements, promotions, reductions and removals, and examination of applicants, and the commission may amend such rules from time to time. Such rules shall be printed for public distribution. [Amendment approved May 27, 1919; Stats. 1919, p. 1344.]

§ 10. Character of examinations. Preliminary requirements. Application blanks. May refuse to examine. Appointing power may require bond. The examinations shall be practical in their character, and shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the positions they seek. Applicants for positions in the mechanical trades and occupations may, in the discretion of the commission, be rated solely on experience and physical qualifications which may be determined by such evidence and in such manner as the commission may direct; and such applicants may be submitted to such further tests as the commission may require. The commission shall prepare lists of preliminary re-

quirements and subjects of examinations for the several positions, and shall publish its rules and regulations and such information and advertise such examinations in such manner as the nature of the examination may require. The commission, except as may be otherwise provided in the case of laborers, shall require an applicant to file in its office, in accordance with its rules and regulations, a reasonable length of time before the date of examination, a formal application filled out in his own handwriting. Blank forms of such application shall be furnished by said commission without charge to all persons requesting the same. The commission may require in connection with applications, including laborers, such certificates of citizens, physicians, public officers or others having knowledge of the applicant, as the good of the service may require. The commission may refuse to examine or after examination to certify as eligible, anyone who is found to lack any of the established preliminary requirements for the examination or position for which he applies; or who is physically so disabled as to be rendered unfit to perform the duties of the position to which he seeks appointment, or who is addicted to the habitual use of intoxicating beverages to excess; or who has been guilty of a crime or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has intentionally made a false statement of any material facts, or practiced, or attempted to practice any deception or fraud in his application, in his examination, or in securing his eligibility. Any person appointed to a position under the provisions of this act who has secured his place on the eligible list through fraud shall be removed by the commission from his position and shall not thereafter be eligible for examination for any position under the provisions of this act except by unanimous permission of the commission. When the position to be filled involves fiduciary responsibility, the appointing power may require the appointee to furnish a reasonable bond or other security, and shall notify the commission of the amount and necessary details thereof. [Amendment approved May 27, 1919; Stats. 1919, p. 1345.]

§ 11. Temporary appointments. When there is no eligible list from which a position may be filled, the appointing power may, with the consent of the commission, fill such position by temporary appointment; and such temporary appointment shall not continue for a longer period than three months, nor shall successive temporary appointments be made to the same position under this section without the previous consent of the commission, and in no case shall any person hold a position under such successive temporary appointments for a longer period than six months without the unanimous consent of the commission. [Amendment approved May 27, 1919; Stats. 1919, p. 1346.]

§ 12. Emergency appointments. The commission shall establish rules and regulations under which emergency appointments may be made when those on the eligible lists are not immediately available, and for the time for which such emergency appointments shall be valid; and may fix a different time for different counties or cities and counties of the state for which such emergency appointments shall be valid. [Amendment approved May 27, 1919; Stats. 1919, p. 1346.]

§ 13. Promotions. Transfer. Vacancies in positions shall be filled, so far as practicable by promotion from among persons holding positions

in a lower grade of the department, office or institution in which the vacancy exists. Promotion shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his records of efficiency. For the purposes of this section an increase in the salary or other compensation of any person holding an office or position within the scope of the rules and regulations in force hereunder beyond the limit fixed for the grade in which such office and position is classified, shall be deemed a promotion. The commission may authorize the transfer of any person legally holding a position to a similar position in the same class or grade, and may provide for the reinstatement within one year of persons separated from positions without fault or delinquency on their part, if within that time there is need for their services. No promotion, transfer or reinstatement shall be made from a position in one class to a position in another class, nor shall a person be transferred to or reinstated in a position for original entrance to which there is required by this act or the rules and regulations thereunder an examination involving essential tests or qualifications different from or higher than those required for original entrance to the position held by such person. [Amendment approved May 27, 1919; Stats. 1919, p. 1346.]

§ 15. Employment of laborers. The commission shall provide by rule for the employment of laborers in the labor class in the order of priority of application for employment. There shall be separate lists of applicants for different kinds of labor, and the commission may provide separate labor registration lists for departments, institutions, districts or localities. The commission may require an applicant for registration to pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience. The commission shall establish such time as it may deem expedient for the duration of eligible lists in the labor class. [Amendment approved May 27, 1919; Stats. 1919, p. 1346.]

§ 16. Reports of appointees, etc. Official roster. It shall be the duty of each appointing power to report to the commission forthwith upon each appointment the name of the appointee, the title or character of the position, the date of the commencement of such service, and the salary or compensation therefor, and to report from time to time, and upon the date of official action in, or knowledge of each case, any separation of the person from the position, or other changes, and such other information as the commission may require in order to keep the roster hereinafter mentioned. The commission shall keep in its office an official roster of all persons holding positions under the provisions of this act and shall enter thereon the name of each and every person who has been appointed to, promoted, reduced, transferred, reinstated or removed from or left any position and require such evidence as it may deem satisfactory as to whether such person was appointed to, promoted, reduced, transferred, reinstated or removed from such position in accordance with the provisions of this act and the rules and regulations of the commission thereunder and as to when and why and how such person was otherwise separated from such position. The official roster shall show opposite, or in connection with, each name, the date of appointment, promotion, reduction, transfer or reinstatement, the compensation of the position, the date of commencement of service and change in

or separation from position and when and why and how there was such change or separation. The names of all persons holding positions at the time of the taking effect of this act which if vacant would be filled under the provisions of this act shall be certified to the commission by the appointing power that could then so fill such position if vacant, and such names shall be entered in said roster, and thereupon shall be deemed appointed under the provisions of this act and persons then holding such positions who have served in such positions a less period than one year and more than sixty days from the date of the classification of such positions as required by this act shall be deemed to be serving the probationary period, and persons who have served in such positions for less than such sixty days shall be deemed temporary appointees. [Amendment approved May 27, 1919; Stats. 1919, p. 1347.]

§ 17. Certification of pay-rolls. It shall be unlawful for the controller or other fiscal officer of the state to draw, sign, issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state for the payment of, or for the treasurer or other disbursing officer to pay any salary or compensation to anyone holding any position under the provisions of this act unless the estimate, pay-roll or account for such salary or compensation, containing the name of the person to be paid, shall bear the certificate of the commission that the persons named in such estimate, pay-roll or account are holding positions as provided by this act and the rules and regulations prescribed thereunder. Any sums paid contrary to the provisions of this section may be recovered from anyone making such appointment in violation of the provisions of this act and of the rules and regulations prescribed thereunder or from any officer signing, or countersigning, or authorizing the signing or countersigning of any warrant for the payment of the same, and from the sureties on his official bond in an action in any court of competent jurisdiction of this state maintained by a citizen resident therein, who is assessed for and is liable to pay, or within one year before the commencement of such action has paid, a tax therein. All moneys recovered in any action brought under the provisions of this section must, when collected, be paid into the treasury of the state, except that the plaintiff in any such action shall be entitled to receive for his own use the taxable costs of such action. [Amendment approved May 27, 1919; Stats. 1919, p. 1347.]

§ 18. Penalty for false marking, grading, etc. Any commissioner or examiner, or any person who shall willfully by himself or in co-operation with one or more persons, defeat, deceive or obstruct any person in respect of his or her right of examination or registration, according to any rules or regulations prescribed pursuant to the provisions of this act, or who shall willfully and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to the provisions of this act, or aid in so doing, or who shall willfully make any false representation concerning the same, or concerning the person examined, or who shall willfully furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered, or certified, or to be examined, registered, or certified, or who shall personate any other person, or permit or aid in any manner any other person to personate him, in connection with any examination

or registration or application or request to be examined or registered, shall be deemed guilty of misdemeanor. [Amendment approved May 27, 1919; Stats. 1919, p. 1348.]

§ 19. Soliciting prohibited. No officer, agent, clerk or employee, under the government of the state shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, contribution or political service, whether voluntary or involuntary, for any political purpose whatever, from anyone on the eligible lists or holding any position under the provisions of this act.

Every officer, agent, clerk or employee under the government of the state who may have charge or control in any building, office, or room occupied for any purpose of said government is hereby authorized to prohibit the entry of any person, and he shall not permit any person to enter the same, for the purpose of therein making, collecting, receiving or giving notice of any political assessment, subscription or contribution, and no person shall enter, or remain in any said building, office or room, or send or direct any letter or other notice thereto, for the purpose of giving notice of, demanding, or collecting a political assessment, subscription or contribution, nor shall any person therein give notice of, demand, collect or receive, any such assessment, subscription or contribution contrary to the provisions of this section. [Amendment approved May 27, 1919; Stats. 1919, p. 1349.]

§ 20. Promise of advancement for political influence prohibited. No one, while holding any public office, or in nomination for, or while seeking a nomination or appointment for, any public office, shall use or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person in securing any position under the provisions of this act, either in nomination, confirmation, promotion, or increase in salary, or as to any change in any such position, upon a consideration or condition that the vote or political influence or action of the last-named person or any other, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration. And no one, being a public officer, or in nomination for, or while seeking nomination or appointment for, any public office or having or claiming to have any authority or influence (whether then possessed or merely anticipated) for the securing or holding of or as to affecting any position under the provisions of this act, shall use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the vote or political action of any person on the eligible lists or holding any position under the provisions of this act. [Amendment approved May 27, 1919; Stats. 1919, p. 1349.]

§ 21. No salary to persons appointed in violation of act. No salary, compensation or other emolument shall be paid to anyone appointed to or retained in any position in violation of this act. Any officer approving or paying such salary shall be liable for such sum on his official bond. Whenever the commission shall notify the auditing officer that any position has been filled in violation of this act or any of the rules and regulations thereunder, no demand for the salary or compensation

or other emolument of such position shall be approved or paid except upon the order of a court of competent jurisdiction. [Amendment approved May 27, 1919; Stats. 1919, p. 1349.]

§ 22. Appointing power must pay persons accepting appointment in good faith. Any person acting in good faith in accepting appointment or employment contrary to the provisions of this act or of the rules and regulations prescribed thereunder, shall be paid by the appointing power the compensation promised by or on behalf of the appointing power or in case no compensation is so promised than the actual value of any service rendered and the expense incurred in good faith under such attempted appointment or employment, and shall have a cause of action against the appointing power for such sum or sums and for the costs of action. No public officer shall be reimbursed by the state or any of its instrumentalities for any sum so paid or recovered in such action. [Amendment approved May 27, 1919; Stats. 1919, p. 1349.]

§ 23. Political or religious opinions not to be considered. No recommendation or question or inquiry under the authority of this act shall relate to the political or religious opinions or affiliations of any person, and no appointment or change in or removal from any position under the provisions of this act shall be in any manner affected or influenced by such opinions or affiliations. [Amendment approved May 27, 1919; Stats. 1919, p. 1350.]

§ 24. Witness fees. Witnesses and officers to subpoena and secure the attendance of witnesses before the commission, or any commissioner, or the chief examiner or other authorized agent of the commission, shall be entitled to the same fees as are allowed witnesses in civil cases in courts of record. Such fees need not be prepaid, but the controller shall draw his warrant for the payment of the amount thereof when the same shall have been certified to by the commission and duly proved by affidavit or otherwise to the satisfaction of the controller. [Amendment approved May 27, 1919; Stats. 1919, p. 1350.]

§ 25. Penalty. Any person willfully violating any of the provisions of this act shall be guilty of a misdemeanor. [Amendment approved May 27, 1919; Stats. 1919, p. 1350.]

§ 26. Veteran defined. The term "veteran" as used in this act means and includes any person who has served in the United States army, navy, marine corps, revenue marine service, or as an active nurse in the service of the American Red Cross or in the army and navy nurse corps, during or prior to the war between the United States and the Central European Powers and who has not been dishonorably discharged from such service. [Amendment approved May 27, 1919; Stats. 1919, p. 1350.]

§ 27. Preference to veterans. When proper proof is presented to the state civil service commission that an applicant is a veteran, as defined in this act, and such veteran stands equal in percentage in any civil service examination for original entrance into the public service, with any other applicant or applicants taking the same examination, it shall be the duty of the state civil service commission to show such veteran preference by giving him the higher rank. [Amendment approved May 27, 1919; Stats. 1919, p. 1350.]

§ 28. Purpose of act to give preference to veterans. It is the purpose of this act to give preference, in the manner set forth in the foregoing section, to all persons who have served the government and the people in the army, navy, marine corps, revenue marine service, or as active nurses in the American Red Cross or the army and navy nurse corps, and particularly to persons who have rendered such service during the Ally-Germanic war, the Spanish-American war, the Philippine insurrection, the Boxer uprising, the Indian wars, or the Civil war. [New section added May 27, 1919; Stats. 1919, p. 1350.]

§ 29. Interpretation by court. Whenever this act or any part or section thereof is interpreted by a court, it shall be liberally construed by such court. [New section added May 27, 1919; Stats. 1919, p. 1350.]

§ 30. Constitutionality. If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional. [New section added May 27, 1919; Stats. 1919, p. 1351.]

§ 31. Repealed. All acts and parts of acts inconsistent with this act are hereby repealed in so far as they are inconsistent with the provisions of this act. [New section added May 27, 1919; Stats. 1919, p. 1351.]

The amendatory act of 1919 also contained the following provision:

§ 6. Inasmuch as the United States military and naval forces are being demobilized and those who went into the federal service are suddenly returning in great numbers to their homes; and inasmuch as this act will assist them to re-employment, thereby simplifying the problems of reconstruction, it is hereby declared that this act is an emergency measure necessary for the immediate preservation of the public peace, health and safety, under the provisions of section one of article four of the constitution of the state of California and that this act shall take effect immediately.

TITLE 106.

COLD STORAGE.

ACT 624.

An act relating to cold storage, the regulation of refrigerating warehouses, the disposition or sale of food kept or preserved therein, and defining the duties of the state board of health in relation thereto.

[Approved June 13, 1913. Stats. 1913, p. 769.]

Amended 1915, p. 601; 1917, p. 152.

The amendment of 1917 follows:

§ 2. Application to operate cold storage plant. License fee. Restaurants, hotels, etc., excepted. Any person, firm or corporation desiring to operate a cold storage or refrigerating warehouse wherein shall be stored

"articles of food" for a period exceeding thirty days, shall make application in writing to the state board of health for that purpose, stating the location of its plant or plants. On receipt of the application the state board of health shall cause an examination to be made into the sanitary condition of said plant or plants and if found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, the state board of health shall cause a license to be issued authorizing the applicant to operate a cold storage or refrigerating warehouse for and during a period of one year. The license shall be issued upon payment by the applicant of a license fee to the state board of health for each and every warehouse or plant operated by applicant under the provisions of this act for all cold storage or refrigerating warehouses or plants having a capacity of ten thousand cubic feet, or less, a fee of fifteen dollars. For all cold storage or refrigerating warehouses or plants having a capacity of more than ten thousand cubic feet and less than fifty thousand cubic feet, a fee of thirty dollars. For all cold storage or refrigerating warehouses or plants having a capacity of more than fifty thousand cubic feet and less than one hundred thousand cubic feet, a fee of forty dollars. For all cold storage or refrigerating warehouses or plants having a capacity of one hundred thousand cubic feet or more, a fee of fifty dollars.

The secretary of the state board of health shall keep a full and correct account of all fees received under the provisions of this act, and shall, at least once each month, deposit all such fees collected with the state treasurer and make a detailed report covering same to the state controller, and such moneys shall be credited to the appropriation for the support of the pure food and drug laboratory; provided, however, that nothing in this act contained shall apply to cold storage or cold storage or refrigerating plants or warehouses as herein defined which are maintained or operated by restaurants, hotels, or exclusively retail establishments not storing articles of food for other persons. [Amendment approved April 20, 1917; Stats. 1917, p. 152.]

§ 7. Dates of receipt and withdrawal marked on articles. All articles of food when deposited in cold storage shall be marked plainly on the containers in which they are packed or on the individual article with the date of receipt, in accordance with such rules and forms as may be prescribed by the state board of health, under the authority hereinafter conferred; and when removed from cold storage shall be marked in like manner with the date of withdrawal. [Amendment approved April 20, 1917; Stats. 1917, p. 153.]

TITLE 116a.

CONSERVANCY DISTRICTS.

ACT 688.

An act to provide for the organization and government of conservancy districts for certain specified purposes; to provide for the issuance, sale and hypothecation of district bonds to pay the costs and expenses incurred in relation thereto, and to provide for the retirement of such bonds; to provide for the levying and collection of taxes to pay the annual installment of principal and interest on said bonds; to provide for levying and collecting special assessments for special benefits and to issue improvement warrants to rep-

resent such special assessments for special benefits; to provide for the effect and enforcement of such improvement warrants and the application of moneys derived from the enforcement thereof; and to provide a method of dissolving such districts.

[Approved May 16, 1919. Stats. 1919, p. 559. In effect July 22, 1919.]

§ 1. Title. Terms defined. Terms defined. This act may be known and cited as the "conservancy act of California"; the bonds which may be issued hereunder may be briefly called "conservancy bonds," and shall be so engraved or printed on their face; the districts created hereunder shall be briefly termed "conservancy districts" or "conservation districts"; the tax books and records provided for hereunder shall be termed "conservancy books" or "conservancy records," and such titles shall be printed, stamped or written thereon.

Wherever the term "publication" is used in this act and no manner specified therefor, it shall be taken to mean once a week for three consecutive weeks in a newspaper of general circulation in the county wherein any part of the district is situated.

Wherever the term "assessment-roll" is used herein it shall be held to mean the "last" tax assessment-roll of the county.

Where the term "railroad commission" is used herein it shall be held to mean that certain state commission referred to in the public utilities act of the state of California.

Wherever the term "water commission" is used herein it shall be held to mean that certain commission of the state of California referred to in an "act to create the use of waters," etc., approved June 16, 1913, and when the "water commission act" is referred to it shall be held to mean said "act to create the use of waters," etc., approved June 16, 1913.

Wherever the term "state engineer" is used it shall be held to mean the department of engineering of the state of California. The chief engineer of said department shall be ex officio an engineer of any district formed under this act, and it shall be the duty of said department to supervise, examine and pass upon the plans and specifications of the district in the manner provided for herein.

Wherever the term "person" is used in this act, and not otherwise specified, it shall be taken to mean any person, firm, copartnership, association or corporation, other than county, city or other political subdivision. Similarly, the words "public corporation" shall be taken to mean counties, cities, school districts, road districts, protection districts, flood control districts, ditch districts, park districts, levee districts, and all other governmental agencies and political corporations clothed with the power of levying general or special taxes or general or special assessments which may be levied for local improvement purposes.

Wherever the term "board of supervisors" is used, and not otherwise specified, it shall be taken to mean the board of supervisors of the county wherein the petition for the organization of the district was filed and granted, and where a district lies in more than one county, the words "board of supervisors" shall mean the board of supervisors of all the counties sitting conjointly.

Wherever the word "board" is used and not otherwise specified, it shall mean the board of directors of the district.

Wherever the word "treasurer" or "treasurer of the district" is used, it shall mean ex officio the treasurer of the county with which the petition is filed, unless otherwise specified.

Wherever the term "secretary" is used it shall be held to mean the "secretary" of the district.

The word "clerk" unless otherwise specified shall mean the clerk of the district, who shall also be clerk of the board of directors.

Wherever the terms "land" or "property" are used in this act they shall, unless otherwise specified, be held to mean real property, as the words "real property" are used in and defined by the laws of the state of California, and shall embrace all railroads, tramroads, roads, electric railroads, street and interurban railroads, streets and street improvements, telephone, telegraph and transmission lines, gas, sewerage and water systems, pipe-lines and rights of way of public service corporations, and all other real property whether public or private.

Wherever the term "main county" is used herein, it shall be held to mean the county wherein the petition for formation of the district has been filed.

§ 2. Conservancy districts established by board of supervisors. Purposes. The board of supervisors of any county in this state is hereby vested with jurisdiction, power and authority, when the conditions stated in this act are found to exist, to establish conservancy districts, which may be entirely within unincorporated territory or partly within unincorporated and partly within incorporated territory, and either entirely within, or partly within and partly without, the county in which said board is located, for all or any of these objects and purposes:

- (a) Of preventing floods;
- (b) Of regulating ditches and water channels by changing, widening and deepening the same;
- (c) Of reclaiming or of filling or of draining wet, swamp and overflowed lands;
- (d) Of preventing or aiding the deposit of detritus and silt;
- (e) Of regulating the flow of streams;
- (f) Of constructing canals;
- (g) Of forestation or reforestation;
- (h) Of spreading and sinking flood water;
- (i) Of diverting in whole or in part eliminating watercourses; and incident to such purposes and to enable their accomplishment, to straighten, widen, deepen, divert, or change the course or terminus of, any natural or artificial watercourse;
- (j) To build reservoirs, canals, levees, walls, embankments, bridges, dams, bypasses or spreading basins; or sinking wells or sinking basins; to maintain, operate and repair any of the constructions herein named.
- (k) To conserve flood waters and to dispose of waters which have been conserved, for purposes of irrigation;
- (l) To construct and maintain levees and embankments for the prevention of damage by floods to real or personal property or real and personal property and to do all things for the fulfillment of the purposes of this act.

§ 3. Petition to establish district. Contents. Amendments. Evidence of ownership. Petition. Before any board of supervisors shall call an
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election to determine whether a district shall be established, and before a district shall be established as outlined in section two hereof, a petition shall be filed in the office of the clerk of said board of supervisors signed either by fifty freeholders, or by a majority of the freeholders, or by the owners of more than half of the property, in either acreage or assessed value, according to the last assessment-roll, within the limits of the territory proposed to be organized into a conservancy district under this act.

The petition shall set forth:

First—The proposed name of said district.

Second—The necessity for the proposed work and that it will be conducive to the public health, safety, convenience or welfare.

Third—A general description of the purpose of the contemplated improvement, and of the territory to be included in the proposed district. Said description of the territory to be included need not be given by metes and bounds, or by legal subdivisions, but it shall be sufficient if a generally accurate description is given of the territory to be organized as a district. Said territory need not be contiguous, provided it be so situated that the public health, safety, convenience or welfare will be promoted by the organization as a single district of the territory described.

Fourth—Said petition shall pray for the organization of the district by the name proposed.

No petition with the requisite signature shall be declared null and void on account of alleged defects, but the board of supervisors may at any time prior to the hearing thereof permit the petition to be amended in form and substance to conform to the facts, by correcting any errors in the description of the territory to be included, or in any other particular. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on said petition shall be considered by the board of supervisors the same as though filed with the petition first placed on file.

In determining when a majority of land owners have signed the petition the board of supervisors shall be governed by the names as they appear upon the last tax assessment-roll prior to one day before the filing of said petition, which shall be prima facie evidence of such ownership.

§ 4. Bond. At the time of filing the petition, or at any time subsequent thereto and prior to the time of the hearing on said petition, a bond shall be filed running to the board of supervisors of the county in which the petition is filed, with security approved by the board of supervisors, sufficient to pay all the expenses connected with the proceeding in case the said board of supervisors refuses to organize the district. If at any time during the proceeding the said board of supervisors shall be satisfied that the bond first executed is insufficient in amount, it may require the execution of an additional bond within a time to be fixed to be not less than ten days distant, and upon the failure of the petitioners to execute the same the petition shall be dismissed.

§ 5. Notice of hearing. Jurisdiction of supervisors. Joint meeting. Hearing of objections. Lands included in district. Immediately after

the filing of such petition, the clerk of the board of supervisors with whom such petition is filed shall cause notice by publication to be made of the pendency of the petition and of the time and place of the hearing thereon and of the hearing of objections to the formation of such district. The board of supervisors of the county in which the petition was filed, shall thereafter, for all purposes of this act, except as hereinafter otherwise provided, maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of said district and of lands and other property proposed to be affected by said district; provided, that where said district lies in more than one county the board of supervisors of the county where the petition is filed shall forthwith notify the board or boards of supervisors of other counties in which said district is situated by directing a letter and transmitting the same by mail to the clerk or clerks of said board or boards notifying said board or boards of that fact and setting a day for a joint meeting with said board or boards, whereupon said boards shall meet jointly for the purpose of hearing said petition and objections thereto, if any, and for the transaction of business, in the chambers of the board with whom the said petition was filed; provided, that said meetings from time to time may be continued, by mutual agreement, whereupon said boards shall sit cojointly thereafter for all purposes of this act, except as hereinafter otherwise provided, and maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of the district and of lands and other property proposed to be included in said district or affected by said district without regard to the usual limits of their jurisdiction. A majority of the members of the joint board shall constitute a quorum; provided, that in the event that the board of supervisors of any county in which a portion of the district lies, after having been given due notice, as herein provided, of the hearing for the formation of such district, who shall after having been given said notice fail to appear and participate, as a member, or members, of said joint board, shall be considered to have waived all right to participate in the deliberations of said board, and a majority of the supervisors representing the other county or counties in which said district lies, shall thereby automatically constitute the joint board of supervisors and shall have all jurisdiction and powers provided for said joint board of supervisors under this act. The clerk of the board of supervisors with whom the petition is filed, and all officers of the board with whom the petition is filed, shall be clerk and officers of the board sitting cojointly as herein specified. The act of the clerk of said board of supervisors transmitting said letter of notification shall be deemed the act of said board of supervisors so notifying. At the day set for said hearing all objections to said petition shall be heard by said board or joint board. Said board or joint board shall have and it is hereby given full discretion to approve or deny said petition by a majority vote of its members present. Its decision in the matter shall be final and conclusive except as to the matters hereinafter stated. Objections to said petition need not be in writing, but the determination of said board shall be in writing and entered upon the minutes of said board.

Said board shall at said hearing, if it approve said petition, determine what land or lands within said proposed district will be benefited by said proposed improvements, and said board may in its discretion change or alter the boundaries of said proposed district to conform to the needs

of the district; provided, that they shall include therein only such land as will in their judgment be benefited by the proposed work or improvement; and provided, that they shall not include therein land not included within the proposed boundaries of the district set forth in the petition; and provided, that said board shall at said hearing or adjourned hearing define the boundaries of the proposed district. The findings of such board shall be conclusive upon the genuineness and sufficiency of the signatures to the petition and of the notice of the hearing.

§ 6. Election. Notice. Candidates for director. Conduct of election. One vote for each acre. Fraction of acre. Joint ownership. Unknown owners. Proxies. Canvass. Powers of district. Said board or joint board of supervisors, unless said petition be denied, must, if said lands of said district lie wholly within the county, within ten days after the determination of a hearing upon said petition, otherwise within thirty days after the termination of a hearing upon said petition, call an election within the proposed district for the determination of the question, whether such proposed district shall or shall not be organized and also to elect five persons who shall act as directors of the district for a term of four years in case such district be organized, and shall divide said district into convenient precincts and fix a polling place in each, and shall appoint three qualified electors in each precinct of said district to conduct said election; which election must be held within forty days from the date of said order.

Said election shall be called by posting notice thereof in three of the most public places in such county in said proposed conservancy district, and by publication in a daily or weekly paper in each of said counties, if there be one, at least once a week for not less than fifteen days. Said notices must specify the time, place or places and purposes of said election, give the boundaries of the said proposed conservancy district as determined at the hearing of the petition, designate the respective election precincts and the polling place in each and the election officers and the hours during which the polls will be kept open; provided, that the polls must be opened not later than eight o'clock A. M., and kept open until seven o'clock P. M.

It shall be the duty of the board of supervisors to order placed upon the ballot the names of candidates for the position of director of the district who shall have been indorsed by a petition to said board of supervisors containing the names of ten or more electors of the district, petitioning that the names of candidates designated in the petition be placed upon the ballot to be voted on at such election; provided, however, that such petitions be filed with the board of supervisors calling said election within fifteen days after the first publication of the notice calling said election.

Said election shall be conducted in accordance with the general election laws of this state so far as applicable, and except as herein otherwise provided, without reference to the form of the ballot or manner of voting, except that the ballots shall contain the words "for the formation of a conservancy district," and "against the formation of a conservancy district," and the voter shall write or print or stamp a cross after the words that indicate his choice, together with the number of votes he is entitled to cast therefor as hereinafter provided, and that said ballots shall also contain the names of all candidates for the posi-

tion of director of the district, with instructions to the voter to vote for five of the candidates for said position whose names appear upon such ballot, with the right to vote for each of the five candidates selected by him the number of votes he is entitled to cast as hereinafter provided.

Each and every owner of land in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the district, such ownership to be determined from the next preceding assessment-roll of the county or counties in which the lands of the district are situated, and the board shall, prior to the election, cause to be prepared and certified and furnished to the board of elections at each voting place, a true and correct copy of the entries upon said next preceding assessment-rolls so far as such assessment-rolls apply to any lands within such district, and to the extent of showing the name of the owner and the number of acres assessed to each such owner, and which said certified entries from said rolls shall be used by the board of election in determining the number of votes each voter is entitled to cast.

In calculating the number of acres owned by any voter any fraction of an acre in excess of the integral number owned by him shall be disregarded.

Where land is owned in joint undivided ownership, the votes shall be divided in accordance with the interests of each joint owner.

Where land is assessed to unknown owners, any person producing an affidavit of any searcher of records certifying the true ownership of such land at the date of the election, or at any time five days previous thereto, accompanied by an affidavit of the person certified to be the owner that he is the owner of the property at that time, said person so certified to be the owner shall be entitled to vote in like manner as if his name appeared upon the assessment-roll as above mentioned.

Where corporations or partnerships appear as the owners of properties the votes of such voters shall be cast by any person holding a proxy from such corporation or firm.

Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them.

No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing duly acknowledged and certified in the same manner as grants of real property, and filed with the board of elections.

The election officer in delivering to each voter his ballot shall ascertain and write upon the ballot, the number of votes the holder of the ballot is entitled to cast, and in their canvassing returns shall see to it that the number of votes cast does not exceed the number of votes such voter was entitled to cast, but if there is an excess, the ballot shall not be disregarded or invalidated, but only the number which the voter was entitled to cast shall be counted.

It shall be the duty of the election officers to publicly canvass the votes immediately after the close of the election, and to make a report of the result of said election to the board of supervisors within five days subsequent to the holding thereof, who shall as soon as practicable proceed to canvass said returns.

If a majority of the votes cast at said election shall be in favor of a conservancy district, the said board of supervisors shall, by resolution,

establish said conservancy district and proceed as herein otherwise stated.

If a majority of the votes cast shall be against the conservancy district, the board of supervisors shall by order so declare, and shall thereafter dismiss said proceedings by order and proceed to adjudge the cost against the signers of the petition or their bondsmen; no other proceedings shall be taken for the formation of a similar district until the expiration of one year from said election.

If the majority of votes cast at such election shall be in favor of a conservancy district, the board of supervisors shall canvass the returns of said election for the position of directors for the district and having determined upon the five candidates duly elected as directors shall by resolution declare them to be so duly elected and declare them to be the directors of the district for the ensuing term of four years and certificates of election shall be issued to them.

The fact of the presentation of the petition and the order establishing the conservancy district and the order declaring the five directors elected, shall be entered in the minutes of the board of supervisors of the main county, and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was at the time of the signing the same and presentation of the petition an assessed freholder in the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this act, and of the existence and validity of the district. Should the office of any of said directors elected become vacant before his term of office expires, the same shall be filled by the board of directors for the unexpired term. On the expiration of the terms of said directors elected as herein specified, the supervisors shall again call an election in accordance with the provisions of this section to fill the offices so becoming vacant.

In said resolution establishing the district the board shall give said district a corporate name, which may or may not be the name designated in said petition, by which in all proceedings it shall thereafter be known, and thereupon the district shall be a political subdivision of the state of California, a body corporate with all the powers of a corporation, and shall have power:

1. To have perpetual succession and existence.
2. To sue and to be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. To adopt a seal and alter it at pleasure.
4. To take by grant, purchase, gift, devise or lease, to hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without such district necessary to the full exercise of its powers.

After an order is entered by the board of supervisors establishing the district, such order shall be deemed final and binding upon the property within the district and shall finally and conclusively establish the regular organization of the said district against all persons except the state of California upon suit commenced by the attorney general. Any such suit must be commenced within three months after said decree declaring such district organized as herein provided and not otherwise.

Upon the election and qualification of a board of directors as herein provided said board of directors shall designate the place where the office or principal place of business of the district shall be located, which

shall be within the corporate limits of the district if practicable, and which may be changed by order of said board of directors from time to time. The regular meetings of the board of directors shall be held at such office or place of business, but for cause entered of record may be adjourned to any other convenient place. The official records and files of the district shall be kept at the office so established.

§ 7. Within thirty days after the said district has been duly established the clerk of the main county shall transmit to the secretary of state, and to the county recorder and the county clerk in each of the counties having lands in said district, copies of the resolution establishing said district. The same shall be filed and recorded in the office of the secretary of state in the same manner as articles of incorporation are now required to be filed and recorded under the general law concerning corporations, and shall also be filed in the office of the county clerk of each county in which a part of the district may be, where they shall become permanent records; and the recorder in each county shall receive a fee of one dollar for filing and recording the same, and the secretary of state shall receive for filing and for recording said copies such fees as are now or hereafter may be provided by law for like services in similar cases. The expenses required for filing papers and all other incidental expenses to the organization of the district shall be paid from the general fund of the main county and shall be refunded by the district on demand.

§ 8. **Oath of director. President and secretary.** Each director before entering upon his official duties shall take and subscribe to an oath before a qualified officer that he will honestly, faithfully and impartially perform the duties of his office, and that he will not be interested directly or indirectly in any contract let by said district, which said oath shall be filed in the office of the clerk of the board of supervisors of the main county. Upon taking the oath, the board of directors shall choose one of their number president of the board, and shall elect some suitable person secretary, who may or may not be a member of the board. Such board shall adopt a seal, and shall keep a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees or contractors and all corporate acts, which record book shall be open to the inspection of all owners of property in the district, as well as to all other interested parties.

§ 9. **Quorum.** A majority of the directors shall constitute a quorum, and a concurrence of at least three directors in any matter within their duties herein prescribed shall be valid as the act of the board.

§ 10. **Duties of secretary. Chief engineer. Attorney.** The secretary shall be the custodian of the records of the district and of its corporate seal and shall assist the board of directors in such particulars as said board may direct in the performance of its duties. It shall be the duty of the secretary to attest, under the corporate seal of the district, all certified copies of the official records and files of the district that may be required of him by the provisions of this act, or by any person ordering the same and paying the reasonable cost of transcription. And any portion of the record so certified and attested shall prima facie import verity. The board of directors shall also employ a chief engineer who

may be an individual, copartnership, or corporation; an attorney, attorneys, and such other agents and assistants as may be needful; and may provide for their compensation, which, with all other necessary expenditures, shall be taken as a part of the cost of the improvement. The employment of the secretary, engineer and attorney for the district shall be evidenced by agreements in writing, which, so far as possible, shall specify the amounts to be paid for their services.

§ 11. Plan for improvements. Use of former survey. Notice of hearing on plan. Approval of state engineer. Adoption. Upon their qualification, and after their organization, the board of directors shall cause to be prepared a plan by the engineer of the district employed for this purpose, for the improvements for which the district was created. Such plan shall include such surveys, maps, profiles, plans and other data and descriptions as may be necessary to set forth properly the location and character of the work, and the location and extent of the property benefited or taken or damaged, with estimates of cost and with specifications for doing the work. In case the board of directors finds that any former survey made by any other district, or in any other manner, is useful for the purpose of the district, the board of directors shall have the power to acquire such data and records of surveys as may be useful to it, and shall pay therefor an amount not to exceed the value of such data and records to said district. The plan herein referred to may include any improvement work already done for conservancy or flood control purposes or any of the purposes contemplated by this act, by any person, firm, corporation, private or public, or any district or municipality, and if so the board of directors shall have power to acquire the same and pay therefor an amount not to exceed the appraised value thereof as appraised by the board of appraisers hereafter referred to.

Upon the completion and filing of such plan, the board shall cause notice by publication to be given as provided in section one herein in each county of said district, of such completion of said plan, and shall permit the inspection thereof at their office by all persons interested. Said notice shall fix the time and place for the hearing of all objections to said plan not less than twenty days nor more than thirty days after the last publication of said notice; any person interested in property within the district may object to such plan. All objections to said plan shall be in writing and filed with the secretary of said board at his office not more than one day before the time of such hearing. Said objection shall specify the features of the plan objected to. At the time specified in said notice, the board of directors shall meet at the office of said district, and hear said objections and adopt, reject or refer back said plan for modification to the engineer of said district. If said plan be referred back to said engineer said meeting shall be continued from time to time until such modified plan shall be reported by said engineers. The state engineer shall be invited to be present in person or by representative at said hearing or any continuation thereof and may approve, reject or modify said plan, his actual expenses to be borne by the district. Before final approval of the official plan the same shall have had the written approval of the state engineer whose duty it shall be to pass upon the feasibility of the plan, its proper adaptation to a general flood control plan of the stream

system or systems of which it may be a part as well as the safety of the works to be constructed and until such approval shall have been received such official plan may not be adopted. After said hearing before the board of directors and their approval, and after said plans have been approved or modified and approved by the state engineer, the said board shall adopt said plan as approved, or as modified and approved, as the official plan of said district. If said board of directors shall reject said plan, then said board shall proceed as in the first instance under this section to prepare another plan. Upon final adoption of said official plan, a record of such adoption shall be entered upon the minutes of the board and shall be filed with the secretary together with the approval of the state engineer.

§ 12. Power of directors. The board of directors shall have full power and authority to devise, prepare for, execute, maintain and operate any or all works or improvements necessary or desirable to complete, maintain, operate and protect the improvement outlined by the official plan. They may secure and use men, materials and equipment under the supervision of the chief engineer or other agents, or they may in their discretion let contracts for such works, either as a whole or in part, to the lowest responsible bidder after publication calling for bids as hereinafter provided.

§ 13. Right to enter lands to make surveys, etc. The board of directors of any district organized under this act, or their employees or agents, including contractors, and their employees, and the members of the board of appraisers and their assistants may upon first obtaining an order of court enter upon lands within or without the district in order to make surveys and examinations to accomplish the necessary preliminary purposes of the district, or to have access to the work, being liable, however, for actual damage done, but no unnecessary damage shall be done. Any person or corporation preventing such entrance shall be guilty of misdemeanor, punishable by fine not exceeding fifty dollars.

§ 14. Powers of directors to perform work. Limitation on powers. In order to effect the protection from damage by flood waters or the drainage, reclamation or irrigation of the land and other property in the district, and to accomplish all other purposes of the district, the board of directors is authorized and empowered, subject to the laws of this state, to clean out, straighten, widen, alter or deepen the course or terminus of any conduit, pipe-line or ditch, drain, sewer, river, watercourse, wash, pond, lake, creek or natural stream, to plant trees for the protection of the same or to forest or reforest lands for the conservation of flood water, to establish settling basins, shafts or tunnels for sinking water and to construct dams in or out of said district; to fill, abandon or alter any ditch, drain, sewer, river, watercourse, wash, pond, lake, creek or natural stream, and to concentrate, divert or divide the flow of water in or out of said district; to construct and maintain main and lateral conduit pipe-lines or ditches, sewers, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations and siphons, and any other works and improvements deemed necessary to construct, preserve, operate or maintain the works herein provided for, and subject to approval of general plan therefor

... or officers in charge of such highways to construct or enlarge or cause to be constructed or enlarged any and all public bridges that may be needed in or out of said district; to construct or elevate highways and streets in the manner herein provided; to construct any and all of said works and improvements across, through or over any public highway, canal, railroad right of way, track, grade, fill or cut, in or out of said district, as herein provided; to remove or change the location of any fence, building, railroad, canal, or other improvements in or out of said district as herein provided; and shall have the right to hold, encumber, control, to acquire by donation, purchase or condemnation, to construct, own, lease, use and sell real and personal property, and any easement, riparian right, railroad right of way, canal, sluice, reservoir, settling basin, holding basin, mill dam, water-power, wharf, or franchise in or out of said district for right of way, holding basin or for any necessary purpose, or for material to be used in constructing and maintaining said works and improvements, open new roads, streets and alleys, or change the course of an existing one, as herein provided, and may dispose of waters conserved for irrigation as herein provided; provided, however, that the powers of this act vested in said board of directors are vested subject to the conditions, restrictions and limitations imposed by the public utilities act of the state of California and the act of the state of California creating the water commission, and the reclamation board act of the state, and subject to the powers therein vested in the said railroad commission and the said water commission and the said reclamation board of this state; and provided, further, that the approval of the officer or officers in charge of public highways be first had before any public highway, alley, lane, or bridge or appurtenance thereto be in any manner interfered with.

§ 15. Letting of contracts. When it is determined to let the work by contract, contracts in amounts to exceed one thousand dollars shall be let after notice calling for bids shall have been published, once a week for three consecutive weeks completed on date of last publication, in at least one newspaper of general circulation within said district, or in case there is no such newspaper within the district, then within the county where the work is to be done, and the board may let said contract to the lowest or best bidder who shall give a good and approved bond, with ample security, conditioned on the carrying out of the contract, or the board may reject all bids and readvertise for the same. But said contract shall not be let to another than the lowest responsible bidder unless upon a hearing before the board of directors, and with notice to all parties interested, an order be obtained therefor. Such contract shall be in writing, and shall be accompanied by or shall refer to official plans and specifications for the work to be done, prepared by the engineer of said district in accordance with said final plan. Said contract shall be approved by the board of directors and signed by the president of the board and by the contractor, and shall be executed in duplicate; provided, that in case of sudden emergency when it is necessary in order to protect the district, the advertising of contracts may be waived upon the unanimous consent of the board of directors in writing.

§ 16. Right of eminent domain. Said board, where necessary for the purposes of this act, shall have a right of eminent domain subject to the rights and powers vested in the railroad commission of this state.

§ 17. Right to condemn property. Said board shall also have the right, subject to the powers and rights vested by law in the state railroad commission, to condemn for the use of the district any land or property within or without said district.

§ 18. Regulation of ditches. Where necessary, in order to secure the best results from the execution and operation of the plans of the district, or to prevent damage to the district by deterioration or misuse, or by the pollution of the waters, of any watercourse therein, the board of directors may make regulations for and may prescribe the manner in which existing ditches or other works shall be adjusted to or connected with the works of the district or any watercourse therein; and when not in conflict with local or state health regulations may prescribe the manner in which the watercourses of the district may be used for sewer outlets or for disposal of waste; provided, however, that the consent of the properly constituted local or state health officer or officers be first obtained.

§ 19. Consent of health officers. Power to change watercourse, etc. The board of directors, subject to such regulations as may be imposed by law, shall have power and authority to improve in alignment, section, grade or in any other manner any watercourse, and they may require the removal, widening, lengthening, deepening, raising or other change of any public or private road bridge or railroad bridge or any aqueduct or telephone, telegraph, gas, oil, sewer, water or other pipe lines or any other construction over, along, across, under or through such watercourse; provided, however, that no change shall be made in any public bridge, highway, ditch, or other public structure without the consent of the public officer or officers in charge of the same be first had and obtained. In case such change is made necessary in any such structure by the failure of such bridge or other structure to permit the free flow of the water in such stream in time of flood, then the owner of any such construction shall make such change without cost to the district, or without any claim for damages against the district, except that the district shall pay the cost of excavating the earth for the enlargement of any channel or for placing earth for the filling of any channel where such excavation or filling is required as a part of plans of the district in making the changes outlined in this section, but the district shall not be required to make such fill or excavation unless it would be necessary to the plans of the district if the bridge or other construction did not exist; provided, however, that nothing herein contained shall deprive any owner of property of due process of law in determining the amount of damages due him for property damaged or taken for the uses herein stated; and provided, further, that in all things where the railroad commission of this state is empowered to act by the laws of this state their sanction to any act must first be had.

§ 20. Moving dredge boat through bridge or grade. In case it is necessary to pass any dredge boat or other equipment through a bridge or grade of any railroad company or other corporation, county or mu-

nicipality, the board of directors shall give twenty days' notice to the owner of said bridge or grade that the same shall be removed temporarily to allow the passage of such equipment or that an agreement be immediately entered into in regard thereto. The owner of said bridge or grade shall keep an itemized account of the cost of the removal, and, if necessary, of the replacing of said bridge or grade, and said actual cost shall be paid by the district. In case the owner of said bridge or grade shall refuse to provide for the passage of said equipment, the board of directors may remove such bridge or grade at the expense of the district after proceeding according to law so to do, interrupting traffic in the least degree consistent with good work and without delay or unnecessary damage; provided, that, where required by law, the consent of the railroad commission of the state is first obtained. In case they shall be impeded from doing so, the owner of said bridge or grade shall be liable for damage for the resulting delay. Nothing in this act specified to be done affecting any public bridge or highway shall be undertaken without first obtaining the consent in writing of the officer or officers of the county or city or state having supervision of such bridge or highway in which such improvement is contemplated.

§ 21. Stream gauges, etc. The board of directors shall also have the right to establish and maintain stream gauges, rain gauges, a flood warning service with telephone or telegraph lines or telephone or telegraph service, and may make such surveys and examinations of rainfall and flood conditions, stream flow and other scientific and engineering subjects as are necessary and proper for the purposes of the district, and they may issue reports of their findings.

§ 22. Co-operation with United States government, etc. The board of directors shall also have the right and authority to enter into contracts or other arrangements with the United States government or any department thereof, with persons, railroads or other corporations, with public corporations, and the state government of this or other states, with protection, flood control, drainage, conservation, conservancy, levee or other improvement districts, in this or other states, for co-operation or assistance in constructing, maintaining, using and operating the works of the district or the waters thereof, or for making surveys and investigations or reports thereon; and may purchase, lease or acquire land or other property in adjoining states in order to secure outlets or for other purposes of this act, and may let contracts or spend money for securing such outlets or other works in adjoining states.

§ 23. Appropriation of increased water supply. Application to use waters appropriated. Rights of municipalities. Term of lease, etc. Regulations for purpose of determining rates. Rates fixed by railroad commission. Determination of water rights, etc. Wherever the organization of or the improvements made by the district increase the supply of water in the stream or stream system such increase may be subject to appropriation by the district, and the rights to such increase where lawfully appropriated may be leased, sold, or assigned by the district in return for reasonable compensation, subject, however, to such regulation and control as may be reposed by law in water commission or other office, agency or department of the state of California.

Persons, corporations, municipalities, or other parties desiring to secure use of the waters lawfully appropriated by the district for protection against flood damage, or watercourses of the district, or of the district rights therein, which may have been acquired by appropriation under the laws of this state, may, subject to the regulations and conditions authorized by law to be imposed by the state water commission, make application to the board of directors for lease, purchase, or permission for such use. Such application shall conform to the rules and regulations of the state water commission and state the purpose and character of such use, the period and degree of continuity of such use, the amount of water desired and the place of use and the means of conveyance. Where it is not possible nor reasonable to grant all applications, preference shall be given to domestic and municipal water supply. All other applications shall be granted in the order of their filing and shall be granted subject to the applicable provisions of the said water commission act and to said public utility act and other acts of the state of California now in force.

Nothing in this act contained shall be deemed or construed to limit the rights of municipalities in the exercise of the right of eminent domain under the laws of the state of California.

The board of directors shall not permanently sell, lease, assign, permit or otherwise part with the control by the district of the use of the waters thereof, and rates for light, power or other services charged by vendees, assignees, lessees or licensees of such board of directors shall be subject at all times to revision and control by state law. Assignments, leases, sales or permissions may be made for periods of not greater than twenty-five years. At the termination of the period of such assignments, sales, leases or permissions, they shall be renewed for a reasonable period not to exceed fifteen years, on the condition that a new determination is made of a reasonable charge therefor, as herein provided; unless there are other applications on file, the granting of which would result in filling a greater need or in a more reasonable use. In case such applications are on file, they shall have preference.

The board of directors may make regulations, subject always to the applicable provisions of the said water commission act and the said public utilities act of the state of California, and other act or acts of said state, for the determination and measurement of the increased, or better, or more convenient use of, or benefit from the water supply of the district, for the purpose of determining rates of compensation, and for the purpose of securing to all parties interested the greatest and best use of the water thereof. A copy of such regulations shall be transmitted to the state water commission for its approval and to the railroad commission of the state of California, accompanied by a request for the fixing of rates by said commission for said district. Said commission shall thereupon proceed to fix said rates in the manner provided by law and report the same to said board of directors. In case of failure of any user to pay for use in the manner specified by order of the court, the board may compel payment, and may enjoin further use until such payment is made. The rights under any lease or sale shall not extend to a change of use, or of place, time or manner of use, except in so far as is specifically stated in the lease or other agreement.

All money received as compensation under the provisions of this section shall be added to the maintenance fund of the district and used for defraying the expenses thereof.

As a basis for assessment of benefits due to a greater, better, or more convenient use of, or benefit from, the waters of the district the directors of the district may themselves cause a determination to be made or may avail themselves of data in the hands of the said state water commission of the conditions of the water supply and of the watercourses of the district as they were before the improvements were made, or as they existed at any subsequent time, and they may petition the state water commission to make a determination of all rights, property, easements, or other interests in the waters, or the watercourses of the district, such determination being based upon records of greatest and least flow, upon the evidence of use, or evidence of legal rights, and upon any other evidence and records which may be available, and upon receipt of such petition it shall become the duty of the state water commission to immediately proceed to ascertain the same and to report to said board of directors their findings. Upon the completion of such determination and the receipt of a report thereof by them, the directors of the district shall make their report thereon and file the same with the secretary of said district. Thereupon notice shall be given of the pendency of said report and a hearing thereon, which notice and hearing shall conform as nearly as possible to the notice and hearing on appraisals of benefits and of land to be taken. Upon the determination of the matter by the board of directors, its findings shall be conclusive, and shall be the basis of any future assessment; provided, that in case any party shall thereafter establish in court or through the action of the state water commission any right or property in the waters of the district, or the use thereof, which has not been adjudicated, the existence of such right, or the failure to adjudicate it, shall not affect the operation of this provision nor the findings of the board of directors thereon in any other particular.

The appraisal of benefits made by the appraisers of the district shall not include benefits for such greater, better or more convenient use of, or benefit from the waters of the district, but the compensation for such use or benefits shall be made according to the provisions of this section.

§ 24. Board of appraisers. At any suitable time after having taken their oath of office, the board of directors shall appoint three appraisers whose duty it shall be to appraise the lands or other property within and without the district to be acquired for rights of way, reservoirs and other works of the district, and to appraise all benefits and damages accruing to all lands within or without the district by reason of the execution of the official plan. Said appraisers shall be freeholders residing within the state of California, who may or may not own lands within said district. Each of the appraisers shall, before taking up his duties, take and subscribe to an oath that he will faithfully and impartially discharge his duties as such appraiser, and that he will make a true report of such work done by him. The said appraisers shall at their first meeting elect one of their own number chairman, and the secretary of the board of directors or his deputy shall be ex-officio secretary of said board of appraisers during their continuance in office. A majority of the appraisers shall constitute a quorum, and a concur-

rence of the majority in any matter within their duties shall be sufficient for its determination. Said appraisers shall continue to hold their office until dismissed by the board of directors, and the board of directors shall fill all vacancies in the board of appraisers, or may appoint a new board for subsequent appraisals, as occasion may require. Such new board, if appointed, shall fill all the requirements of the board of appraisers of the district, and perform its duties.

§ 25. Appraisal of benefits and damages. Appraisal of property for purchase. When the official plan is adopted and filed with the secretary of the district and said appraisers have been appointed he shall at once notify the board of appraisers, and they shall thereupon proceed to appraise the benefits of every kind to all real property within or without the district, which will result from the organization of said district and the execution of the official plan; and also to appraise the damages sustained and the value of the land and other property necessary to be taken by the district for which settlement has not been made by the board of directors. In the progress of their work, they shall have the assistance of the attorney, engineers, secretary and other agents and employees of the board of directors.

The board of appraisers shall also appraise the benefits and damages, if any, accruing to property or interests in properties of cities, counties and other public corporations, and to the state of California.

Before appraisals of compensation and damages are made, the directors of the district may report to the appraisers the parcels of land or other property, or any other works to be done, included within the powers granted under the act they may wish to purchase and for which they may wish appraisals to be made, both for easement and for purchase in fee simple. The board may, if it deems best, specify in case of any property the particular purpose for which and the extent to which an easement in the same is desired, describing definitely such purpose and extent. The appraisers shall appraise all damages which may, because of the execution of the official plan, accrue to real or other property either within or without the district, which damages shall also represent easements acquired by the district for all the purposes of the district, unless otherwise specifically stated. Upon such appraisals being confirmed by the board of directors, the board of directors of the district shall have the option of paying the entire appraised value of the property and acquiring full title to it (in fee simple), or of paying only the cost of such easement for the purposes of the district. The appraisers in appraising benefits and damages shall consider only the effect of the execution of the official plan. The appraisers in making appraisals shall give due consideration and credit to any other works or other systems of reclamation already constructed, or under construction, which form a useful part of the work of the district according to the official plan. Where the appraisers return no appraisal of damages to any property, it shall be deemed a finding by them that no damage will be sustained.

§ 26. Lands outside district. If the appraisers find the lands or other property not embraced within the boundaries of the district will be affected by the proposed improvement, or should be included in the district, they shall appraise the benefits and damages to such land, and shall file notice with the board of directors of the appraisal which they have made upon the lands beyond the boundaries of the district.

§ 27. Report of board of appraisers. The board of appraisers shall prepare a report of its findings which shall be arranged in tabular form and bound in book form, and which shall be known as the conservancy appraisal record. Such record shall contain the names of the owners of property appraised as it may appear on the last assessment-roll of the county, a description of the property appraised, the amount of benefits appraised, the amount of damages appraised, and the appraised value of land or other property which may be taken for the purposes of the district. They shall also report any other benefits or damages or any other matter which in their opinion should be brought to the attention of the board of directors. No error in the names of the owners of real property or in the descriptions thereof shall invalidate said appraisal or the levy of assessments or taxes based thereon, if sufficient description is given to identify such real property.

When their report is completed, it shall be signed by at least a majority of the appraisers and filed with the secretary.

§ 28. Notice of hearing on appraisals. Description of lands. Upon the filing of the report of the appraisers, the secretary of the district shall give notice thereof by publication. Said notice shall be substantially as in form six of the schedules hereto attached. It shall not be necessary for said secretary to name the parties interested.

It shall not be necessary to describe the separate lots or tracts of land in giving said notice, but it shall be sufficient to give such descriptions as will enable him, the owner, to determine whether or not his land is covered by such description. For instance, it will be sufficient to state "all land lying in block — of the town of —" or, "all land abutting on — street in the town of —," or "all land lying west of — river and east of — railroad in — township," or any other general description pointing out the lands involved and identifying the same.

Where lands in different counties are mentioned in said report it shall not be necessary to publish a description of all the lands in the district in each county, but only of that part of the said lands situate in the county in which publication is made.

§ 29. Hearing of objections. Any property owner may accept the appraisals of benefits and of damages and of lands to be taken made by the appraisers, or may acquiesce in their failure to appraise damages, and shall be construed to have done so unless he shall within ten days after the last publication provided for in the preceding section file objections to said report. All objections shall be heard by the board of directors, beginning not less than twenty nor more than thirty days after the last publication provided for herein, and determined in advance of other business so as to carry out, liberally, the purposes and needs of the district. The board of directors, if it deem necessary, may alter or amend said report in accordance with such objection or any of them, or may return the report to the board of appraisers for their further consideration and amendments, and enter its order to that effect. If, however, the appraisal roll as a whole is referred back to the appraisers, the board of directors shall not resume the hearing thereof without due notice, as for an original hearing thereon.

§ 30. Approval of report. Disorganization of district on disapproval of report. If it appears to the satisfaction of the board of directors

after having heard and determined all said objections that the estimated cost of constructing the improvement contemplated in the official plan is less than the benefits appraised, then the said board shall approve and confirm said appraisers' report as filed or as so modified and amended. In case the board of directors shall find that the benefits appraised are less than the estimated total costs, it shall report the fact to the board of supervisors who shall disorganize the district after having provided for the payment of all expenditures by an order of said board abandoning all proceedings.

§ 31. Condemnation of property. If after the approval of the appraisers' report the said board of directors deems it necessary to proceed by condemnation to acquire for the district property to carry out the official plan of the district, it may proceed so to do, under and by virtue of the laws of the state of California, and the passage of a resolution by said board that the lands to be acquired are for a public use shall be conclusive of that fact.

§ 32. Alterations or additions to plan. The board of directors may at any time before the conclusion of the hearing thereon and the approval by the state engineer, when necessary to fulfill the objects for which the district was created, alter or add to the official plan as in section eleven provided, and when such alterations or additions are formally approved by the said board and by the state engineer and are filed with the secretary, they shall become parts of the official plan for all purposes of this act. Where such alterations or additions in the judgment of the said board neither materially modify the general character of the work, nor materially increase resulting damages for which the board is not able to make amicable settlement, nor increase the cost more than ten per cent, no reappraisal shall be necessary. In case the proposed alterations or additions in the opinion of the board materially modify the resulting damages or materially reduce the benefits, for which the board of directors is not able to make amicable settlement, or materially increase the benefits in such a manner as to require a new appraisal, or increase the cost more than ten per cent, the board of directors shall direct the board of appraisers (which may be the original board or a new board appointed by the board of directors) to appraise the property to be taken, benefited or damaged, by the proposed alterations or additions. Upon the completion of the report thereon by the board of appraisers notice shall be given and a hearing had on their report in the same manner as in the case of the original report of the board of appraisers; provided, that where only a few land owners are affected, the secretary of the district may, on order of the board of directors, if found by them to be more economical and convenient, give personal notice to such land owners of the hearing of the report of said appraisers, instead of notice by publication; and provided, that when the only question at issue is additional damages or reduction of benefits to property, due to modifications or additions to the plans, the board of directors may, if they find it practicable, make settlements with the owners of the property damaged or benefited, instead of having appraisals made by the board of appraisers. In case such settlements are made, notice and hearing need not be had. After bonds have been sold, in order

that their security may not be impaired, no reduction shall be made in the aggregate amount of benefits appraised against property in the district.

§ 33. Validity of proceeding not affected by fault. No fault in any notice or other proceedings shall affect the validity of any proceeding under this act except to the extent to which it can be shown that such fault resulted in a material denial of justice to the property owner complaining of such fault if any appraisal of benefits shall be declared ineffectual by any court.

The board of directors may render a finding as to the amount of benefits to said property, and appraise the proper benefits accordingly, and thereupon said land shall be assessed according to such benefits.

§ 34. District funds. The moneys of every conservancy district organized hereunder shall consist of four separate funds: (1) Preliminary fund, by which is meant the proceeds of the ad valorem tax authorized by this act and such advancements as may be made from the general county funds as provided in this act; (2) bond fund, by which is meant a fund raised by the issuance and sale of bonds of the district; (3) improvement warrant fund, by which is meant the proceeds of levies made against the special assessments of benefits equalized and confirmed under the provisions of this act; and (4) maintenance fund, which is a special assessment to be levied annually for the purpose of upkeep, administration and current expenses as hereinafter provided. It is intended that the cost of preparing the official plan, the appraisal (except as paid out of the preliminary fund) and the entire cost of construction and superintendence, including all charges incidental thereto, and the cost of administration during the period of construction, shall be paid out of the bond fund.

No vouchers shall be drawn against the preliminary fund (except for advances from the general county funds) or against the maintenance fund until a tax-levying resolution shall have been properly recommended by the board of directors and passed by the board of supervisors and duly entered upon its records; no bonds shall be issued against the bond fund until a tax-levying resolution shall have been properly recommended by the board of directors and passed by the board of supervisors and duly entered upon its records; no moneys shall be transferred from the improvement warrant fund except by order of the board of supervisors, upon recommendation of the board of directors.

§ 35. Payment of preliminary expenses. Advance of fund, by counties. Tax levy for incidental expenses. If the district is not organized, then the costs of publication and other official costs of the proceedings shall be collected by the county from the petitioners or their bondsmen, paid into the county treasury and there held in a separate fund against which warrants may be audited and drawn on the order of the board of supervisors, as other warrants of the county are audited and drawn. Upon the organization of the district, the board of supervisors shall make an order indicating a preliminary division of the preliminary expenses between the counties included in the district in approximately the proportions of interest of the various counties as may be estimated by said board of supervisors. And the board of supervisors of each

respective county shall issue an order to the auditor of its respective county to issue his warrant for the pro rata amount to be paid that county, upon the treasurer of his county to reimburse the county having paid the total cost; provided, however, that the joint board of supervisors shall first determine at a previous meeting the pro rata amount to be borne by each county and shall determine the same upon a basis of the assessed value of property benefited in the district in each county.

Expenses incurred thereafter prior to the receipt of money by the district from taxes or assessments, bond sales, or otherwise, shall be paid from the general funds of the respective counties proportionately upon the order of the board of supervisors, and shall be paid upon certification of the clerk of the board of supervisors of such order, specifying the amount and purpose of the claims to the auditor of each county, who shall thereupon at once issue his warrant to the treasurer of his county. Upon receipt of funds by the district from the sale of bonds or by taxation or assessment the funds so advanced by the counties shall be repaid.

As soon as any district shall have been organized under this act, and a board of directors shall have been elected and qualified, such board of directors shall recommend to the board of supervisors and the board of supervisors shall have the power and authority to levy upon the property within the district an assessment not to exceed three-tenths of a mill on each one hundred dollars of the assessed valuation thereof as a level rate to be used for the purpose of paying expenses of organization, for surveys and plans, and for other incidental expenses which may be necessary up to the time money is received from the sale of bonds or otherwise. This assessment shall be certified to the auditors of the various counties having property within the district and by them to the respective treasurers of their counties. If such items of expense have already been paid in whole or in part from other sources, they may be repaid from the receipts of such levy, and such levy may be made although the work proposed may have been found impracticable or for other reasons is abandoned. The tax collector shall at once proceed to collect said assessment and the collection of such assessment levy shall conform in all matters to the collection of taxes and assessments for the district outlined in this act, and the same provisions concerning the nonpayment of taxes shall apply. In case a district is disbanded for any cause whatever before the work is contracted, the data, plans and estimates which have been secured shall be filed with the clerk of the board of supervisors with which the petition thereupon was filed, and shall be matters of public record available to any person interested.

§ 36. Interest on unpaid warrants. If any warrant issued by the board of directors is presented for payment and is not paid for want of funds in the treasury, that fact with the date of refusal shall be indorsed on the back of such warrant, and said warrant shall thereafter draw interest at the rate of six per cent, until such time as there is money in the treasury of said district sufficient to pay the amount of said warrant with interest.

§ 37. Bond issue to complete works. Additional issues. Elections. Rate of interest. Form and sale of bonds. Payment, pledge and validity of bonds. Registry of. As investments. At any time after the adoption of the original official plan the board of directors may by majority vote of

said board adopt and enter on their minutes a resolution estimating the amount of money needed to complete the works according to said official plan and authorizing and directing a petition to be filed with the board of supervisors of the county in which the original petition for the organization of the district was filed, requesting that a special election be called to submit to the electors of the district qualified under this act the question of incurring an indebtedness in the amount specified in said resolution. Said petition shall set forth the amount of bonds to be issued, the rate of interest to be paid, which shall not exceed six per cent per annum and in general terms the objects and purposes for which the indebtedness is to be incurred. After the filing of said petition the board of supervisors shall without delay call a special election and submit to the electors of said district, qualified under the provisions of this act, the proposition of incurring a bonded debt in the amount estimated by the board for the construction of the works in accordance with said official plan.

If the amount of money provided in the original bond issue is not sufficient to complete the work according to the official plan nothing herein contained shall prohibit the board of directors from filing petitions for additional issues of bonds in the same form and manner hereinabove set forth for the original issue of bonds. The plan and procedure for the original issue of bonds shall be followed for all subsequent issues of bonds.

Said board of supervisors shall call such special election by ordinance, and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief general description of such objects and purposes, and refer to the official plan on file for particulars; and said ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and what part of such indebtedness shall be paid each and every year, and which shall be not less than one-fortieth of the whole amount of such indebtedness, and the rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, the manner of holding the same and the manner of voting for or against incurring such indebtedness. The rate of interest to be paid on such indebtedness shall not exceed six per centum per annum.

For the purposes of said election, said board of supervisors shall in said ordinance establish election precincts within the boundaries of the said district, and may form election precincts by consolidating the precincts established for general election purposes in said district to a number not exceeding six for each such bond election precinct, and shall designate a polling place and appoint two inspectors, two judges and two clerks for each of such precincts.

In all particulars not recited in such ordinance, such election shall be held as nearly as practicable in conformity with the general election laws of the state.

Said board of supervisors shall cause so much of said official plan as covers a general description of the work to be done, and the map showing the location of the proposed work and improvements, to be printed at least thirty days before the date fixed for such election, and a copy thereof furnished to every elector of said district qualified under the provisions of this act who shall apply for the same.

Said ordinance calling such election shall, prior to the date set for such election, be published ten times in a daily, or four times in a weekly newspaper of general circulation, printed and published in said district, and designated by said board of supervisors for said purpose. No other notice of such election need be given.

Any defect or irregularity in the proceedings prior to the calling of such election shall not affect the validity of the bonds.

If at such election a majority of the votes cast are in favor of incurring such bonded indebtedness, then bonds of said district for the amount stated in such proceedings shall be issued and sold as in this act provided. All bonds issued under this act shall mature serially in equal annual amounts of not less than one-fortieth part of the aggregate principal in each year, and their principal and interest shall be made payable at the county treasurer's office of the main county; in United States gold coin. The board of supervisors by an order entered upon its minutes shall prescribe the form of said bonds, and of the interest coupons attached thereto; the denominations of the bonds, which shall be not less than one hundred dollars nor more than one thousand dollars; the dates of payment of principal and interest, and the serial numbering of the bonds and coupons. Said bonds shall be signed on behalf of the district by the chairman of the board of supervisors of the main county and by the auditor of said county, and the coupons shall be signed by the engraved or lithographed facsimile signature of such auditor; and when so signed said bonds and coupons shall be delivered for safe-keeping to the county treasurer of said main county, who shall deliver them to the purchaser or purchasers thereof on receipt of the purchase price. If any officer signing shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and effectual. Said bonds shall be sold in the manner prescribed by the board of supervisors, but for not less than par, and the proceeds of sale thereof, including any premium received at such sale, shall be deposited in the county treasury to the credit of the construction fund of the district. Payments from said fund shall be made by the county treasurer upon demands signed by the president and secretary of the district and approved by resolution of the board of directors, each of which demands shall recite that it is drawn in payment of work to be done under said official plan, or for expense incidental thereto. Bonds issued under this act shall constitute a continuing lien upon all property within the district. The board of supervisors shall levy a tax each year upon the taxable property in such district, sufficient (when added to the district bond fund in the county treasury available therefor) to pay the annual interest on said bonds, and also such part of the principal thereof necessary to be collected as will become due before the collection of the next general tax levy. Such tax shall be levied and collected on such property in each county containing any part of the district at the time and in the same manner as the general tax levy for county purposes, and when collected shall be paid by the treasurer of each county into the county treasury of the main county to the credit of the district bond fund, to be used for the payment of the principal and interest of said bonds and for no other purpose. The treasurer shall pay therefrom the principal and interest of said district bonds in the manner provided by law for payment of county bonds.

The provisions of the Political Code prescribing the manner and effect of levying, equalizing and collecting taxes, the sale of property for delinquency, and the redemption from such sale, and the duties of the several county officers in respect thereto, so far as they do not conflict with the specific provisions of this act, are hereby adopted and made applicable to the levy and collection of said taxes for the payment of bonds. Such officers shall be liable on their official bonds for the faithful discharge of the duties imposed on them by this act.

If at the time the bonds are ready to be issued, the board shall be of the opinion that such bonds cannot advantageously be issued and sold in whole, the board may sell parts only of the entire issue or may pledge all or part of said issue as collateral to a loan, but no partial sale or pledge shall be made without the order of the board made and entered of record, and no pledge shall be made at a greater margin than at the rate of one hundred dollars of bond principal for ninety dollars of loan.

The district may secure the payment of loans from the United States government in the same manner as it may secure the payment of bonds, and the board of directors may make any necessary regulations to provide for such payments.

This act shall, without reference to any other act of the legislature of California, be full authority for the issuance and sale of the bonds in this act authorized, which bonds shall have all the qualities of negotiable paper under the law-merchant, and when executed and sealed and certified to by the state treasurer in conformity with the provisions of this act, and when sold in the manner prescribed herein and the consideration therefor received by the district, shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestible in the hands of bona fide purchasers or holders thereof for value. No proceedings in respect to the issuance of any such bonds shall be necessary except such as are required by this act. Whenever the owner of any coupon bond issued pursuant to the provisions of this act shall present such bond to the treasurer of the district with a request for the conversion of such bond into a registered bond, the said treasurer shall cut off and cancel the coupons of any such coupon bond so presented and shall stamp, print or write upon such coupon bond so presented, either upon the back or the face thereof, as may be convenient, a statement to the effect that the said bond is registered in the name of the owner and that thereafter the interest and principal of said bond are payable to the registered owner. Thereafter and from time to time, such bond may be transferred by such registered owner in person or by attorney duly authorized on presentation of such bond to the treasurer of the district and the bond again registered as before, a similar statement being stamped, printed or written thereon. Such statement stamped, printed or written upon any such bond may be substantially in the following form:

(Date, giving month, year and day.)

This bond is registered pursuant to the statutes in such case made and provided, in the name of (here insert name of owner), and the interest and principal thereof are hereafter payable to such owner.

Treasurer — conservancy district.

If any bond shall be registered as aforesaid, the principal and interest of such bond shall be payable to the registered owner. The treas-

urer of the district shall enter in a register of said bonds to be kept by him or in a separate book, the fact of the registration of such bond and the name of the registered owner thereof, so that said registry or book shall at all times show what bonds are registered and the name of the registered owner thereof.

§ 38. Bonds of any district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by the laws of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

§ 39. Improvement warrants. Form of improvement warrant. Upon the adoption of the report of appraisers hereinbefore referred to, the board of directors shall certify said report to the board of supervisors. The board of supervisors shall levy against the respective parcels of property within the district the sum set forth in said report of appraisers assessed to the respective parcels of property as therein set forth for special benefits. The board of supervisors shall thereupon issue what shall be known as improvement warrants, under the provisions of this act, to represent such special assessments against each parcel of land, in the form and manner and with the effect in this act provided. Said improvement warrants shall be numbered consecutively, their said numbers corresponding with the numbers given to the respective parcels of land as shown upon the map accompanying the general plan, and shall be deemed to refer to said map. The respective special assessments so levied, as evidenced by said improvement warrants, shall bear the same rate of interest per annum from the date of the issuance of the said warrants until paid as is borne by the district bonds, hereinbefore authorized to be issued, and said interest, together with a sum equal to the first installment of principal, plus one per cent of said principal, shall be paid semi-annually at the treasury of said district. Said assessments shall be apportioned by said board of supervisors over a period of twenty-six years, both principal and interest payable at the office of the treasury of said district. The said improvement warrants issued to evidence said assessments shall be attested by the seal of said district, and shall be signed by the secretary of the board of directors, and shall be a lien for the amount indicated on the face of such warrants, viz., the amount of said special assessment, together with accrued interest, if any, against the specific parcels of land to which the said improvement warrants respectively refer. Payment of the annual installment of the principal of said assessment, as evidenced by said improvement warrants, together with accrued interest, shall be due on the first day of July and January of each year, and the first payment shall be due on the first day of July next following the date of the issuance of such improvement warrant. In case of default in the payment of any installment of the principal provided for in said improve-

ment warrant, or interest accrued on deferred payments, then and in that event the entire remaining unpaid installments shall become immediately due and payable, and the same, and all liens which are security therefor, may be collected and enforced as in this act provided. Said improvement warrants shall be in the following, or substantially the following form, and of effect as therein stated:

Improvement Warrant No. — of — Conservancy District.

\$ —

(Date) —

This improvement warrant, known as and numbered improvement warrant number — of the — conservancy district, is issued to represent an assessment for benefits to the amount of \$ —, levied in the — conservancy district, state of California. The amount herein stated is the amount assessed in said assessment against the lot or parcel of land numbered — in the report of appraisers on file herein, and in the diagram attached thereto, and which said amount has been divided into fifty-two equal installments of principal, one installment of which, together with accrued interest, is to be paid semi-annually, and which said amount, except as indicated on the back hereof, remains unpaid, and until entirely paid, with accrued interest, is a first lien upon the property affected thereby, and as the same is described herein and in said recorded assessment with its diagram, to wit, the lot or parcel of land in the — conservancy district, county of —, state of California, described as follows: —

The term of this improvement warrant is twenty-six years from July 1, 19—, and at the expiration of said time the whole sum then unpaid, together with accrued interest, shall be due and payable, but on the first days of July and January of each year after the date hereof, an even semi-annual proportion of its principal is due and payable until the whole is paid, with accrued interest, at the rate of — per cent per annum. The interest on deferred payments is payable semi-annually, on the first day of July and January in each year hereafter until paid, the first of which is due for the interest from date to the first day of July, 19—, and thereafter the interest payments are for the interest due on all deferred payments. Should default be made in the first or any succeeding payments of principal, or in any payment of interest by the owner of said lot or parcel, or anyone in his behalf, the district is entitled to declare the whole unpaid amount to be due and payable, and thereupon have a right to collect the same and to enforce all liens which are security therefor, as by law provided, and as in the case of unpaid state and county taxes.

Issued by order of the board of supervisors this — day of —, 19—.

—, —,
Secretary of the board of directors of the
— conservancy district.

Amounts due on said improvement warrants shall be payable to the district treasurer, and no mistake or error in the description in said warrant or in the description of the lot or parcel of land assessed shall affect the validity of the lien of any improvement warrant, unless the

mistake or error is such that the said lot or parcel of land cannot be identified, and in such event, the same, by order of the board of directors, may be corrected upon application to the treasurer and to the officers or board who or which made the assessment to represent which such warrant is issued.

§ 40. Record of improvement warrants. The treasurer of the district shall enter in a book kept for that purpose in his office a record of each improvement warrant issued hereunder, specifying the date of its issue, the amount for which issued, its duration, and a description of the lot or parcel against which issued. Payments of principal and interest on account of any warrant issued hereunder shall be made to the treasurer of the district, who shall keep a separate account of all such payments, entering the same in the record herein required to be kept, and credit the same on the back of the warrant, and place the same in appropriate funds for the payment of principal and interest of the improvement warrants on account of which paid.

§ 41. Amount of warrant lien on property. Such warrants issued hereunder shall by their issuance be conclusive evidence of the regularity and validity of all proceedings thereto. The amount due upon any such improvement warrant shall be a lien upon the lot or parcel described in such improvement warrant, superior to all other liens, charges and encumbrances until paid, except the liens of prior assessments and of state, county and municipal taxes, assessments levied or assessed by statutory authority and taxes levied to pay off the principal and interest of the bonds hereinbefore referred to.

§ 42. Improvement warrant fund. The proceeds derived from the payments of such improvement warrants shall be paid into what shall be known as the improvement warrant fund of the district, to represent, and shall represent, assessments for which said improvement warrants were issued. Upon recommendation of the board of directors, and upon order of the board of supervisors, proceeds received from the payment of the principal and interest of such improvement warrants shall be employed for the purpose of retiring the bonds of the district hereinbefore first authorized to be issued, and for no other purpose.

§ 43. Sale of land on default of owner. Whenever, through the default of the owner of any lot or parcel of land against which any such improvement warrant or warrants is or are issued to represent the assessment and interest against such lot or parcel of land, payment of the principal or of the interest is not made when the same has become due, the treasurer of the district, upon order of the board of supervisors, shall proceed to advertise and sell said lot or parcel of land as herein provided, and provided there is money in any available fund so to do, the board of directors, in the name of the district, may buy in said lot or parcel of land. Thereupon the whole improvement warrant or its unpaid remainder, together with accrued interest, shall become due and payable immediately, and on the day following shall become delinquent.

§ 44. Delinquent improvement warrants. If the payment of principal or interest of any improvement warrant issued shall become delinquent, as hereinbefore provided, the said treasurer shall publish twice in a newspaper of general circulation to be designated by him, published

in the city where his office is situated, a notice which must contain the date and number of the delinquent improvement warrant, a description of the property mentioned in said warrant, and the name of the owner of such property, if known, and if unknown, the fact shall be so stated, the amount due thereon, and a statement that unless the amount of said improvement warrant and the interest due thereon, together with the cost of publication of such notice are paid, the real property described in said improvement warrant will be sold at public auction on a day to be therein fixed, which shall not be less than fifteen nor more than thirty days from the day of the first publication of said notice, and the place of such sale, which must be the office of the said treasurer. A like notice shall be served upon any such owner, if known, either personally or by depositing the same in the postoffice at such city, addressed to such owner at his address if known, with the postage thereon prepaid. At any time prior to the sale, the owner or person in possession of any real estate offered for sale under the provisions of this act, may pay the whole amount of said improvement warrant then due, with costs, and said improvement warrant and the assessment evidenced thereby shall thereupon be canceled; but in case such payment is not made by such owner, or person in possession, or by someone in behalf of such owner, or of the person in possession, the property subject thereto shall be sold at public auction, first, preferably to the district; secondly, if the district does not bid therefor, to the bidder offering to pay the amount due on the warrant with costs for the least portion of such lot or parcel of land offered for sale.

§ 45. Affidavit of publication. The district treasurer, before the day of sale hereinafter provided for, must file with the secretary of the board of directors a copy of the publication, with an affidavit of the publisher of such newspaper or someone in his behalf attached thereto, that it is a true copy of the same, and that the publication was made in a newspaper, stating its name and place of publication, and the date of each appearance in which such publication was made, which affidavit is prima facie evidence of all the facts stated therein.

§ 46. Added costs. The treasurer of the district must collect, in addition to the amount due on such improvement warrant, the cost of the publication of such notice, and fifty cents for the certificate of sale delivered to the purchaser as hereinafter provided.

§ 47. Record of sale. The treasurer of the district, before delivering any certificate of sale, must, in a book kept in his office for that purpose, enter the date, number and series of the improvement warrant, a description of the land sold corresponding with the description in the certificate, the date of sale, purchaser's name, the amount paid, and regularly number the descriptions on the margins of the book, and put a corresponding number on each certificate. Such book must be open to public inspection during office hours when not in actual use, and he shall enter on the records and on the improvement warrant the words, "Canceled by sale of the property," giving the date of such sale.

§ 48. Purchaser divested of lien. Immediately on the sale, the purchaser shall become vested with the lien on the property so sold to him to the extent of his bid, and is only divested of such lien by the pay-

ment to the treasurer of the district of the purchase money, including costs herein provided for, with interest thereon at the rate of one per cent per month from date of sale.

§ 49. Redemption of property sold. A redemption of the property sold may be made by the owner of the property or any party in interest within twelve months from the date of purchase, or at any time prior to the application for a deed, as hereinafter provided. Redemption must be made in lawful money of the United States, and when made to the treasurer of the district he must credit the amount paid to the person named in his certificate and pay it on demand to him or his assignees.

§ 50. Certificate of sale filed. On receiving the certificate of sale, the secretary must file it and make an entry in a book similar to that required of the treasurer of the district, the fee for which shall be fifty cents, and on presentation of the receipt of the treasurer of the district for the total amount of the redemption money, the secretary must, without charge, mark the word "Redeemed," the date, and by whom redeemed, on the margin of the book where the entry of the certificate is made.

§ 51. Deed to property sold. If the property is not redeemed within the time allowed by the provisions of this act for its redemption, the treasurer of the district or his successor in office, upon application of the purchaser, or his assignee, must make to said purchaser or his assignee a deed to the property, reciting in the deed substantially the matter contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. The treasurer shall be entitled to receive from the purchaser two dollars for making said deed, which shall be deposited in the treasury of the district for the use of the district after payment has been made therefrom for the acknowledgment of said deed; provided, however, that the purchaser of the property, or his assignee or agent, must, thirty days prior to the expiration of the time of the redemption, or thirty days before his application for a deed, serve upon the owner or agent of the property purchased, if named in such certificate of sale, and upon the party occupying the property if the property is occupied, a written notice, stating that said property, or a portion thereof, has been sold to satisfy the improvement warrant lien, and stating the date of sale, the number, the amount then due, and the time when the right of redemption will expire, or when the purchaser will apply for a deed, and the owner of the property shall have the right of redemption indefinitely until such notice shall have been given and such deed applied for, upon the payment of the fees, penalties and costs in this act required. In case of unoccupied property, a similar notice must be posted in a conspicuous place upon the property at least thirty days before the purchaser applies for a deed, and no deed to the property sold in accordance with the provisions of this act shall be issued by the treasurer of the district to the purchaser of such property until such purchaser shall have filed with such treasurer an affidavit showing that the notice hereinbefore required to be given has been given as herein required, which said affidavit shall be filed and preserved by the said treasurer as other records kept by him in his office. Such purchaser shall be entitled to receive the sum

of fifty cents for his services of such notice and the making of such affidavit, which sum of fifty cents shall be paid by the redemptioner at the time and in the same manner as the other sums, costs and fees are paid.

§ 52. Deed conclusive evidence of proceedings. The deed, when duly acknowledged or proven, shall be conclusive evidence of all things which the improvement warrant upon which it is based is conclusive evidence and prima facie evidence of the regularity of all proceedings subsequent to the issue of the warrant, and conveys to the grantee the absolute right to the lands described therein, free of all encumbrances except the lien for state, county and municipal taxes and assessments levied or assessed by statutory authority.

§ 53. Paying off warrant. Nothing in this act contained shall be construed to deprive any person or persons whose land has been assessed, as evidenced by said improvement warrants of the privilege of paying off and having said warrant canceled by the payment of the principal and accrued interest of said warrant at any time when payments may be made during the life of said warrant.

§ 54. Conservancy maintenance assessment. To maintain, operate and preserve the reservoirs, ditches, drains, dams, levees, settling basins or settling wells, canals or other improvements made pursuant to this act and to strengthen, repair and restore the same, when needed, and for the purpose of defraying the current expenses of the district, the board of directors may recommend, and the board of supervisors upon such recommendation may upon the substantial completion of said improvements and on or before the first day of September in each year thereafter, levy an assessment upon each tract or parcel of land and upon property within the district, subject to assessments under this act, to be known as a "conservancy maintenance assessment." Said maintenance assessment shall be apportioned upon the basis of the total appraisal of benefits accruing for original and subsequent construction, and shall be levied, collected, audited and deposited in each county in which lands of said district are situate, in the same manner as county taxes are levied, collected, audited and deposited; provided, however, that said funds shall be deposited to the credit of the "conservancy maintenance assessment fund," hereby established.

The amount of the maintenance tax paid by any parcel of land shall not be credited against the benefits assessed against such parcel of land; but the maintenance tax shall be in addition to any tax that has been or can be levied against the benefit assessment.

§ 55. Readjustment of appraisal of benefits. Whenever the owners or representatives of twenty-five per cent or more of the acreage or value of the lands in the district shall file a petition with the clerk of the district, stating that there has been a material change in the values of the property in the district since the last previous appraisal of benefits, and praying for readjustment of the appraisal of benefits for the purpose of making a more equitable basis for the levy of the maintenance assessment, the said clerk shall give notice of the filing and hearing of said petition in the manner hereinbefore provided.

Upon hearing of said petition if said board of directors shall find there has been a material change in the value of property in said dis-

trict since the last previous appraisal of benefits, the board of directors shall order that there be a readjustment of the appraisal of benefits for the purpose of providing a basis upon which to levy the maintenance assessment of said district. Thereupon the board of directors shall direct the appraisers of the conservancy district to make such readjustment of appraisal in the manner provided in this act, and said appraisers shall make their report; and the same proceedings shall be had thereon, as nearly as may be, as are herein provided for the appraisal of benefits accruing for original construction; provided, that in making the readjustment of the appraisal of benefits said appraisals shall not be limited to the aggregate amount of the original or any previous appraisal of benefits, and that after the making of such readjustment the limitation of the annual maintenance assessment to one per cent of the total appraised benefits shall apply to the amount of the benefits as readjusted; and provided, further, that there shall be no such readjustment of benefits oftener than once in six years.

§ 56. Invalid assessments. If any assessment made pursuant to the provisions of this act shall prove invalid, the board of directors shall by subsequent or amended acts or proceedings promptly and without delay remedy all defects or irregularities as the case may require by making and providing for the collection of new taxes or assessments or otherwise.

§ 57. Collection of tax levied against county or city. Designation of district. Dissolution of district. Liens not affected by dissolution. Duty of officers on dissolution. Whenever, under the provisions of this act, an assessment is made or a tax levied against a county or city, it shall be the duty of the governing or taxing body of such political subdivision, upon receipt of the order of the board of directors which established the district, confirming the appraisal of benefits and the assessment based thereon, to receive and file the said order, and to immediately take all the legal and necessary steps to collect the same. It shall be the duty of the said governing or taxing body or persons to levy and assess a tax, by a uniform rate upon all the taxable property within the political subdivision, to make out the proper duplicate, certify the same to the auditor of the county in which such subdivision is, whose duty it shall be to receive the same, certify the same for collection to the tax collector of the county, whose duty it shall be to collect the same for the benefit of the conservancy district, all of said officers above named being authorized and directed to take all the necessary steps for the levying, collection and distribution of such tax.

Nothing in this section shall prevent the assessment of the real estate of other corporations or persons situated within such political subdivision, which may be subject to assessment for special benefits to be received.

Every conservancy district formed or established under the provisions of this act, must be designated by the name and under the style of — conservancy district (using the name of the district), of — county (using the name of the county in which such district is situated), and in that name the board of supervisors may make and award contracts, and may sue and be sued.

The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof voting at an election called by the board

of supervisors, upon the question of dissolution. Upon a petition signed by fifty or more property owners and residents of such conservancy district, or by thirty-three per cent of the property owners and residents, asking for the dissolution of said district, the board of supervisors shall within thirty days after receiving said petition by resolution, order that an election be held in the said district, for the determination of the question. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, any property which may have been acquired by such conservancy district shall vest in the board of supervisors of the county wherein such conservancy district is situated; provided, however, that if at the time of the election to dissolve such district there be any outstanding indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such outstanding indebtedness; and from the time such district is thus dissolved, until such indebtedness is fully paid, satisfied and discharged, the board of supervisors is hereby constituted ex officio the governing board of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, as herein provided.

In the event of any dissolution or disincorporation of any conservancy district organized pursuant to the provisions of this act, such dissolution or disincorporation shall not affect the lien of any assessment for benefits imposed pursuant to the provisions of this act, or the liability of any land or lands in such district to the levy of any future assessments for the purpose of paying the principal and interest of any bonds issued hereunder, and in that event, or in the event of any failure on the part of the officers of any district to qualify and act, or in the event of any resignations or vacancies in office, which shall prevent action by the said district or by its proper officers, it shall be the duty of the county tax collector and of all other officers charged in any manner with the duty of assessing, levying and collecting taxes for public purpose in any county, in which said lands shall be situated, to do and perform all acts which may be necessary and requisite to the collection of any such assessment which may have been imposed and to the levying, imposing and collecting of any assessment which it may be necessary to make for the purpose of paying the principal and interest of the said bonds. Any holder of any bonds issued pursuant to the provisions of this act or any person or officers being a party in interest, may either at law or in equity by suit, action or mandamus, enforce and compel performance of the duties required by this act of any of the officers or persons mentioned in this act.

§ 58. Failure of tax collector to make prompt payment. If any county tax collector or other person intrusted with the collection of these assessments refuses, fails or neglects to make prompt payment of the tax or any part thereof collected under this act to the treasurer of said district upon his presentation of a proper demand, then he shall pay a penalty of ten per cent on the amount of his delinquency; such penalty shall at once become due and payable and both he and his securities shall be liable therefor on his official bond.

§ 59. Use of surplus funds. Report to board of supervisors. Any surplus funds in the treasury of the district may be used, upon resolu-

tion of the board of directors, for retiring bonds, reducing the rate of assessment to purchase lands sold for taxes or assessments, as hereinbefore provided, or for accomplishing any other of the legitimate objects of the district.

At least once a year, or oftener if the board of supervisors shall so order, the board of directors shall make a report to the board of supervisors of its proceedings and an accounting of receipts and disbursements to that date which shall be filed with the clerk of the board of supervisors. Thereupon the board of supervisors shall order the auditing of said accounts by public accountants of recognized standing who shall file their report thereon with the clerk of the board of supervisors.

§ 60. Per diem and expenses of directors and appraisers. Each member of the board of directors shall receive not to exceed ten dollars a day and his necessary traveling expenses, when away from home, for the time actually employed in performing his duties. Each appraiser shall receive not to exceed ten dollars a day and his expenses for the time actually employed in his duties.

§ 61. Land in more than one district. The same land, if conducive to public health, safety, convenience or welfare, may be included in more than one district and be subject to the provisions of this act for each and every district in which it may be included; provided, that no district shall be organized under this act in whole or in part within the territory of a district already organized under this act until the board or joint boards of supervisors determine whether the public health, safety, convenience or welfare demand the organization of an additional district, or whether it demand that the territory proposed to be organized into an additional district shall be added to the existing district; and in case the proceedings concerning two or more such districts are before the board of supervisors of two or more counties, such determination shall be as provided in the next section.

§ 62. Conference of supervisors to determine jurisdiction of districts. In case any district or districts are being organized within, or partly within and partly without, the same territory in which some other district or districts have been or are being organized, the board of supervisors of every such county in which such districts have been or are being organized shall confer at the earliest convenient moment after they ascertain the possibility of a conflict in jurisdiction, the sitting to be had in the county having the largest assessed valuation in the proposed district or districts, anything to the contrary herein stated notwithstanding.

At such conference, the several supervisors shall determine to what extent the several districts should be consolidated, or to what extent the boundaries should be adjusted in order to most fully carry out the purposes of this act; and they shall by suitable orders make such determination effective. At such conferences, the decision of the majority of the supervisors shall be necessary for the determination of any matter.

The provisions of this, and of the preceding section shall not operate to delay or to interrupt any proceeding under this act until the question of jurisdiction has been finally determined by the court or courts.

§ 63. Subdistricts. Officers of main district to serve. Whenever it is desired to construct improvements wholly within any district organized

under this act, which improvements will affect only a part of said district, for the purpose of accomplishing such work, subdistricts may be organized upon petition of the owners of real property, within the district, which petition shall fulfill the same requirements concerning the subdistricts as the petition outlined in this act is required to fulfill concerning the organization of the main district, and shall be filed with the clerk of the same board of supervisors, and shall be accompanied by a bond as provided for in this act in the first instance. All proceedings relating to the organization of such subdistricts shall conform in all things to the provisions of this act relating to the organization of districts, including also the provision in regard to holding an election excepting as to an election of directors. Whenever the board of supervisors shall by its order duly entered of record declare and decree such subdistricts to be organized, the clerk of said board shall thereupon give notice of such order to the directors of the district, who shall thereupon act also as directors of the subdistrict. Thereafter, the proceedings in reference to the subdistrict shall in all matters conform to the provisions of this act, with the same officers, directors and appraisers; except that in appraisal of benefits and damages for the purposes of such subdistricts, in the issuance of bonds, in the levying of assessments or taxes, and in all other matters affecting only the subdistrict, the provisions of this act shall apply to this subdistrict as though it were an independent district, and it shall not, in these things, be amalgamated with the main district.

The board of directors, board of appraisers, chief engineer, attorney, secretary and other officers, agents and employees of the district shall, so far as it may be necessary, serve in the same capacities for such subdistrict, and contracts and agreements between the main district and the subdistrict may be made in the same manner as contracts and agreements between two districts. The distribution of administrative expense between the main district and subdistrict shall be in proportion to the interests involved and the amount of service rendered, such division to be made by the board of directors with an appeal to the board of supervisors establishing the district. This section shall not be held to prevent the organization of independent districts for local improvements under other laws within the limits of a district organized under this act.

§ 64. Protection of works. The board of directors shall have the right to police the works of the district, and in times of great emergency may compel assistance in the protection of such works, and shall, also, have the right to prevent persons, vehicles or livestock from passing over the works of the district in any manner which would result in damage thereto.

§ 65. Penalty for injuring bench marks, etc. The willful destruction, injury or removal of any bench marks, witness marks, stakes or other reference marks, placed by the surveyors or engineers of the district or by contractors in constructing the works of the district, shall be a misdemeanor, punishable by fine not exceeding one hundred dollars.

§ 66. Liability for damages. All persons and corporations shall be liable for damages done to works of the district by themselves, their agents, their employees, or by their livestock, in the same manner, and

punishable in the same manner as persons and corporations are liable for damage committed to property or works belonging to private persons.

§ 67. Districts for forestation and reforestation. Districts may be formed under the provisions of this act for forestation and reforestation of the lands leased or owned by said district or upon federal or state lands upon receiving proper permits therefor, when deemed necessary for and incidental to the conservation or control of flood waters against damage by floods, by a substantial compliance with the terms of this act. But no such district in its construction or operation shall in any manner interfere with works for the prevention of floods, or the drainage of lands, or materially diminish their protective value. And the board of supervisors organizing such district for the conservation of water by forestation or reforestation solely, shall require a statement in the petition and proof of the effect that the organization and operation of the same will not materially interfere with any works or plans for flood prevention or the drainage or protection of lands, but will assist in preventing such damage. Nor shall any improvement under this act deprive the owners of lands lying upon any streams of water, of the ordinary flow in said stream without compensation therefor.

Subject to the above, the board of directors shall have the same powers as are herein conferred generally by its provisions so far as applicable.

§ 68. If notice is not properly given. In any and every case where a notice is provided for in this act, if the board of directors finds for any reason that due notice was not given, the board of directors shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void; but the board of directors shall in that case order due notice to be given, and shall continue the hearing until such time as such notice shall be properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

In case any individual appraisal or appraisals, assessment or assessments, or levy or levies, shall be held void for want of legal notice, or in case the board may determine that any notice with reference to any land or lands may be faulty, then a petition may be filed with the board of directors asking that the board of directors order notice to the owner of such land or lands given and set a time for hearing as provided in this act. And in case the original notice as a whole was sufficient, and was faulty only with reference to publication as to certain tracts, only the owners of and persons interested in those particular tracts need be notified by such subsequent notice. And if the publication of any notice in any county was defective or not made in time, publication of the defective notice need be had only in the county in which the defect occurred.

§ 69. Early hearing on question of validity. All cases in which there arises a question of the validity of the organization of conservancy districts shall be advanced as a matter of immediate public interest and concern, and heard in all courts at the earliest practicable moment.

§ 70. Construction of act. This act being necessary for securing the public health, safety, convenience or welfare, and being necessary for

the prevention of great loss of life and for the security of public and private property from floods and other uncontrolled waters, it shall be liberally construed to effect the control and conservation and drainage of the waters of this state.

§ 71. Constitutionality. In case any section or sections or part of any section of this act shall be found to be unconstitutional, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

§ 72. Alternative act. All existing laws of the state and parts of laws relating to drainage, flood control, protection from storm waters, irrigation and subjects of which this act treats, shall not be in any other way affected by this act, but this act shall be treated and shall be in effect an alternative act thereto.

§ 73. For the sake of convenience:

(a) **Jurisdiction of supervisors over proceeding.** In any orders of the board of supervisors, the words, "the board of supervisors now here finds that it hath jurisdiction of the parties to and of the subject matter of this proceeding," shall be equivalent to a finding that each jurisdictional act necessary to confer plenary jurisdiction upon the board of supervisors beginning with the proper signing and filing of the initial petition to the date of the order to meet every legal requirement imposed by this act, has been conferred.

(b) **Bonding resolution.** No other or further evidence of the legal disposition of the special assessment to the payment of the bonds shall be required than the passage of a bonding resolution by the board of directors recommending to the board of supervisors the issuance of bonds in accordance therewith.

(c) **Abbreviations.** In the preparation of any assessment or appraisal roll the usual abbreviations employed by engineers, surveyors and abstractors may be used.

(d) **Land described by reference to record.** Where properly to describe any parcel of land, it would be necessary to use a long description, the appraisers after locating the land generally, may refer to the book and page of the public record of any instrument to which the land is described, which reference shall suffice to identify for all the purposes of that act the land described in the public record so referred to.

(e) **Unnecessary to specify names in notice.** It shall not be necessary in any notice required by this act to be published to specify the names of the owners of the lands or of the persons interested therein; but any such notice may be addressed, "to all persons interested" with like effect as though such notice named by name every owner, of any lands within the territory specified in the notice and every person interested therein, and every lienor, actual or inchoate.

(f) **District a political subdivision. Powers of state commissions not limited.** Every district declared to be a conservancy district in accordance with this act shall thereupon become a political subdivision and a public corporation of the state of California, invested with all the powers and privileges conferred upon such districts by this act.

Nothing in this act stated shall be construed to limit or abridge the rights and powers now vested in the railroad commission of the state of California, the water commission of the state of California, the reclamation board, any other commission, officer or agency created by law, and all things herein enumerated to be done shall be performed subject to and in compliance with the authority now vested or hereafter to be vested by law in such commission, board, officer or agency, anything appearing herein notwithstanding.

§ 74. Forms. Notice of hearing on petition. Finding on hearing. Bond and coupon. Notice of enlargement of district. Hearing on appraisals. The following forms may suffice to illustrate the character of the procedure contemplated by this act; and if substantially complied with, those things being changed which (to meet the requirements of the particular case) should be changed, such procedure shall be held to meet the requirements of this act.

1. Form of Notice of Hearing on the Petition.

To all persons interested:

Public notice is hereby given:

1. That on the — day of —, 19—, pursuant to the provisions of the conservancy act of California, there was filed in the office of the clerk of the board of supervisors of — county, California, the petition of — and others for the establishment of a conservancy district to be known as — conservancy district. (Here insert the purposes.)

2. That the lands sought to be included in said district comprise lands in — and — counties, California, described substantially as follows: Beginning on the north line of — county at its point of intersection with the west bank of the — river; thence west along the north line of — county to the high bluffs facing said — river on the west; thence following the base of the line of said bluffs to the north line of the right of way of the — railroad; thence west along the north right of way line of said railroad to the center line of — avenue in the city of —; thence south along the center line of — avenue to the — road; thence southeasterly along the — road to the southeasterly line of the right of way of the — railroad; thence southeasterly along said right of way line to the corporate limits of the city of —; thence with said corporation line southerly, easterly and northerly to the southerly right of way line of the main tract of the — railroad; thence easterly along said last named right of way line to the boundary line between — counties; thence north along said county line to the southerly line of — county; thence easterly along the dividing line between — counties to the easterly line of the right of way of the — railroad; thence northerly along said right of way line to its intersection with the — road; thence westerly along said road to the center line of the bridge over — wash; thence up said wash and along the center line thereof to the north line of — county; thence west to the place of beginning.

Or, if found more convenient, the lands sought to be included in the district may be described as follows:

All of township — in range — between the — railroad and the — river; the following lands in — township and — range;

section — and the — half of section —; also all lands within the corporate limits of the city of — etc., etc., etc.

3. That a public hearing on said petition will be had in the chambers of said board of supervisors on —, the — day of —, at the hour of — o'clock —M., by the board of supervisors of — county, at the — in the city of —, — county, California.

All persons and public corporations owning or interested in real estate within the territory hereinbefore described will be given the opportunity to be heard at the time and place above specified.

—, —,
County clerk.

By —, —,

Clerk of the board of supervisors, — county, California.

Dated —, California, —, 19—.

2. Form of Finding on Hearing.

State of California, }
County of —, } ss.

In chambers of the board of supervisors of — county.

In matter of — conservancy district;

Findings and Decree on Hearing.

On this — day of —, 19—, this cause coming on for hearing upon the petition of — and others, for the organization of a conservancy district under the conservancy act of California, the board of supervisors, after a full hearing now here find:

1. That it hath jurisdiction of the parties to, and the subject matter of this proceeding.

2. That the purposes for which said district is established are:

(Insert the purposes.)

And that it is a public necessity.

3. That the public safety, health, convenience and welfare will be promoted by the organization of a conservancy district substantially as prayed in said petition (if additional lands are added by petition), except, that the following additional lands at the petition of the owners thereof should be, and hereby are included in said district:

(Here insert additional lands.)

4. That the boundaries of said district as modified by the last finding herein are as follows: (Here insert corrected boundaries of district.)

5. That the said territory last above described should be erected into and created a conservancy district under the conservancy act of California under the corporate name of — conservancy district.

Wherefore, it is by the board ordered, adjudged and decreed:

That the territory as above described be, and the same hereby is erected into and created a conservancy district under the conservancy act of California, under the corporate name of — conservancy district, in — county, California. And the following persons are hereby (found to be) (elected) directors of said conservancy district: — for the term of five years, — for the term of five years, — for the term of five years, who are hereby directed to qualify and proceed according to law.

6. Form of Notice to Property Owners to Pay Assessment:

— conservancy district.

To all persons interested:

Public notice is hereby given:

That on the — day of —, 19—, assessments upon the respective parcels of property in the district aggregating the sum of \$— were levied in accordance with this act, and pursuant thereto improvement warrants were issued representing such respective assessments; that said entire assessment may be paid in fifty-two semi-annual installments, together with accrued interest, payable on the first days of July and January of each year, or the entire amount due and unpaid of such assessment as evidenced by said improvement warrants may be paid at any time on or prior to the — day of —, 19—.

—, President.

—, Secretary.

4. Form of Bond and of Coupon.

(Form of bond.)

No. —

\$—.

UNITED STATES OF AMERICA,

STATE OF CALIFORNIA.

— Conservancy District.

, Conservancy bond.

Know all men by these presents that — conservancy district, a legally organized conservancy district of the state of California, acknowledges itself to owe and for value received hereby promises to pay to bearer — dollars (\$—) on the first day of —, 19—, with interest thereon from the date hereof until paid at the rate of — per cent per annum, payable —, 19—, and semi-annually thereafter on the first day of — and of — in each year on presentation and surrender of the annexed interest coupons as they severally become due. Both principal and interest of this bond are hereby made payable in lawful money of the United States of America, at the county treasurer's office of the main county of said district, state of California.

This bond is one of a series of bonds issued by — conservancy district for the purpose of paying the cost of constructing a system of flood prevention (or for other works) for said district and in anticipation of the collection of the taxes duly levied upon lands within said district and benefited by said improvement in strict compliance with the conservancy act of California, and pursuant to an order of the board of supervisors upon recommendation of the board of directors of said district duly made and entered of record.

And it is hereby certified and recited that all acts, conditions and things required to be done in locating and establishing said district and in equalizing appraisals of benefits and in levying taxes and assessments against lands benefited thereby, and in authorizing, executing and issuing this bond, have been legally had, done and performed in due form of law.

And for the performance of all the covenants and stipulations of this bond and of the duties imposed by law upon said district for the collection of the taxes and the application thereof to the payment of this bond and the interest thereon, and for the levying of such other and further taxes and assessments as are authorized by law and as may be required for the prompt payment of this bond and the interest thereon, the full faith, credit and resources of said — conservancy district are hereby irrevocably pledged.

In testimony whereof the board of supervisors of the — conservancy district has caused this bond to be signed on behalf of said district by the chairman of the board of supervisors of the main county, and by the auditor of said main county, and sealed with the corporate seal of said district, and the coupons hereto annexed to be signed by the engraved or lithographed facsimile of such auditor.

_____,
Chairman.
_____,
Auditor.

(Form of Coupon.)

\$—.

On the first day of —, 19—, — conservancy district promises to pay to bearer — dollars (\$—) lawful money of the United States of America, at the office of the treasurer of the county of —, California, being semi-annual interest due on that date on its conservancy bond dated —, 19—.

_____,
Auditor.

5. Form of Notice of Enlargement of District.

State of California, }
County of — } ss.

In the office of the board of directors of — county, California.

In the matter of — conservancy district.

Notice of Enlargement of District.

To all persons (and public corporations, if any,) interested:

Public notice is hereby given:

1. That heretofore, on the — day of —, 19—, the board of supervisors of — county, California, duly entered a final order erecting and creating — conservancy district and designating a board of directors therefor.

2. That thereafter this board duly designated —, — and — to be the board of appraisers for said district. That said board of appraisers on the — day of —, 19—, filed their report recommending that the following described lands, not originally included in the district, be added thereto:

(Here describe generally the lands which the report of the board of appraisers recommends should be added to the district.)

3. That on — the — day of —, 19—, (or as soon thereafter as the convenience of the board will permit), at the courthouse in —, of —, California, the board of supervisors of — county, California, will hear all persons and public corporations, who are owners of or

interested in the property described in this notice upon the question whether said lands should be added to and included in said — conservancy district.

Clerk of the board of supervisors of — county, California.

6. Form of Notice of Hearing on Appraisals.

State of California, }
County of — } ss.

In office of the board of directors, — county, California.
In the matter of — conservancy district.

Notice of Hearing on Appraisals.

To all persons and public corporations interested:

Public notice is hereby given:

1. That heretofore on the — day of —, 19—, the board of supervisors of — county, California, duly entered an order erecting and creating — conservancy district and designating a board of directors therefor.

2. That thereafter this board duly appointed — the board of appraisers for said district. That said board of appraisers on the — day of —, 19—, filed their appraisal of benefits and damages and of land to be taken as follows: (Here insert general description of land appraised.)

The said appraisal of benefits and damages and of land to be taken is now on file in the office of the clerk of this board.

3. All public and private corporations and all persons owners of or interested in the property described in said report, whether as benefited property or as property taken and damaged (whether said taken or damaged property lies within or without said district), desiring to contest the appraisals as made and returned by the board of appraisers must file their objections with the board of directors of the district on or before the — day of —, 19—, (here insert a date ten days after the last publication of the notice) and a hearing on said appraisal will be had on the — day of —, 19—, (here insert a date not less than twenty days nor more than thirty days after the date of the last publication of this notice) as fixed by the board of directors in the city of —, California, at which time an opportunity will be afforded all objectors to be heard upon their several objections.

— —,
County clerk.

By — —,

Clerk of the board of supervisors of — county, California.

Dated at the city of —, California, this — day of —, 19—.

TITLE 126.

CORPORATIONS.

Act 755.

An act relating to corporations and to the issue of shares by them without a nominal or par value.

[Approved May 29, 1917. Stats. 1917, p. 1321. In effect July 28, 1917.]

§ 1. Issuance of shares without nominal or par value. Equal to other shares. Any corporation having a capital stock may provide in its articles of incorporation for the issuance of the shares of stock of such corporation, other than preferred stock having a preference as to principal, without any nominal or par value by stating in such articles:

(1) The number of shares that may be issued by the corporation and, if any of said shares be preferred stock, the amount of each class having a preference and the particular character of such preferences, and if such preferred stock or any part thereof shall have a preference as to principal, the par value of each share thereof, which shall be one dollar or some multiple thereof not exceeding one hundred dollars.

(2) The amount of capital with which the corporation will carry on business, which amount, if any portion of the shares shall be preferred stock having a preference as to principal, shall be a sum equal to the product obtained by multiplying the par value of such preferred shares by the whole number of shares that may be issued by the corporation, but which otherwise shall be equal to the product obtained by multiplying one dollar, or some multiple thereof not exceeding one hundred dollars, by the whole number of shares that may be issued by the corporation.

Such statements in the articles shall be in lieu of any statements prescribed by section two hundred ninety of the Civil Code of the state of California as to the amount of its capital stock, the number of shares into which it is divided and the par value thereof. No distinction shall exist between any shares or classes of shares either as to voting power or as to the statutory or constitutional liability of the holders thereof to the creditors of the corporation, and each share of stock without nominal or par value shall be equal in every other respect to every other share authorized to be issued, subject only to the preferences granted to the preferred stock, if any, as stated in such articles. Certificates for shares without nominal or par value shall not have printed or otherwise expressed thereon any nominal or par value of such shares. Such corporation may issue and may sell its authorized shares from time to time for such consideration as may be prescribed in the articles of incorporation, and any shares sold or issued for such consideration shall be deemed, when such consideration shall have been paid or delivered to the corporation, to be fully paid.

§ 2. Capital fully paid. Liability of directors. Capital reduced by dividends. No corporation authorized to issue shares in accordance with section one hereof shall begin to carry on business or shall incur any debts until the amount of capital stated in its articles of incorporation shall have been fully paid in money or in property taken at its actual value. If the amount of capital stated in its articles of incorporation shall at any time be increased, such corporation shall not increase the amount of its indebtedness then existing until it shall have received in money or property taken at its actual value the amount of such increase of its stated capital. The directors of any corporation assenting to the creation of any debt in violation of this section shall be liable jointly and severally for such debt. Any director who, because of any such liability under this section, shall pay any debt of the corporation shall be subrogated to all rights of the creditor in respect thereof against the corporation and its property, and also shall be entitled to contribution

from all other directors of the corporation similarly liable for the same debt and the personal representative of any such director who shall have died before making such contribution.

No such corporation shall declare any dividend which shall reduce the amount or actual value of its capital below the amount stated in the articles as the amount of capital with which the corporation will carry on business. If any such dividend shall be declared, the directors under whose administration the same may have happened (except those who may have cause their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen) are, in their individual or private capacity, jointly and severally liable to the corporation and to the creditors thereof to the full amount of any loss sustained by such corporation or by its creditors respectively by reason of such dividend.

§ 3. Aggregate amount of capital stock. Par value. For the purpose of any rule of law or of any statutory provision relating to the amount of the capital stock of the corporation or to the amount or par value of its shares, the aggregate amount of the capital stock of any such corporation formed pursuant to this act shall be deemed to be the aggregate amount of capital specified in the articles of incorporation, or in any certificate of increase or decrease made pursuant to the provisions of section three hundred fifty-nine of the Civil Code, as the amount of capital with which the corporation will carry on business; the amount or the par value of each share of preferred stock having a preference as to principal shall be deemed to be the amount or par value thereof as stated in the articles of incorporation, and the amount or par value of each other share shall be deemed to be an aliquot part of the aggregate capital so stated in such articles or in such certificate of increase or decrease, in excess of the specified amount (if any) of the preferred stock therein authorized to be issued with a preference as to principal.

ACT 755a.

An act to provide for and regulate the issuance of stock without nominal or par value by public utility corporations now existing or hereafter organized.

[Approved May 31, 1917. Stats. 1917, p. 1367. In effect July 30, 1917.]

§ 1. Issuance of shares without nominal or par value by public utility corporation. Any public utility corporation as defined in the "public utilities act" hereafter organized may, if so provided in its articles of incorporation, issue shares of stock without nominal or par value. Such articles of incorporation shall set forth, in lieu of setting forth the amount of its capital stock and the par value thereof, the number of shares into which its capital stock is divided, and shall state that all such shares are without nominal or par value; or such articles of incorporation shall set forth, in addition to setting forth the amount of its capital stock and the par value thereof, a provision for the conversion or exchange of shares having a nominal or par value at any time outstanding for shares without nominal or par value. In all other respects such articles shall set forth the matters and things specified in section two hundred ninety of the Civil Code. Any such corporation may, in common with other corporations formed for profit, by its articles of in-

corporation provide for the classification of its shares of capital stock into preferred and common shares.

§ 2. Resolution to issue shares. Ratification by stockholders. Amended articles of incorporation. Any public utility corporation now or hereafter organized which shall not be authorized by its articles of incorporation to issue shares of stock without nominal or par value, but which desires to issue shares without nominal or par value, may do so by a resolution of its board of directors, passed and adopted at any regular or special meeting, and ratified by the vote of stockholders representing at least two-thirds of its subscribed or issued capital stock at a meeting called for that purpose, or by the written assent of stockholders representing at least two-thirds of its subscribed or issued capital stock filed with the secretary. Such resolution shall specify that such corporation proposes to divide its capital stock into shares without nominal or par value and to issue such shares of stock then outstanding; such resolution shall also set forth the number of shares into which its capital stock shall be divided, how many of said shares, if any, shall be preferred shares, the terms of preference of any preferred shares, and the basis of exchange of such shares for the shares of stock then outstanding; provided, however, that no such resolution shall be valid which sets forth a basis of exchange which, if carried out, would give to the holders of any class of outstanding stock shares evidencing a less proportionate interest in the capital stock or earnings of the corporation than the outstanding shares of stock held by them, unless such resolution is ratified by the unanimous vote or written assent of the holders of all the outstanding stock of the class prejudicially affected, but with such ratification such resolution shall be valid. Upon the ratification of such resolution by the stockholders by vote or written assent as aforesaid, the board of directors of said corporation shall, without further assent or vote of the stockholders, cause to be prepared amended articles of incorporation setting forth the number of shares into which its capital stock is divided and the fact that such shares are without nominal or par value, the number of shares, if any, to which preference is granted, and the nature and extent of such preference. Such amended articles, certified to as correct by the president and secretary and a majority of the directors under the seal of said corporation shall be filed in the office of the county clerk of the county in which the original articles of incorporation were filed, and a copy of such amended articles of incorporation certified by such county clerk, shall be filed in the office of the secretary of state. A copy of such amended articles, certified by the secretary of state, shall be filed in the office of the county clerk of every county in which such corporation has or holds real property, except only the county in which the original articles were filed. From and after the filing of such certified copy of such amended articles of incorporation in the office of the secretary of state, all outstanding shares of capital stock shall be deemed shares without nominal or par value. Upon the surrender of all or any certificates representing such outstanding shares, the corporation shall issue to the holder or holders thereof a certificate or certificates representing the number and kind of shares without nominal or par value to which such holder or holders may be entitled, but whether or not such surrender is made, all outstanding shares shall, for all purposes, be re-

garded as representing the number and kind of shares without nominal or par value to which the holder or holders thereof may be entitled.

§ 3. Outstanding shares with par value. No such corporation shall at any time have outstanding shares of stock having a nominal or par value and at the same time have outstanding shares of stock without nominal or par value.

§ 4. When shares deemed to be of par value. For the purpose of determining the amount of money payable to the secretary of state for filing articles of incorporation, and for the purpose of determining the vote of the stockholders upon the question of the increase of the stock or bonded indebtedness of such corporation, but for no other purpose, such shares shall be deemed to be of the par value of one hundred dollars each. The words "capital stock" and "amount of capital stock" as used in existing laws shall, for the purpose of making such laws applicable to corporations having stock without nominal or par value, be construed in the case of such corporations to mean the aggregate number of shares of stock without nominal or par value. Except as in this act otherwise provided, all provisions of law relating to stock having a par value, so far as the same may be legally, necessarily or practically applicable, shall apply to and govern stock without nominal or par value.

§ 5. Consent of railroad commission. No public utility as defined in the public utilities act may issue any share of stock without nominal or par value, nor shall any share of stock or any stock certificate outstanding be converted into or deemed to be converted into stock without nominal or par value, without the consent of the railroad commission first having been secured in accordance with the provisions of the public utilities act, and the jurisdiction of the railroad commission with reference to such issue and such conversion of stock shall be in all respects the same as that defined in the public utilities act with reference to the issue by public utilities of stock or stock certificates, and nothing in this act shall be construed to in any way limit the jurisdiction of the railroad commission under the public utilities act over the issue of stock and stock certificates.

ACT 756.

An act prescribing terms and conditions upon which corporations may transact business in this state and providing penalties and forfeitures for noncompliance.

[Approved May 10, 1915. Stats. 1915, p. 422.]

The entire act was amended in 1917 (Stats. 1917, p. 371), to read as follows:

§ 1. Corporations must file articles of incorporation. Certified copy filed with county clerk. Affidavit. Fee. Foreign corporations must file amendments, etc. Affidavit showing capital stock. Representatives of foreign corporations. Benefit of law. Every corporation organized under the laws of another state, territory, or of a foreign country, which is now doing interstate or intrastate business in this state or maintaining an office herein, and which has not filed with the secretary of state prior to the day on which this act takes effect the document or docu-

ments required by this section, or which shall hereafter do such business in this state or maintain an office herein, or which shall enter this state for the purpose of doing such business herein, must file in the office of the secretary of state of the state of California a certified copy of its articles of incorporation, or of its charter, or of the statute or statutes, or legislative, or executive, or governmental act or acts creating it, in cases where it has been created by charter, or statute, or legislative, or executive, or governmental act, duly certified by the secretary of state or other officer authorized by the law of the jurisdiction under which such corporation is formed to certify such copy, and must also file a certified copy thereof, duly certified by the secretary of state of this state in the office of the county clerk of the county where its principal place of business in this state is located, and also where such corporation owns any real property. With such certified copy of its articles of incorporation, charter, or legislative, executive or governmental act creating it, such corporation shall also file with the secretary of state an affidavit sworn to by the president or secretary of such corporation which shall state the amount of such corporation's authorized capital stock at or within fifteen days prior to such filing. Every such corporation shall pay to the secretary of state for filing in his office such certified copy of its articles of incorporation, or of its charter, or of the statute or statutes, or legislative, or executive, or governmental act or acts creating it, a fee of seventy-five dollars; provided, that foreign corporations organized for educational, religious, scientific or charitable purposes and having no capital stock, and foreign nonprofit corporations shall pay a fee of five dollars for filing the document or documents hereinabove required.

Foreign corporations shall also file any amendment of or change in any of the provisions of its original articles of incorporation, or charter, or of the statute or legislative, executive or governmental act or acts creating it. Every foreign corporation subject to the tax hereinafter provided shall file with the secretary of state, at the time it tenders payment of said tax and any penalty which has accrued, an affidavit sworn to by its president or secretary, showing the amount of its authorized capital stock on the first day of January of the year in which said payment is made, and in the event that such authorized capital stock, as shown by such affidavit, differs from the amount of such capital stock as appears from the records of the secretary of state, then the tax hereinafter provided shall be measured by the amount of the capital stock shown in such affidavit. The license hereinafter required shall not be issued nor shall the amount so tendered be accepted until copies of any documents relating to such change in authorized capital stock, certified as required by this section, shall have been filed with the secretary of state.

Every foreign corporation shall file with the secretary of state a designation of some person residing within this state upon whom process issued by authority of law may be served as the representative, for such purpose, of such corporation. A copy of such designation certified by the secretary of state is sufficient evidence of the appointment of such representative. Such process may be served on the person so designated, or, in the event that no such representative is designated, then on the secretary of state, and such service shall be a valid and binding service on such corporation.

Every corporation which complies with the provisions of this section is thereafter entitled to the benefit of the laws of this state limiting the time for the commencement of civil actions, but any corporation created by or under the laws of any foreign state or country and that has not complied with this section is not entitled to the benefit thereof, nor can any such foreign corporation maintain or defend any action or proceeding concerning its property in this state or any intrastate business or transaction, in any court of this state or acquire or convey any legal title to any real property within this state. In any action or proceeding instituted against any body styled as a corporation, but not created by nor under the laws of this state, evidence that such body has acted as a corporation, or employed methods usually employed by corporations, must be received by the court for the purpose of proving the existence of such corporation, the sufficiency of such evidence to be determined by the court with like effect as in other cases. Every corporation which has complied with the law requiring it to make and file a designation of the person upon whom process against it may be served, need not make or file any further designation. Any designation made may be revoked by the filing by the corporation with the secretary of state of a writing stating such revocation. Within forty days after the death or removal from the state of any person designated by the corporation, or after the revocation of the designation, the corporation must make a new designation, or be subject to the provisions and penalties of this section; provided, however, that any foreign corporation which, prior to the eighth day of March, one thousand nine hundred one, shall have complied with the provisions of the act entitled, "An act to amend 'An act in relation to foreign corporations,' approved April first, one thousand eight hundred seventy-two," approved March seventeenth, one thousand eight hundred ninety-nine, shall, in lieu of the provisions of this section above set forth, file the affidavit and designation of representative herein required and the license-tax due from such corporation shall be measured by the authorized capital stock, as shown thereby.

§ 2. Fees. Upon filing in the office of the secretary of state the certified copy of articles of incorporation of corporations organized under the laws of this state, there shall be paid to the secretary of state the fees prescribed therefor by section four hundred nine of the Political Code.

§ 3. Annual license. Tax. Determination of tax. Tax on corporations having no capital stock. Except those corporations hereinafter specified, every corporation incorporated under the laws of this state, and every corporation incorporated under the laws of any other state, territory, or foreign country now doing intrastate business within this state, or which shall hereafter engage in intrastate business in this state, shall procure annually from the secretary of state a license authorizing the transaction of such business in this state, and pay therefor the license tax prescribed herein.

For the purpose of measuring said tax the secretary of state shall examine all articles of incorporation and all documents on file in his office relating to an increase or decrease in the authorized capital stock of corporations which are subject to said tax, and determine the amount due from each corporation by the following rule:

When the authorized capital stock of the corporation does not exceed ten thousand dollars, the tax shall be ten dollars; when the authorized capital stock exceeds ten thousand dollars, but does not exceed twenty thousand dollars, the tax shall be fifteen dollars; when the authorized capital stock exceeds twenty thousand dollars but does not exceed fifty thousand dollars, the tax shall be twenty dollars; when the authorized capital stock exceeds fifty thousand dollars but does not exceed one hundred thousand dollars, the tax shall be twenty-five dollars; when the authorized capital stock exceeds one hundred thousand dollars but does not exceed two hundred fifty thousand dollars, the tax shall be fifty dollars; when the authorized capital stock exceeds two hundred fifty thousand dollars but does not exceed five hundred thousand dollars, the tax shall be seventy-five dollars; when the authorized capital stock exceeds five hundred thousand dollars but does not exceed one million dollars, the tax shall be one hundred dollars; when the authorized capital stock exceeds one million dollars but does not exceed three million dollars, the tax shall be two hundred dollars; when the authorized capital stock exceeds three million dollars but does not exceed five million dollars, the tax shall be three hundred fifty dollars; when the authorized capital stock exceeds five million dollars but does not exceed seven million five hundred thousand dollars, the tax shall be five hundred fifty dollars; when the authorized capital stock exceeds seven million five hundred thousand dollars but does not exceed ten million dollars, the tax shall be eight hundred dollars; when the authorized capital stock exceeds ten million dollars, the tax shall be one thousand dollars; when the capital stock of any corporation has no par value the tax shall be one hundred dollars; when part of the capital stock of any corporation has a par value and a part of such stock has no par value, the tax shall be computed upon such par value stock in accordance with the admeasurement schedule herein established, to which sum shall be added the sum of fifty dollars. Building and loan companies and associations shall pay an annual license tax of ten dollars.

All corporations having no capital stock, but organized for profit, shall pay an annual tax of ten dollars. Said license tax shall be due and payable to the secretary of state on the first day of January of each and every year. Such license tax shall be paid on or before the hour of six o'clock P. M. of the first Monday of February of each year and if not so paid shall at said hour become delinquent and there shall thereupon be added thereto as a penalty for such delinquency the sum of ten dollars.

§ 4. Tax authorizes transaction of business. The license hereby provided authorizes the domestic corporations holding the same to transact business in this state, and authorizes foreign corporations to transact intrastate business in this state, during the year or any fractional part of such year for which such license is issued. "Year" within the meaning of this act, means from and including the first day of January to and including the thirty-first day of December next thereafter.

§ 5. License tax for part of year. At the time any corporation subject to the license tax provided herein shall file certified copy of articles of incorporation, or charter, or statute or statutes, or legislative, or executive or governmental act or acts creating a corporation, when filed between the first day of January and the thirty-first day of December,

inclusive, in any year, there shall be paid to the secretary of state, in addition to all other fees required by law, that proportion of the license tax specified in section three of this act which the unexpired number of months of such year bears to the entire year including the month in which such filing occurs, and thereupon the secretary of state shall issue a license for such fractional part of the then current year.

§ 6. Corporations exempt. Corporations organized and conducted solely and exclusively for educational, religious, scientific or charitable purposes, corporations which are not organized or conducted for profit, corporations organized under the laws of any other state, territory or foreign country doing solely and exclusively an interstate or foreign business, and those corporations taxed under subdivisions (a), (b) and (c) of section fourteen of article thirteen of the constitution, are exempt from payment of the tax provided by section three of this act.

§ 7. "Corporation license tax exemption board." Protest. Contents. Corporations excepted. The secretary of state, state controller and members of the state board of control shall be and are hereby constituted the "corporation license tax exemption board." Except in cases where articles of incorporation are filed in the month of December, every corporation claiming exemption from the payment of the annual license tax prescribed by this statute must file with said board, at least thirty days before such license tax becomes due and payable, a written protest in which shall be set forth all facts and reasons upon which such exemption claim is made. Such protest shall contain a concise statement of the nature, character and manner of doing business by such corporation, together with any other data illustrating the method of doing such business and the places in which such business is transacted within this state. Such corporation shall furnish to said board such other or additional information as may be required by said board. Such application shall be sworn to by the president, secretary or general manager, or authorized agent of such corporation. Failure to protest in the manner and within the time herein prescribed shall constitute a waiver of all rights of exemption from said tax; provided, however, that the corporation license tax exemption board shall have the power, irrespective of such protests to grant such exemption in the case of corporations mentioned in section six of this act.

The provisions of this section with respect to filing written claim of exemption, shall not apply to educational, religious, scientific or charitable corporations, specified in section six of this act nor to corporations taxed under subdivisions (a), (b) and (c) of section fourteen, article thirteen of the constitution of this state.

§ 8. Tax exemption determined before filing articles of incorporation. Before filing a certified copy of the articles of incorporation of any domestic corporation in the office of the secretary of state, and before any foreign corporation files with the secretary of state the document or documents required by section one of this act, said articles of incorporation or said documents shall be submitted to said corporation license tax exemption board, which board shall determine the question of whether such corporation is exempt, under any of the provisions of this act, from the license tax imposed hereby.

All claims or applications for exemption, under this and the preceding section together with all evidence and proofs submitted therewith, shall

be considered by such license tax exemption board, which shall determine the question of such exemption. The determining of such corporation license tax exemption board upon all questions of fact, with respect to such claims of exemption, shall be final and conclusive.

§ 9. Notice of time when tax payable. Notice of delinquency. Notice of suspension or forfeiture. On or before the first day of December of each year the secretary of state shall mail a notice to every corporation subject to the tax imposed by this act, notifying such corporations of the time when such tax shall be due and payable, when delinquent, and of the penalties for delinquency and nonpayment. Immediately after the first Monday in February of each year the secretary of state shall mail a notice to every corporation subject to the tax imposed by this act and which has failed to pay the same, notifying such corporation of its delinquency and the penalties therefor. Within ten days after the Saturday preceding the first Monday in March of each year the secretary of state shall, by registered mail, notify every corporation subject to the tax imposed by this act and which has failed to pay the same, that such corporation has been recorded by him as a "suspended" or "forfeited" corporation in accordance with the provisions of this act, and that such suspension or forfeiture may be removed by complying with the provisions of this act. Mailing by the secretary of state to any corporation of any of the notices required by this section shall not be a jurisdictional prerequisite to the accrual of any forfeiture provided by this act, or to the suspension of the corporate powers of any delinquent corporation and the officers thereof hereinafter provided, nor be held to be an essential prerequisite to the imposition of such or any other penalties for delinquency and nonpayment.

§ 10. License tax lien. The license tax due from any corporation subject to the provisions of this act is a lien upon the real property of such corporation from and after the first day of January of each year and until paid or until the property is sold for the payment thereof. On or before the first Monday in April of each year the secretary of state shall make a list of all corporations subject to the tax imposed by or that should have been paid under this act and which have failed to pay the same, and transmit a certified copy thereof to each county clerk and county recorder in this state. Said county clerks and county recorders shall file such certified copies in their respective offices in such manner that the same shall be preserved in the form of a permanent record of such office and easily identified by and available to the public. Said copies so certified by the secretary of state and filed as herein provided shall, in the case of each corporation, state whether such corporation is a domestic or foreign corporation and specify the tax and penalties which each corporation has incurred for failure to pay the tax imposed by this act. Such certified copies so filed with either of said county officers, or any copy thereof certified by the secretary of state, shall be received in evidence in any court in lieu of the original record on file with the secretary of state and shall be prima facie evidence of the truth of all statements contained therein.

§ 11. Rights of domestic corporations suspended. Right of foreign corporations forfeited. Forfeiture relieved. After six o'clock P. M. of the Saturday preceding the first Monday in March in any year, the cor-

porate rights, privileges and powers of every domestic corporation which has failed to pay the tax and money penalty for nonpayment thereof imposed by this act shall, from and after said hour of said day, be suspended, and incapable of being exercised for any purpose or in any manner, except to execute and deliver deeds to real property in pursuance of contracts therefor made prior to such time, and to defend in court any action brought against such corporation, until said tax with all accrued penalties, taxes and charges due to the state under this act and subdivision (d) of section fourteen, article thirteen of the constitution are paid as hereinafter provided. The right and privilege of every foreign corporation, subject to the provisions of this act, to transact intrastate business in this state shall, for failure to pay the tax and money penalty for nonpayment thereof imposed by this act, be forfeited at said hour of said day, and the secretary of state shall make a record of such forfeiture. In the case of foreign corporations such forfeiture may be relieved and the corporation's privilege to transact intrastate business in this state restored in the manner hereinafter provided. After said hour of said day and until such taxes, penalties and charges are paid, every person who attempts or purports to exercise any of the rights, privileges or powers of any delinquent domestic corporation except as permitted by this act, or, who transacts or attempts to transact any intrastate business in this state in behalf of any forfeited foreign corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business was had or occurred. Every contract made in violation of this section is hereby declared to be void.

§ 12. Application by stockholder or creditor to restore rights. Payment of additional amount. Contractor's certificate. All corporate powers, rights and privileges, suspended or forfeited under the provisions of this act may be revived and restored to full force and effect upon application therefor by any stockholder or creditor thereof and upon payment of all accrued taxes and penalties due to the state under this act and subdivision (d) of section fourteen, article thirteen of the constitution. In case the application for such revivor and restoration is not made during the year in which such suspension or forfeiture occurred, such application shall not be granted nor a certificate of revivor issued to such corporation until there is paid to the secretary of state in addition to the tax and money penalty due or that should have been paid the state under this act and subdivision (d) of section fourteen, article thirteen of the constitution for the year in which such suspension or forfeiture occurred, a sum of money, equal to the tax, without penalty, imposed or that should have been paid under this act during the year in which such suspension or forfeiture occurred, for each year succeeding said year in which such suspension or forfeiture occurred. Upon payment of all such taxes and penalties, and upon payment of all other taxes due the state under subdivision (d) of section fourteen, article thirteen of the constitution, the state controller shall issue a certificate

under his seal evidencing such payment and restoration, which certificate, when recorded in the office of any county recorder shall constitute a release of all existing liens for such taxes upon the property of such corporation. Each county recorder shall keep an index of all such controller's certificates recorded by him. Upon presentation of such controller's certificate of revivor to any county clerk said officer shall make a record thereof in his office in a book kept for such purpose. The record so made by said county clerk shall be prima facie evidence of the restoration to such corporation of all previously suspended or forfeited rights, powers and privileges unless it appears from the records in the office of such county clerk or of the controller or secretary of state that subsequent to the date of such certificate of revivor the powers of said corporation have been again suspended or its right to do intrastate business again forfeited.

§ 13. No dissolution until tax paid. No court shall have jurisdiction to make or enter any decree of dissolution of any domestic corporation until all taxes and penalties due under this act shall have been paid.

§ 14. Restoration of right under acts of 1905 and 1915. Use of new name. Any corporation which has heretofore failed to pay any license tax and penalty imposed under the provisions of chapter three hundred eighty-six, Statutes 1905, and amendments thereof, or under chapter one hundred ninety, Statutes 1915, and for such nonpayment suffered a forfeiture of the charter of such corporation or of the right to do business in this state, may be relieved of such forfeiture, or may be restored to its right to do business in this state, upon making application therefor in writing and paying the license tax and penalties prescribed by said act, for nonpayment of which such forfeiture occurred. Application for restoration under the provisions of this section shall be made in writing, shall be signed by four-fifths of the surviving trustees or directors of said corporation, duly verified by said trustees or directors and filed with the state controller. Upon payment of the moneys due this state under the provisions of said act for the one year in which such forfeiture occurred, together with any tax levied in such year under subdivision (d) of section fourteen, article thirteen of the constitution by the state board of equalization, and the license tax due under the provisions of this act, the state controller shall issue a certificate of revivor to such corporation, and thereupon such corporation is revived and its powers restored to full force and effect.

The revivor of a corporation, under the provisions of this section, shall be without prejudice to any action or proceeding, defense or right, which has occurred by reason of the original forfeiture.

In case the name of any corporation which has suffered the forfeiture prescribed by either of said acts first in this section above mentioned, has been adopted by any other corporation since the date of said forfeiture, or in case any corporation has adopted subsequent to such forfeiture any name so closely resembling the name of such reviving corporation as will tend to deceive, then such reviving corporation shall be entitled to a certificate of revivor pursuant to the terms of this section only upon the adoption by such corporation seeking revivor of a new name, and in such case nothing in this section contained shall be construed as permitting such reviving corporation to carry on any business under its former name. Such reviving corporation shall have the right to

use its former name or take such new name only upon filing an application therefor with the secretary of state, and upon the issuing of a certificate to such corporation by the secretary of state, setting forth the right of such corporation to take such new name or use its former name as the case may be. The secretary of state shall not issue any certificate permitting any corporation to take or use the name of any corporation heretofore organized in this state and which has not suffered a forfeiture under either of the acts in this section first above mentioned, or to take or use a name so closely resembling the name of any corporation heretofore organized in this state as will tend to deceive.

The provisions of title nine, part three of the Code of Civil Procedure, in so far as they conflict with this section of this act are not applicable to corporations seeking revivor under this act.

§ 15. Surrender of right to engage in intrastate business. Any foreign corporation may surrender its right to engage in intrastate business in this state by filing with the corporation license tax exemption board an affidavit, sworn to by the president of such corporation, which shall contain a concise statement of the nature, character and manner of doing any business of any kind that such corporation may thereafter intend to transact in this state. Said corporation shall furnish such other or additional information as may be required by said board. Said board shall consider such application and the order of such board approving the same shall terminate the right of such corporation to transact intrastate business in this state. Any person transacting any intrastate business in this state in behalf of such corporation after approval of such application to surrender such privilege shall be guilty of a misdemeanor and punishable as provided in section eleven of this act.

§ 16. False statement. Any false statement contained in any of the affidavits herein required shall constitute perjury, and shall be punishable as such.

§ 17. Moneys paid. All moneys herein required to be paid shall, upon collection, be immediately paid into the state treasury.

§ 18. Statutes unaffected. Nothing in this act shall be construed as affecting or repealing any statute of this state respecting the assessment of franchises and levying of taxes thereon, as required by section fourteen, article thirteen of the constitution and chapter three hundred thirty-five of statutes of one thousand nine hundred eleven of this state and amendments thereof.

§ 19. Title. This act shall be known as the "corporation license act." The amendatory act of 1917 also contained the following provision:

§ 2. In effect. This act, inasmuch as it provides for a tax levy, shall, under the provisions of section one of article four of the constitution, take effect immediately.

ACT 777.

An act defining industrial loan companies, providing for their incorporation, powers and supervision.

[Approved May 18, 1917. Stats. 1917, p. 658. In effect July 27, 1917.]

§ 1. "Industrial loan company." The term "industrial loan company" as used in this act means any corporation which in the regular course

of its business loans money and issues its own choses in action under the provisions of this act.

§ 2. Incorporation. Corporations may be incorporated under and by virtue of this act in the same manner as corporations under and by virtue of chapter one of title one of part four, division first of the Civil Code, except as otherwise herein provided.

§ 3. Capital stock. Shares. Capital stock paid. The capital stock of any corporation incorporated under the provisions of this act shall not be less than twenty-five thousand dollars in any city having a population of twenty-five thousand inhabitants or more and less than fifty thousand; and shall not be less than fifty thousand dollars in any city having fifty thousand or more inhabitants, and less than one hundred thousand; and shall not be less than one hundred thousand dollars in any city having one hundred thousand or more inhabitants, according to the last official census. The capital stock of any such corporation shall be divided into shares of the par value of one hundred dollars each. Before the articles of incorporation of any corporation, incorporated under the provisions of this act, are filed, there must be paid in cash for the benefit of the corporation to a treasurer, elected by the subscribers, not less than twenty-five per cent of the amount of the capital stock; the balance of the capital stock shall be paid in cash to the corporation at the rate of not less than ten per cent per month, following the initial payment. No corporation organized hereunder shall create more than one class of stock.

§ 4. Powers of corporation. Every corporation under the provisions of this act shall have power:

First—To loan money on personal security, or otherwise, and to deduct interest therefor in advance at the rate of six per cent per annum, or less, and in addition, to receive and to require uniform weekly or monthly installments on its certificates of investment, purchased by the borrower simultaneously with the said loan transaction, or otherwise, and pledged with the corporation as security for the said loan, with or without an allowance of interest on such installments.

Second—To sell or negotiate choses in action for the payment of money at any time, either fixed or uncertain, and to receive payments therefor in installments or otherwise, with or without an allowance of interest upon such installments. Nothing herein contained shall be construed to authorize corporations hereunder to receive deposits or to issue certificates of deposit. The issuance of choses in action herein authorized shall be approved as to form by the commissioner of corporations and shall bear the indorsement on the face of the instrument "This is not a certificate of deposit."

Third—To charge for a loan, made pursuant to this section, one dollar for every fifty dollars, or fraction thereof loaned, for expenses, including any examination or investigation of the character and circumstances of the borrower, and the drawing and taking acknowledgment of any papers, or other expenses incurred in making the loan. No charge shall be collected unless a loan shall have been made, and in no case shall such charge exceed five dollars.

Fourth—To establish branch offices, or places of business, within the county in which its principal place of business is located, but not elsewhere.

In addition to the powers herein enumerated, every corporation, under the provisions of this act, shall have the general powers conferred upon corporations by chapter three, title one, part four, division first, of the Civil Code, except as herein otherwise provided.

§ 5. Limitations on corporations. No corporation under the provisions of this act shall:

(a) Hold at any one time the obligation or obligations of any person, firm or corporation, for more than two per cent of the amount of the capital and surplus of such industrial loan company.

(b) Make any loan, under the provisions of this act, for a longer period than one year from the date thereof.

(c) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depository by a vote of the majority of the directors or of the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

(d) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for savings banks, or in the choses in action issued by any other corporation organized under this act.

(e) Have outstanding at any time its investment certificates in an aggregate sum in excess of ten times the aggregate amount of its paid up capital, exclusive of those hypothecated with the company issuing them.

§ 6. Holding real estate. Every corporation, under the provisions of this act, may purchase, hold and convey real estate for the following purposes, but for no other:

First—Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its business.

Second—Such as it shall purchase at sale under judgments, decrees or mortgage foreclosures under securities held by it, but no such corporation shall bid at any such sale a larger amount than shall be necessary to satisfy its debt and costs.

Real estate shall be conveyed under the corporate seal of such corporation and the hand of its president or vice-president and manager or treasurer. No real estate acquired in the cases contemplated above shall be held for a longer period than five years. Parcels of such real estate not sold within said time may be purchased by any person wanting the same, upon the conditions and proceedings provided in section fifty-four of "An act to define and regulate the business of banking," approved March 1, 1909.

§ 7. Dividends. The directors of every corporation, under the provisions of this act, may at certain times and in such manner as its by-laws prescribe, declare and pay dividends to the stockholders of such corporation, of so much of the net profits of the corporation as may be appropriated for that purpose under its by-laws, but before any such dividend is declared, not less than ten per cent of the net profits of such corporation for the preceding half year or for such period as is covered by the dividend, shall be carried to its surplus until such surplus shall amount to twenty-five per cent of the paid up capital stock.

§ 8. Certificates of investment issued not creation of debt. Issuing certificates of investment and the like in the transaction of the business of corporations under the provisions of this act shall not be construed to be the creation of debt within the meaning of the phrase "create debt" in section three hundred nine of the Civil Code nor of "indebtedness" within the meaning of the phrase "the capital stock cannot be diminished to an amount less than the indebtedness of the corporation" in section three hundred fifty-nine of the Civil Code, except that no company organized hereunder shall reduce its capital stock to an amount less than is required by this act to be maintained by such company or less than any indebtedness of such company other than such investment certificates.

§ 9. Taxed. Corporations, under the provisions of this act, shall be taxed the same as other general corporations.

§ 10. Subject to investment companies act. Corporations under the provisions of this act shall be subject to the provisions and regulations of "An act to define investment companies, investment brokers and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations and making an appropriation therefor," approved May twenty-eighth, nineteen hundred thirteen, and any additions or amendments thereto.

§ 11. Order to discontinue violation of law. Order to discontinue unsafe practices. Suit to restrain enforcement. Commissioner of corporations may take possession of property. If it shall appear to the commissioner of corporations that any company hereunder has violated or failed to comply with the provisions of its articles of incorporation, or any law of this state, or whenever it shall appear from the report of any company hereunder, or the commissioner shall have reason to conclude, that the capital of any company hereunder is impaired or reduced below the amount required by law, he may, by an order under his hand and official seal, addressed to such company, direct such company to discontinue such violation and to comply with the law, or to make good the deficiency or impairment of capital alleged by him to exist within sixty days after the date of such requisition; or

If it shall appear to the commissioner that such company is conducting business in an unsafe or injurious manner, he may, in like manner, direct the discontinuance of any such unsafe or injurious practices. Such orders shall require such company to show cause, before the commissioner, at a time and place to be fixed by him, why said order should not be observed. If upon such hearing it shall appear to the commissioner that such order should be made final he shall proceed to do so, and such company shall immediately comply with such order made by the commissioner of corporations.

Such company shall have ten days after any such order is made final in which suit may be commenced to restrain enforcement of such order and unless such action be so commenced and enforcement of such order be enjoined within ten days by the court in which such is suit is brought, then such company shall comply with such order.

Upon failure of any company to comply with such order or if such company shall refuse to submit its books, papers and concerns to the

inspection or examination of the commissioner of corporations, or to anyone authorized by him to make such examination, or if any officer of such company shall refuse to be examined upon oath touching the concerns of such company, or if any such company shall neglect or refuse to observe any order made by the commissioner of corporations pursuant to his supervision as authorized by this act, the commissioner of corporations may forthwith take possession of the property and business of such company and retain such possession until such company shall resume business or its affairs be finally liquidated. On taking possession of the property and business of any such company, the commissioner of corporations may proceed to liquidate the same in the manner provided by the bank act.

§ 12. Powers of commissioner of corporations not affected. Nothing in this act contained shall be deemed or construed as a limitation or restriction of or as in any way affecting the power or discretion of the commissioner of corporations, under the investment companies act or any other statute now or hereafter in effect, to issue a permit authorizing any corporation under the provisions of this act to issue and dispose of choses in action in such amounts and upon such terms and conditions as he may in such permit provide and to impose such conditions as he may deem necessary to the issue of such securities and to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit and from time to time for cause to amend, alter or revoke any permit issued by him or to refuse to issue such permit or otherwise authorize the issue of such securities.

TITLE 130.

COUNTIES.

ACT 806.

An act authorizing any county now or hereafter organized to incur indebtedness, issue negotiable bonds, levy taxes to pay the principal and interest thereof, acquire by condemnation or otherwise land within the county, and, in, consideration of the benefits to be derived therefrom by such county, to convey the same to the United States, for a permanent mobilization, training and supply station for any or all such military purposes, including supply stations, the mobilization, disciplining and training of the United States army, state militia and other military organizations, as are now or may at any time be authorized or provided for under any law or laws of the United States; conferring on such counties the power of eminent domain for the purposes of this act and providing the procedure therefor; granting the consent of the state to such conveyance and ceding exclusive jurisdiction to the United States over the lands so conveyed.

[Approved May 25, 1917. Stats. 1917, p. 933. In effect July 27, 1917.]

§ 1. Boards of supervisors may incur indebtedness to purchase land for United States mobilization stations. Whenever the secretary of war of the United States shall agree, on behalf of the government of the United States, to establish in any county now or hereafter organized in

this state, a permanent mobilization, training and supply station for any or all such military purposes as are now or may be then or thereafter authorized or provided by or under any law of the United States, on condition that land in such county aggregating approximately a designated number of acres at such location or locations within any such county as may have been or may thereafter be from time to time selected or approved by such secretary of war be conveyed to the United States with the consent of the state of California, for the consideration of the benefits to be derived by such county from the use of such lands by the United States for such purpose and the board of supervisors shall determine that it is desirable and for the general welfare and benefit of the people of such county and for the interest of the county to incur an indebtedness in an amount sufficient to acquire land in such county aggregating approximately the number of acres so designated, at such location or locations as may have been theretofore or may be thereafter selected or approved by such secretary of war, and, in consideration of the benefits to be derived therefrom by such county, to convey all such lands to the United States to be used by the United States for any or all such military purposes, as are now, or may be then or thereafter authorized or provided by or under any law of the United States, including permanent mobilization, training and supply stations, such county is hereby authorized and empowered by and through its board of supervisors to incur an indebtedness evidenced by negotiable bonds of such county for such purposes in any amount not exceeding, together with all existing bonded indebtedness of such county, five per cent of the taxable property of the county, as shown by the last equalized assessment book thereof, whenever two-thirds of the qualified electors of the county voting thereon shall assent thereto, at any election, either general or special, at which the proposal to incur such bonded indebtedness may be submitted to such electors in the manner provided by law.

§ 2. Manner of incurring indebtedness. Not to exceed five per cent of taxable property. Question submitted to voters. Such indebtedness shall be incurred in the following manner, to wit: The board of supervisors of any such county shall by order specify (a) the purpose for which the indebtedness is to be incurred, which shall in general be, for acquiring land in such county aggregating approximately the number of acres designated in such agreement by such secretary of war to be conveyed for the consideration of the benefits to be derived by such county from the use of such lands by the United States for such purposes, to the United States for the purposes of a permanent mobilization, training and supply station, (b) the amount of bonds proposed to be issued, provided that such amount, together with all then existing bonded indebtedness of such county shall not exceed five per cent of the taxable property of the county as shown by the last equalized assessment-book thereof, exclusive of the taxable value of the land so proposed to be acquired and conveyed to the United States, (c) the rate of interest it is proposed such bonds shall bear, (d) the number of years, not exceeding forty, the whole or any part of said bonds are to run, and (e) such order shall further provide for submitting the question of the issuance of such bonds to the qualified electors of such county at the next general election, or at a special election to be called by the board for that purpose. The words to appear on the ballot shall be "Bonds—Yes" and "Bonds—

No" or words of similar import, together with a general statement of the amount and purpose of the bonds to be issued, and which general statement shall include a statement that the purpose is to acquire and convey to the United States, for the consideration of the benefits to be derived by such county from the use of such lands by the United States, the amount of land set out in said order of the board of supervisors for the purpose of a permanent mobilization, training and supply station. If the question is submitted at a special election, notice thereof shall be given and the question submitted as provided in section four thousand eighty-eight of the Political Code of the state of California.

§ 3. If two-thirds favor. Procedure. If two-thirds of the qualified electors of the county voting thereon shall vote in favor of the issuing such bonds, the board must proceed to issue the amount of bonds specified. The board of supervisors in issuing and selling said bonds shall follow the procedure provided in said section four thousand eighty-eight of said Political Code as to other bonds of the county, and said bonds shall be in the form, of the denominations and specify the rate of interest as provided in said section and shall in all respects conform to the provisions of said section, and the payment thereof, both principal and interest, shall be provided for by a tax levy in the same manner as is provided in said section for the payment of the principal and interest of other bonds issued by any county, and said section, except as herein modified, is hereby specifically made applicable to all bonds at any time issued under the provisions of this act.

§ 4. Right of eminent domain granted. The acquisition of land for the establishment of a permanent mobilization, training and supply station for any and all such military purposes as are now or may be then or thereafter authorized or provided by or under any law of the United States is hereby declared to be a public use, and the right of eminent domain is hereby granted and extended to every county availing itself of the provisions of this act for every purpose of condemnation, appropriation or disposition intended by this act and such county is hereby authorized and empowered to condemn and appropriate all lands and rights whatsoever necessary or convenient for carrying out the provisions of this act. Such right of eminent domain may be exercised on behalf of such public use in accordance with the provisions of title seven, part three of the Code of Civil Procedure of the state of California.

§ 5. Consent to acquisition by United States. Consent to exercise of exclusive legislation. Pursuant to the constitution and laws of the United States and especially to paragraph seventeen of section eight of article one of such constitution, the consent of the legislature of the state of California is hereby given to the United States to acquire, upon the conditions and for the purposes herein set forth, from any county acting under the provisions of this act, title to all lands herein intended to be referred to; such title to be evidenced by a deed or deeds of such county, signed by the chairman of its board of supervisors and attested by the clerk of such county, under seal and the consent of the state of California is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever over such tracts or parcels of land so conveyed to it; subject, however, to the right of

the state to have concurrent jurisdiction so far that all process, civil or criminal, issued under authority of the state may be executed by the proper officers thereof within such tract, upon any person or persons amenable to the same in like manner and with like effect as if such conveyance had not been made. The board of supervisors shall have the power to insert in every conveyance made under the authority of this act, such conditions subsequent as such board shall deem necessary to insure the use of such lands by the United States government for the purposes herein mentioned and to carry out the provisions of this act.

TITLE 131.

COUNTY BOUNDARIES.

ACT 826a.

An act to definitely establish and permanently locate the boundary line between the counties of Mendocino and Sonoma, state of California. [Approved May 31, 1917. Stats. 1917, p. 1396. In effect July 30, 1917.]

ACT 826b.

An act to describe, establish and permanently locate the boundary line between the counties of Kern and San Bernardino. [Approved May 10, 1917. Stats. 1917, p. 301.]

ACT 826c.

An act to definitely establish and permanently locate a portion of the boundary line between the county of Lake and the county of Mendocino. [Approved June 1, 1917. Stats. 1917, p. 1635.]

ACT 826d.

An act to establish and permanently locate the boundary line between the county of Riverside and the county of San Bernardino. [Approved April 15, 1919. Stats. 1919, p. 99. In effect July 22, 1919.]

TITLE 137.

CRIMINAL LAW.

ACT 863.

An act to create a state bureau of criminal identification, providing for the appointment of a director of said bureau, defining his duties, qualifications and powers, providing for the appointment of a clerk of said bureau, and fixing his qualifications fixing the compensation of said director and clerk, and providing for the manner of paying the same, and providing for the expense of conducting the office. [Approved March 20, 1905. Stats. 1905, p. 520.]
Repealed 1917; Stats. 1917, p. 1391. See next Act.

ACT 863a.

An act creating a state bureau of criminal identification and investigation, providing for its organization and defining its powers and duties and making an appropriation to carry out the provisions hereof, and repealing an act entitled "An act to create a state bureau of criminal identification, and providing for the appointment of a director

of said bureau, defining his duties and qualifications and powers; providing for the appointment of a clerk of said bureau and fixing his qualifications; fixing compensation of said director and clerk, providing for the manner of paying the same and providing for the expense of conducting the office," approved March 20, 1905.

[Approved May 31, 1917. Stats. 1917, p. 1391. In effect July 30, 1917.]

§ 1. State bureau of criminal identification and investigation created. There is hereby created a state bureau of criminal identification and investigation.

§ 2. Appointment and term of members. Within ten days after this act goes into effect, it will be the duty of the governor to appoint a board of managers of said bureau, consisting of three members: One of whom shall be a chief of police of an incorporated city within the state of California, and one to be a duly elected, qualified and acting sheriff of a county within said state, and one to be a duly elected, qualified and acting district attorney of a county within said state; one member of said board shall be appointed to hold office for the term of two years, one member shall be appointed to hold office for the term of three years, and one member to be appointed to hold office for the term of four years, and thereafter, all appointments shall be for the full term of four years; provided, however, that should the term of any such member of the said board expire as such chief of police, or such sheriff, or such district attorney, he shall cease to be a member of the said board; and provided, further, that the governor shall fill all vacancies created in said board by the appointment of the same kind of an officer as was his predecessor.

§ 3. Duties of board of managers. Superintendent. It shall be the duty of said board of managers within ten days after its appointment to take absolute control and management of said bureau, to meet and organize by choosing one of their number to be president, to make and adopt such rules as are necessary for proper conduct of their business as such board of managers, to provide for the appointment of a superintendent and such other employees as may be required; said appointments to be made by the said board of managers from an eligible list provided for such purpose by the civil service commission; also to provide equipment for said bureau, with necessary furniture, fixtures, apparatus, appurtenances, appliances and materials as are necessary for the collection, filing and preservation of all criminal records both as to identification and investigation of criminals, and stolen, lost, found, pledged or pawned property.

§ 4. Photos, etc., of criminals. It shall be the duty of said board of managers to procure and file for record and report in their office, as far as such can be procured, all plates, photos, outline pictures, descriptions, information and measurements of all persons who have been or shall hereafter be convicted of felony, or imprisoned for violating any of the military, naval, or criminal laws of the United States of America, and of all well known and habitual criminals from wherever procurable.

§ 5. Information furnished. It shall be the duty of said board of managers to file or cause to be filed all plates, photographs, outline pic-

tures, measurements, information and description which shall be received by it by virtue of its office and it shall make a complete and systematic record and index of the same, providing thereby a method of convenience, consultation and comparison. It shall be the duty of said board of managers to furnish, upon application, all information pertaining to the identification of any person, or persons, a plate, photograph, outline picture, description, measurement, or any data of which person there is a record in its office. Such information shall be furnished to the United States officers or officers of other states or territories, or possession of the United States or peace officers of other countries duly authorized to receive the same, and all peace officers of the state of California, which application shall be in writing and accompanied by a certificate signed by the officer making such application, stating that the information applied for is necessary in the interest of the due administration of the laws, and not for the purpose of assisting a private citizen in carrying on his personal interests or in maliciously, or uselessly, harassing, degrading or humiliating any person or persons.

§ 6. Systems of identification. In this bureau may be used the following systems of identification: the Bertillon, the finger-print system and any system of measurement that may be adopted by law in the various penal institutions of the state. It shall be the duty of said board of managers to keep on file in its office a record consisting of duplicates of all measurements, processes, operations, signalletic cards, plates, photographs, outline pictures, measurements and descriptions of all persons confined in penal institutions of this state as far as possible, in accordance with whatever system or systems may be in vogue in this state.

§ 7. Offices. Suitable offices for the proper conduct of the bureau shall be provided for by the superintendent of capitol buildings and grounds.

§ 8. Daily copies of finger prints furnished. Daily reports of property stolen. It is hereby made the duty of the sheriffs of the several counties of the state of California, the chiefs of police of incorporated cities therein and marshals of incorporated cities and towns therein to furnish to the said bureau daily copies of finger-prints on standardized eight by eight inch cards, and descriptions of all such persons arrested who in the best judgment of such sheriffs, chiefs of police, or city marshals are persons wanted for serious crimes, or are fugitives from justice, or of all such persons in whose possession at the time of arrest are found goods or property reasonably believed by such sheriffs, chiefs of police or city marshals to have been stolen by them; or of all such persons in whose possession are found burglar outfits or burglar tools or burglar keys or who have in their possession high-power explosives reasonably believed to be used for unlawful purposes or who are in possession of infernal machines, bombs or other contrivances in whole or in part and reasonably believed by said sheriffs, chiefs of police and city marshals to be used for unlawful purposes, or of all persons who carry concealed firearms or other deadly weapons and reasonably believed to be carried for unlawful purposes, or who have in their possession inks, dye, paper or other articles necessary in the making of counterfeit bank notes, or in the alteration of bank notes; or dies, molds

or other articles necessary in the making of counterfeit money, and reasonably believed to be used by them for such unlawful purposes. This section is by no means intended to include violators of city or county ordinances or of persons arrested for other trifling offenses. It is further made the duty of the aforesaid sheriffs, chiefs of police or city marshals to furnish said bureau daily reports of lost, stolen, found, pledged or pawned property received into their respective offices.

§ 9. Record of reports. In order to assist in the recovery of said property and in the arrest and prosecution of criminals, it is hereby made the duty of the said board of managers of said bureau to keep a complete record of all reports filed with the said bureau, of all personal property stolen, lost, found, pledged, or pawned in any city or county of this state.

§ 10. File cards. To provide for the installation of a proper system, and file, and cause to be filed therein cards containing an outline of the method of operation employed by criminals in the commission of crime.

§ 11. Salaries. The board of managers of this bureau shall serve without compensation; provided, however, that they shall receive their necessary traveling expenses while attending meetings of said board. The superintendent shall receive a salary of two thousand four hundred dollars per annum; the salaries of the other employees shall be fixed by the board of managers subject to the approval of the board of control. The superintendent and the other employees shall be paid in the same manner and out of the same fund as the state officers are paid.

§ 12. Appropriation. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of thirty-six thousand dollars, or so much thereof as may be necessary, to be used by said board of managers in furnishing, equipping and maintaining the said bureau in accordance with the provisions of this act, and for the payment of the salaries herein provided for, for the fiscal year ending June thirtieth, one thousand nine hundred eighteen, and the fiscal year ending June thirtieth, one thousand nine hundred nineteen.

§ 13. State controller directed to draw warrants. The state controller is hereby directed to draw warrants in favor of the said board of managers at such times and such amounts as shall be approved by the state board of control, and the state treasurer is hereby directed to pay the same.

§ 14. Furniture, equipment and records of bureau of criminal identification. All furniture, equipment and records now on file and in use in the office of the "bureau of criminal identification of the state of California," shall become a part of the furniture, equipment and records of the "state bureau of criminal identification and investigation," immediately upon the organization of the board of managers as provided for in this act.

§ 15. Stats. 1905, p. 520, repealed. An act entitled, "An act to create a state bureau of criminal identification, and providing for the appointment of a director of said bureau, defining his duties and qualifications and powers; providing for the appointment of a clerk of said bureau

and fixing his qualifications; fixing compensation of said director and clerk, providing for the manner of paying the same and providing for the expense of conducting the office"; approved March 20, 1905, is hereby repealed and all other acts and parts of acts in conflict herewith are hereby repealed.

ACT 867.

An act creating an advisory pardon board; defining and prescribing the powers and duties thereof; and making an appropriation therefor.

[Approved May 17, 1915. Stats. 1915, p. 465.]

Amended 1917; Stats. 1917, p. 291.

The amendment of 1917 follows:

§ 1. Advisory pardon board created. President pro tempore of senate serves when. An advisory pardon board of and for the state of California is hereby created, which shall consist of the lieutenant-governor, who shall be chairman of said board, the attorney general, and the wardens of the two state prisons. Should the lieutenant-governor be absent or unable to perform the duties herein prescribed, the president pro tempore of the senate shall act in his place. The board shall have and exercise the powers and duties hereinafter set forth and specified. [Amendment approved May 8, 1917; Stats. 1917, p. 291.]

TITLE 141.

DEADLY WEAPONS.

ACT 889.

An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making a felony to use or attempt to use certain dangerous weapons against another.

[Approved May 4, 1917. Stats. 1917, p. 221. In effect July 27, 1917.]

§ 1. Manufacture, etc., of certain dangerous weapons misdemeanor. Every person who manufactures or causes to be manufactured, or leases, or keeps for sale, or offers, or gives, or otherwise disposes of any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, or metal knuckles, a dirk or dagger, to any person within this state is guilty of a misdemeanor, and if he has been previously convicted of a crime made punishable by this section, he is guilty of a felony.

§ 2. Possession of certain dangerous weapons misdemeanor. Every person who possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, bludgeon, metal knuckles, bomb or bombshells, or who carries a dirk or a dagger,

is guilty of a misdemeanor, and if he has been convicted previously of any felony or of a crime made punishable by this act, he is guilty of a felony.

§ 3. Carrying firearms without license misdemeanor. Every person who carries in any city, city and county, town or municipal corporation of this state any pistol, revolver, or other firearm concealed upon his person, without having a license to carry such firearm as hereinafter provided in section six of this act, shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony.

§ 4. Unlawful possession of weapon etc., nuisance. Surrender of weapons, etc. Destruction of weapons, etc. The unlawful possessing or carrying of any of the instruments, weapons or firearms enumerated in section one to section three inclusive of this act, by any person other than those authorized and empowered to carry or possess the same as hereinafter provided, is a nuisance, and such instruments, weapons or firearms are hereby declared to be nuisances, and when any of said articles shall be taken from the possession of any person the same shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, city and county, town or other municipal corporation the same shall be surrendered to the head of the police force, or police department thereof. The officers to whom the same may be so surrendered, except upon certificate of a judge of a court of record, or of the district attorney of any county that the preservation thereof is necessary or proper to the ends of justice, shall proceed at such time or times as he deems proper, and at least once in each year to destroy or cause to be destroyed such instruments, weapons or other firearms in such manner and to such extent that the same shall be and become wholly and entirely ineffective and useless for the purpose for which it was manufactured.

§ 5. Attempted use of weapons felony. Any person who attempts to use, or who with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any loaded pistol, revolver or other firearm, or any instrument or weapon commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, bomb, or bombshell or any other dangerous or deadly instrument or weapon, is guilty of a felony. The carrying or possession of any of the weapons specified in this section, by any person while committing, or attempting or threatening to commit a felony, or breach of the peace, or any act of violence against the person or property of another, shall be presumptive evidence of carrying or possessing such weapon with intent to use the same in violation of this section.

§ 6. License to carry concealed firearm. It shall be lawful for the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, city and county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm; provided, however, that the application to

carry concealed such firearm shall be filed in writing and shall state the name and residence of the applicant, the nature of applicant's occupation, the business address of applicant, the nature of the weapon sought to be carried and the reason for the filing of the application to carry the same.

§ 7. Register of sales of firearms. Duplicate sheet mailed to police. Violation misdemeanor. Form of register. Every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, leasor or transferrer is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber or other marks of identification on such pistol, revolver or other firearm. Such register shall be prepared by and obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of three dollars per one hundred leaves in duplicate and shall be in the form hereinafter provided. The purchaser of any firearm, capable of being concealed upon the person shall sign, and the dealer shall require him to sign his name and affix his address to said register in duplicate and the salesman shall affix his signature in duplicate as a witness to the signature of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such register shall on the evening of the day of sale, be placed in the mail, postage prepaid and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, city and county, town or other municipal corporation wherein the sale was made; provided, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearms is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, city and county, town or municipal corporation wherein they are situated. The register provided for in this act shall be substantially in the following form:

Series No. —

Sheet No. —

Original.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.

Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county

if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.

Sold by ——. Salesman —

City, town or township —

Description of arm (state whether revolver or pistol) —

Maker — number — caliber —

Name of purchaser — age — years.

Permanent residence (state name of city, town or township, street and number of dwelling) —

Height — feet — inches. Occupation —

Color — skin — eyes — hair —

If traveling or in a locality temporarily, give local address —

Signature of purchaser —

(Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)

Witness —, salesman.

(To be signed in duplicate.)

Series No. —

Sheet No. —

Duplicate.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This carbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page. Violation of this law is a misdemeanor.

Sold by ——. Salesman —

City, town or township —

Description of arm (state whether revolver or pistol) —

Maker — number — caliber —

Name of purchaser — age — years.

Permanent residence (state name of city, town or township, street and number of dwelling) —

Height — feet — inches. Occupation —

Color — skin — eyes — hair —

If traveling or in a locality temporarily, give local address —

Signature of purchaser —

(Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)

Witness —, salesman.

(To be signed in duplicate.)

§ 8. Exceptions. Nothing in this act shall be construed to apply to sheriffs, constables, marshals, policemen or other duly appointed peace officers nor to any person summoned by any such officers to assist in making arrest or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to duly authorized military or civil organizations while parading nor to the members thereof when going to and from the places of meeting of their respective organizations; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to bona fide members of any club or organization now existing or hereinafter organized, for the purpose

of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon or in such target ranges, or while going to and from such ranges.

§ 9. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 142.

DEAF, DUMB AND BLIND.

ACT 895b.

An act to authorize certain improvements upon the grounds of the California School for the Deaf and Blind at Berkeley, California.

[Approved May 17, 1917. Stats. 1917, p. 578. In effect July 27, 1917.]

§ 1. Fences on grounds of California School for Deaf and Blind. The directors of the California School for the Deaf and Blind are hereby authorized to remove the present fence on the grounds of said school, which extends thirty feet across the eastern terminus of Derby street, and also the fence which extends a distance of one hundred twenty-four and sixty-five one hundredths feet from said terminus along Tanglewood road, as said street and road are delineated upon a map entitled, "plat of Tanglewood road opening, Berkeley, California," filed in the office of the county recorder of Alameda county on the third day of April, one thousand nine hundred sixteen, and recorded in liber fourteen of maps, page twenty-five, and to replace said fence along a line described as follows:

Commencing at the point of intersection of the northerly line of Derby street and the easterly line of Belrose avenue extended northerly, as said street and avenue are delineated on said plat of Tanglewood road opening, Berkeley, California; thence easterly parallel to the southerly line of plot seventy-eight, as said plot is shown and designated upon Kellersberger's map of rancho of Vicente and Domingo Peralta, and filed in the office of the county recorder of Alameda county, a distance of eighteen and five-tenths feet; thence along a circular arc of two hundred two and ninety-four one hundredths feet radius easterly and southerly to its intersection with the said southerly line of plot seventy-eight at a point distant therein easterly one hundred twenty-four and sixty-five one hundredths feet from the intersection of the easterly line of Belrose avenue and the said southerly line of plot seventy-eight, in order that the following described triangular piece of land may be used as a public highway:

Beginning at the intersection of the eastern line of Belrose avenue with the dividing line between plot seventy-seven and plot seventy-eight as shown upon said Kellersberger's map of rancho of Vicente and Domingo Peralta, and running thence northerly along the said eastern line of Belrose avenue thirty-feet; thence easterly parallel to the south-

ern line of said plot seventy-eight, a distance of eighteen and five-tenths feet; thence along a circular arc of two hundred two and ninety-four one-hundredths feet radius easterly and southerly to its intersection with the said southern line of plot seventy-eight at a point distant therein easterly one hundred twenty-four and sixty-five one hundredths feet from the point of beginning; thence westerly in a straight line to the point of beginning; being a portion of said plot seventy-eight and containing six-hundredths acre, more or less.

TITLE 143.

DEATH.

ACT 897a.

An act to establish a state board of embalmers, defining the duties thereof, providing for the better protection of life and health, preventing the spread of contagious disease, regulating the practice of embalming in connection with the care and disposition of the dead and providing penalties for the violation thereof.

[Approved April 16, 1915. Stats. 1915, p. 80.]

Amended 1919; Stats. 1919, p. 1334.

The amendment of 1919 follows:

§ 13. Affidavits to corrections in death certificates. When embalmer's license lapses. Whenever it may be alleged that the facts are not correctly stated in any certificate of death theretofore registered, the local registrar shall require an affidavit under oath to be made by the person asserting the fact, to be supported by the affidavit of one other credible person having knowledge of the facts, setting forth the changes necessary to make the record correct. Having received such affidavits, the local registrar shall file them and shall then draw a line through the incorrect statement or statements in the certificate, without erasing them, and make the necessary corrections, noting on the margin of the certificate his authority for so doing, and transmit the affidavits, attached to the original certificate, when making his regular monthly returns to the state registrar. If the correction relates to a certificate previously returned to the state registrar, the local registrar shall transmit the affidavit forthwith to the state registrar. If the correction is first made upon the original certificate on file in the state bureau of vital statistics, the state registrar shall transmit a certified copy of the original certificate, corrected as above, to the local registrar, who shall thereupon substitute such certified copy for the copy of the certificate in his records. All such corrections and marginal notes referring to them shall be legibly written in ink, typewritten or printed. When an embalmer has allowed his license to lapse, for any reason whatever, his license and number may be reinstated by the proper application of such embalmer, said application to be accompanied by a fee of two dollars and all back dues to date, whereupon the board may reinstate such applicant, provided such lapse shall not have been over two years. [Amendment approved May 27, 1919; Stats. 1919, p. 1334.]

§ 22. Special license for nonresidents. Nonresidents living along the border of the state of California, doing business within this state, may

make application for a special license, provided they can comply with the rules and regulations governing applicants for license, and furnish a certificate from their state certifying that the applicant holds a valid license, and upon the payment of a fee of twenty dollars, with a yearly renewal fee of five dollars. [New section added May 27, 1919; Stats. 1919, p. 1335.]

§ 23. School of embalming. The state board of embalmers is authorized to enter into an agreement with the proper authorities for the purpose of establishing a school of embalming in connection with any state educational institution of university grade or school of secondary grade maintained by a city, city and county, or school district in this state for the purpose of instructing students in the art of embalming and the sanitary care of the dead. The board shall be empowered to employ instructors; secure paraphernalia; lay out a course of instruction and requirements for a graduation; to require fees for same; which said fees shall be deposited in the state treasury in a fund which is hereby created and which shall be known as the embalmers school fund; this school to be in no way an expense to the state. Upon graduation a diploma thereupon shall entitle the holder to be admitted to practice within the state. [New section added May 27, 1919; Stats. 1919, p. 1335.]

§ 24. Manufacture and distribution of embalming fluids. It is prohibited to manufacture, sell or distribute embalming fluids within the state containing mineral poison. All fluid containers to have printed on the label "no mineral poison." All manufacturers and distributors of embalming fluids are hereby required to state the per cent formaldehyde contained therein, upon the label. [New section added May 27, 1919; Stats. 1919, p. 1335.]

TITLE 152a.

DISTRICT COURTS OF APPEAL.

ACT 947.

An act to authorize the justices of the district court of appeal for the second appellate district to provide proper rooms for the accommodation of the court and its officers and library, and declaring the expenses thereof to be an annual charge against the general fund of the state treasury.

[Approved May 25, 1919. Stats. 1919, p. 1239. In effect July 25, 1919.]

§ 1. Rooms and accommodations for second district court of appeal. The justices of the district court of appeal for the second appellate district are hereby authorized to provide proper rooms in which to hold court and for the proper accommodation of its officers and library, and the presiding justices of the two divisions of said district court of appeal are hereby authorized to enter into any contract or lease with reference thereto, approved by at least two justices of each division of said court; and the expenses thereof, certified to be correct by at least two justices of each division of said court, shall be paid out of the state treasury; and for such expenses a sufficient sum, shall be annually appropriated out of any funds in the state treasury not otherwise appropriated.

§ 2. Repealed. All acts and parts of acts inconsistent herewith are hereby repealed.

TITLE 159.**DRAINAGE.****ACT 976.**

An act validating the formation and organization, and determining the boundaries of drainage improvement district number one of the county of Merced, state of California.

[Approved January 29, 1917. Stats. 1917, p. 3. In effect immediately.]

§ 1. Drainage improvement district No. 1, Merced county, validated. Drainage improvement district number one of the county of Merced, state of California, as formed and organized by the board of supervisors of said Merced county, and as now existing, is hereby recognized and declared valid, and all proceedings on the formation and organization thereof are hereby approved, ratified and declared valid.

§ 2. Boundaries. The boundaries of said district, as fixed by the board of supervisors of said Merced county are hereby approved and declared to be as follows:

Commencing at the northeast corner of section two, township seven south, range eleven east, Mount Diablo base and meridian, thence, following section lines, south three miles to the southeast corner of section fourteen, of said township and range; thence, following section lines, west two miles, to the southwest corner of section fifteen, said township and range; thence, following section line, north one mile to the northwest corner of said section fifteen; thence east three-eighths mile; thence north one-half mile; thence east three-sixteenths mile; thence north one-quarter mile; thence east seven-sixteenths mile; thence north one-quarter mile to the northeast corner of section ten, said township and range; thence, following section line, north seven-eighths mile to a point on the continuation easterly of the southerly line of lot one of the San Joaquin-Eucalyptus Company's subdivision; thence westerly along lot lines to the southwest corner of lot four of said subdivision; thence northerly along lot line and the continuation thereof to the north line of section three, said township and range; thence following section lines east and one-eighth miles, more or less, to the point of commencement.

§ 3. Urgency measure. Inasmuch as there are in said districts bodies of stagnant water in close proximity to communities, neighborhoods and a large number of residences; and inasmuch as said bodies of stagnant water are injurious to the health of the said residents, and of the inhabitants of said communities and neighborhoods, and for the preservation of the safety and health of the public, must be drained; and inasmuch as this act is necessary to provide ample power for the drainage of said bodies of stagnant water, it is hereby determined and declared that this act, and each and all of the provisions thereof, constitute and is an urgency measure necessary for the immediate preservation of the public safety and health within the meaning of section one of article four of the constitution and shall take effect and be in full force immediately from and after its passage.

ACT 976a.

An act validating the formation and organization, and determining the boundaries of drainage improvement district number two of the

county of Merced, state of California. [Approved, January 29, 1917. Stats. 1917, p. 4.]

ACT 976b.

An act validating the formation and organization and proceedings of Los Angeles county drainage improvement district number three under the provisions of an act of the legislature of the state of California, approved March 21, 1903, as amended May 7, 1915, and entitled as amended: "An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie, providing for the issuance of bonds and levying of assessments on lands benefited, to pay the cost and expenses thereof." [Approved April 21, 1919. Stats. 1919, p. 135.]

ACT 977.

An act to create a drainage district to be called Knight's Landing ridge drainage district; to promote drainage therein by the making of a cut through Knight's Landing ridge, and the construction of a canal leading therefrom; to provide for the election and appointment of officers of said drainage district; defining the powers, duties and compensation of such officers; and providing for levying and collecting assessments upon the lands within said drainage district; the issuance of bonds by said drainage district and testing the validity of the levy of such assessments and the issuance of such bonds.

[Approved April 30, 1913. Stats. 1913, p. 109.]

Amended 1915, p. 546; 1917, p. 277.

The amendment of 1917 follows:

§ 7½. Assessments adjudged invalid become credit. In the event that any land owner of the said districts shall have paid the amount, or any portion of the amount, assessed against any tract of land before said assessment shall have been adjudged invalid, in whole, or in part, the amount so paid by said land owner, together with legal interest thereon from the date of such payment, shall be a credit and shall be credited by the treasurer of the county where the assessment list is filed, or by said district, or upon any subsequent assessment on the tract of land on which the said invalid assessment was paid, or be applied in satisfaction pro tanto of any such subsequent assessment thereafter levied on said tract. [New section added May 5, 1917; Stats. 1917, p. 278.]

The amendment adding § 7½ to the act also contained the following provision:

§ 2. Repealed. All acts and parts of acts in conflict with the provisions of this act are hereby repealed. [New section added May 5, 1917; Stats. 1917, p. 277.]

ACT 977a.

An act determining and defining the exterior boundaries of Knight's Landing ridge drainage district, created by that certain act ap-

proved April 30, 1913, for the purpose of correcting an error in description. [Approved May 7, 1919. Stats. 1919, p. 365. In effect July 22, 1919.]

ACT 985.

An act to promote drainage.

[Approved March 18, 1885. Stats. 1885, p. 204.]

Amended 1891, p. 262; 1909, p. 25; 1917, p. 782.

The amendment of 1917 follows:

§ 20½. Disincorporation of drainage district. Taxes for payment of indebtedness. Any drainage district organized under the provisions of this act may be disincorporated at any time by proceedings had in the following manner:

Whenever a petition praying for such disincorporation shall be presented to the trustees of said district, signed by a majority of the electors therein, they shall call an election in the same manner as elections for members of the board of trustees are called, and submit to the electors of said district the question of disincorporation. Said election shall be held in all respects in the same manner as regular elections of trustees of the district. If it appears that two-thirds of the electors voting at said election have voted in favor of disincorporation, the trustees shall cause such fact to be entered upon their minutes, and shall forward a copy of such entry to the board of supervisors of the county in which the district was formed, who shall file the same with their clerk, and from the date of such filing, said district shall be deemed disincorporated; provided, that if at the time of the dissolution, or disincorporation of said district, there be any outstanding bonded or other indebtedness of such district, then taxes for the payment of such bonded or other indebtedness shall be levied and collected the same as if such district has not been dissolved and disincorporated, but for all other purposes such district shall be deemed dissolved and disincorporated from the time of the forwarding of said copy of such entry to said board of supervisors. [New section added May 21, 1917; Stats. 1917, p. 782.]

ACT 986.

An act to promote the drainage of wet, swamp and overflowed lands and to promote the public health in the communities in which they lie. [Approved March 21, 1903. Stats. 1903, p. 354.]

Amended 1915, p. 359; repealed 1919, p. 731. See post, Act 986a, sec. 27.

NOTE.—There was no mention of the repeal in the title of the repealing act.

ACT 986a.

An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie; providing for the issuance of bonds and levying of assessments on lands benefited, to pay the costs and expenses thereof.

[Approved May 18, 1919. Stats. 1919, p. 731.]

§ 1. Petition for establishment of drainage system. Hearing.

Whenever twenty or more property owners or the owners of a majority of the land within a district proposed to be organized under this act, which district contains a body of wet, swamp or overflowed lands, susceptible of drainage by a ditch or drain or a system of ditches or drains, and which said district is to be benefited by the construction of any improvements contemplated by this act, shall file with the board of supervisors of the county in which said lands are situated, a petition for the establishment of such ditch or drain, or system of ditches or drains, for the draining of said body of lands, defining the boundary of the district proposed to be benefited and defining the boundaries of such body of lands to be drained and giving a general description and approximate location of such ditch or drain, or system of ditches or drains, and shall give said board of supervisors a good and sufficient bond, in an amount to be determined by said board, for the payment of all costs that may accrue; provided, said petition shall not be granted, said board shall, within thirty days after the filing of said petition, appoint a day for the hearing of the same, which shall be not less than fifteen nor more than forty days after such appointment; and shall, also, cause to be published in some newspaper published and having a general circulation in the county, a copy of said petition, together with a notice by the clerk of said board of the time and place set for hearing said petition; said publication shall be at least once each week in a daily or weekly newspaper and for at least two weeks next preceding the time set for said hearing.

§ 2. When lands lie within more than one county. Jurisdiction. Payment of assessments by counties. When part of municipality included. Whenever a portion of the lands in the district proposed to be formed hereunder, and to be benefited thereby, lie within the boundaries of more than one county, the petition shall be presented to the board of supervisors of the county within which lie the greatest portion of lands of the proposed district, signed by at least ten property owners, or the owners of a majority of the land of the district within each of the counties to be affected, which petition shall set forth and particularly describe the proposed boundaries of such district, and all other matters required by section one hereof.

Said board of supervisors of the county within which lie the greatest portion of the lands of the proposed district shall have jurisdiction to proceed as in the manner herein provided, and the officers of said county having jurisdiction, shall, as provided in this act, be the officers of said district and shall have the powers and duties herein provided. The several notices in this act provided to be given or published shall, wherever possible, be respectively given or published in the manner prescribed, within the boundaries of the several counties respectively.

Upon filing with the recorder and tax collector of said counties of the certified copy of the plat and report of the engineer of construction and the order of said board levying the special assessments as hereinafter provided, said county or counties other than the county having jurisdiction shall each year collect and pay over to the county having jurisdiction, the total amount of the assessments levied for said year upon the lands within their respective boundaries as levied in said report of the engineer of construction and adopted by the order of the

board of supervisors of the county having jurisdiction. Thereafter all costs of every nature which may be incurred or made necessary in the keeping up or preservation of any work or improvement done under the provisions of this section, shall be borne by the county or counties affected by such work or improvement.

Whenever a portion of any ditch or drain or system of ditches or drains for the drainage of any such body of wet, swamp, or overflowed lands will cross or run along the boundary line of any municipal corporation, or when said board of supervisors find that adjacent territory within a municipality will be benefited by such work or improvement, such adjacent territory may be included within the boundaries of such proposed district. Any such territory included within a district formed under this act shall be subject to its provisions. Any work of any improvement herein contemplated to be done may be done either within or without the boundaries of the district organized therefor as may be necessary properly to drain by a ditch or drain or a system of ditches or drains any body of wet, swamp or overflowed lands within said district.

§ 3. Action on petition. The board of supervisors shall, in its discretion, in conclusion of the aforementioned hearing and as a sufficient determination of all questions arising at said hearing, by resolution to be entered upon its minutes, grant or deny said petition. Said petition shall not be granted unless the public health, safety, convenience or welfare will be promoted by the organization of such district. If said petition is granted the resolution granting the same shall so state. If the petition includes any portion of an incorporated municipality, as provided in section two of this act, the board of supervisors shall by resolution find that said portion of said incorporated municipality will be benefited thereby.

§ 4. Duty of county surveyor. Consulting engineer. Attorney. The county surveyor shall be the engineer of construction of said district and his deputies shall be deputy engineers of construction. He shall cause the surveying and other necessary engineering work under this act to be done, and shall survey and measure the work to be done, and shall estimate the costs and expenses thereof, and furnish all plans and specifications, and do all acts appertaining to the duties of the engineer of construction. Every certificate signed by him or by any of his deputies shall be prima facie evidence of the truth of its contents. He shall as in other cases keep a record of all surveys made under the provisions of this act. The board of supervisors may appoint a consulting engineer to assist the engineer of construction, or an attorney for the district, or both, should said board deem it for the best interests of the district. The compensation of said consulting engineer and of said attorney, if appointed, or the rate, or basis for computing the same shall be fixed and stated in the resolution of appointment, which said resolution shall be entered in the minutes of the board of supervisors.

§ 5. Specifications. Approval by state reclamation board. Before the passing of any resolution of intention, under this act, plans and specifications for work substantially the same as that described in the petition for the establishment of said district, and for a district substantially the same as that described in said petition, shall be prepared

by the engineer of construction. If the work to be constructed is of such a nature and in such location as to be within the jurisdiction of the state reclamation board, the approval of that said board shall be obtained before the plans are adopted.

Said specifications shall include an estimate of the aggregate amount of the cost and incidental expenses of the work and the cost of the proceedings and shall be signed by the engineer of construction and be filed with the clerk of the board of supervisors.

§ 6. Resolution of intention. Before ordering any work to be done under this act, the board of supervisors shall pass a resolution of intention so to do. Such resolution may in form, and shall in substance, be as following (filling all blanks):

In the matter of drainage district improvement No. —.

Resolution of Intention No. — (both numbers being that of the district).

Resolved, That it is the intention of the board of supervisors of the county of —, state of California, proceeding under and by virtue of the drainage district improvement act of 1919, and in the matter of drainage district improvement district No. — (the number being that of the district), on the — day of —, 19—, at the hour of — M. of that day, or as soon thereafter as the matter can be heard, at the chambers of said board, to order work to be done, as follows: (Here insert a description of the work, stating the territorial extent thereof with all reasonable exactness, and other particulars generally, yet so as to indicate fairly and approximately its probable cost), the said work to be done in accordance with the plans and specifications therefor filed with the clerk of said board on the — day of —, 19—, except as the boundaries of the district and the plans and specifications may be changed at the hearing hereinafter provided, which plans and specifications are made a part hereof, and to which all persons are referred for further particulars. For the cost and incidental expenses of the work and the cost of the proceeding, bonds will be issued in the total amount thereof, due and payable in — annual installments bearing interest at the rate of — per cent per annum, payable semi-annually, all in gold coin of the United States.

A special fund for the payment of said bonds and interest thereon, to be designated drainage district improvement No. — (the number being that of the district) interest and sinking fund, is to be constituted by the levy and collection of special assessment taxes upon all land within a district to be known as "drainage improvement district No. — of the county of —."

Such district (as proposed) being all that territory in the county or counties of —, state of California, within exterior boundaries as follows, to wit: — (the blank to be filled with a careful statement of the exterior boundaries of the district).

Notice is hereby given that at the time herein specified for ordering the work, the matter of said drainage district improvement No. — will come up for hearing, and all objections which under the provisions of said drainage district improvement act of 1919, are entitled to be heard or determined, will then be heard and determined, and the boundaries of said district and the plans and specifications will be then finally determined and established.

The — (here insert name and character of newspaper. If the district include lands within more than one county, as provided in section two, a newspaper, if any, published in each county, shall be designated) is (or are) hereby designated as the newspaper (or newspapers) for making publication of this resolution and for making all other publications in the proceeding.

The county surveyor is hereby appointed to superintend the work of said improvement.

The foregoing resolution was, on the — day of —, 19—, passed by the board of supervisors of the county of —, state of California.

Attest:

Clerk of the board of supervisors of said county of —.

By — —, deputy clerk.

§ 7. Publication and posting of resolution. Affidavit of publication. Such resolution of intention shall be filed, and be published by at least two insertions in the newspaper or newspapers therein designated, which shall be a newspaper or newspapers published and circulated in the county or counties, or, if there be no such newspaper, then in any newspaper designated by said board of supervisors in such resolution. Printed copies of such resolution, headed, "Notice of drainage district improvement," such heading to be in letters not less than one inch in height, shall, by the engineer of construction, be posted along the line of work described in said resolution, at a distance of not more than three hundred feet apart, but not less than three notices in all. Affidavits by the person so publishing or posting, in proof of such publication and posting, shall be filed with the clerk of the board of supervisors. When, before the day of the hearing specified in the resolution of intention, twenty days, including Sundays and holidays, have elapsed since the posting and the first publication (they need not be simultaneous) of the resolution of intention, the board of supervisors shall have acquired power to proceed with such hearing and to act in the proceeding as herein authorized. The determination of the board of supervisors to proceed with such hearing, whether evidenced by an express declaration or by its proceeding with the hearing, shall be prima facie evidence of the existence of all the facts upon which the power of the board to proceed depends, except such as are required to appear of record in the proceeding, and except, also, in so far as rebutted by the record in the proceeding.

§ 8. Objections. At any time before the day in the resolution of intention specified for ordering the work and the hearing of the matter, any property owner may, alone or with other property owners, file with the clerk of the board of supervisors written objection to the ordering of the work, as an entirety but not merely to some part thereof, as described in the resolution of intention; provided, that the objection of any person who ceases to be such property owner before the day of said hearing shall not then be heard. Property owners within the meaning of this act are those and those only, who own property which will be liable to assessment hereunder, and an executor or administrator shall be deemed representative of his decedent, and a trustee of an express trust in land other than as security for the payment of money, of the land so held in trust, and a trustee in bankruptcy, of the bankrupt.

Next after in order of hearing, the board shall proceed to hear such objections as may be made to the plans and specifications, and then such objections as shall be made to the boundaries of the district as set forth in the resolution of intention. Objection to the plans and specifications or to the boundaries of the district may be made by any property owner upon the hearing without filing any written statement thereof. The hearing may be continued from time to time by the board of supervisors by an order to be entered in the minutes of the board.

§ 9. Finding of board. Boundaries. Notice inviting sealed proposals.

The board of supervisors shall in conclusion of the aforementioned hearing, and as a sufficient determination of all questions arising thereat, by resolution or resolutions to be entered upon its minutes, declare its finding determining, in its discretion, either that the work shall be ordered or that all proceedings shall be abandoned. If said board determines that said work shall be ordered it shall further determine the boundaries of the district and finally approve the plans and specifications. If no changes be made in the boundaries of the district as set forth in the resolution of intention, it shall be sufficient to state that the boundaries of the district are those set forth in the resolution of intention; if any change of such boundaries is made, the boundaries of the district, as finally determined, shall be fully set forth. If no change be made in the plans and specifications, it shall be sufficient to state that such plans and specifications are approved. In either case, the boundaries of the district so determined shall be the boundaries of the district for all purposes of the proceeding and until any bonds to be issued for the cost of the work shall have been fully paid and discharged; the plans and specifications so approved shall be the plans and specifications of the district for all the purposes of proceeding. The boundaries of the district, as set forth in the resolution of intention, shall not be so changed as to include within the district any territory not within the boundaries as set forth in said resolution, nor so that the place or locality of any work as finally approved and originally planned to be within the district shall be excluded from the boundaries of the district as finally determined. In like manner the board of supervisors may order the work to be done, and if it so do, shall fix a time for receiving proposals or bids for doing the work, and direct the clerk to give notice, inviting sealed proposals or bids. Such notice shall include a statement that the work is to be done under the provisions of the drainage district improvement act of 1919, and according to the plans and specifications on file, except in so far as such plans and specifications were changed by the board of supervisors in conclusion of the hearing in said act provided; to which said act, to the resolution of intention and all proceedings had thereunder the attention of bidders is hereby directed, and which are by this reference made part of this notice.

§ 10. Publication of notice. The notice inviting sealed proposals or bids shall be published by at least two insertions in the newspaper or newspapers designated in the resolution of intention, and (though it need not be simultaneously) a copy or copies of the same shall be posted and kept posted for five days, at or near the chamber door of the board of supervisors. All proposals or bids shall be accompanied by a check, payable to the county, certified by a responsible bank in an amount not

less than ten per cent of the aggregate of the proposal or bid, or by a bond in such amount running to the county, signed by the bidder, with two sureties qualifying before an officer competent to administer oaths, each in said amount over and above all statutory exemptions, or executed by some bonding company acceptable to said board of supervisors. Said proposals or bids shall be delivered to the clerk of said board.

§ 11. Award to lowest bidder. Notice of award. Bidder to pay expenses of publishing resolutions, etc. Said board shall, in open session, open and examine and declare the same. No proposal or bid shall be considered unless accompanied by such check or such bond in terms satisfactory to the board. The board may reject any and all proposals or bids should it deem it for the public good, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work to the lowest responsible bidder at the price named in his bid.

A notice of such award, attested by the clerk of the board of supervisors shall be transmitted to the successful bidder by mail by the clerk of the board of supervisors, and shall also be published and posted in the manner herein provided as to the notice inviting proposals or bids.

The check or bond accompanying such accepted proposal or bid shall be kept by the clerk of said board until the contract for doing said work, as hereinafter provided, has been entered into. Checks or bonds of unsuccessful bidders shall be returned by the clerk of said board. If said successful bidder fails, neglects or refuses for fifteen days after being awarded the contract to execute the same, the certified check accompanying his bid, and the amount thereof shall be declared forfeited to the county, and may be collected by it and paid into the interest and sinking fund of the district, and any bond forfeited may be prosecuted, and the amount thereof collected and paid into said fund.

Before being entitled to a contract the bidder to whom the award thereof has been made must advance and pay to the clerk of the board of supervisors, the costs and expenses of publishing and posting the resolutions, notices and orders required under this act to be made, which have been made, given, posted or published in the proceeding.

If for fifteen days after being awarded the contract, the awardee fails, neglects or refuses to execute the same, the board of supervisors may direct the clerk of the board to give notice as in the first instance, inviting sealed proposals or bids, and thereupon, after receiving bids shall award as in the first instance; and as in the case of the default of a first awardee, so also in the case of a second or any subsequent awardees.

§ 12. Estimate of cost of work. Assessment of benefits. Report to engineer. Notice of hearing on report. Objections. Assessments. Fund to retire bonds. Delinquent installments. Tax for maintenance fund. After adopting said plans and specifications as hereinabove provided, and before executing a contract for the construction of the improvement, the board of supervisors shall direct the engineer of construction to estimate the total cost of making the proposed improvements and performing such proposed work (which estimate shall include all expenses of every kind incurred or to be incurred, either directly or indirectly, in carrying out said work and improvements), and to assess the same in proportion to the benefits thereof to the lands in said district, and to

do all things proper and necessary to carry out the provisions of this act.

Said engineer of construction shall proceed to view the lands within the district and may examine witnesses under oath. He shall proceed to assess against the land within said district the estimated amounts of the cost of the proposed work or improvement and the expenses incident thereto, in proportion to the benefits to be derived from said work or improvement so far as he reasonably can estimate the same, including in such estimate of benefits the real property of any railroad company within said district, if such there be. He shall state the amounts to be assessed on each parcel of land separately, and shall divide the total assessment on each parcel of land into yearly installments of amounts clearly sufficient to retire the bonds and to pay the interest thereon for each year that said assessment shall continue.

In estimating the total cost and expenses of doing said work, the engineer of construction shall be governed by the amount he deems necessary to pay the principal and interest on bonds to be issued therefor as herein set forth and all incidental expenses to be incurred as herein authorized. Such estimate shall be based upon the amount bid by the successful bidder for doing the work as set forth in the plans and specifications together with an estimate of the incidental expenses to be incurred.

The engineer of construction having made his assessment of the benefits, shall with all diligence, and before the board of supervisors declares the work to have been completed, make a written report thereof to, and file the same with, said board, and shall accompany said report with a plat of the district showing the relative location of each block, lot or portion of lot, or other piece of land and its dimensions so far as he can reasonably ascertain the same. Each block and lot, or portion of lot, or other parcel or parcels of land affected or assessed shall be designated and described in said plat by an appropriate number and a reference to it by such descriptive number shall be sufficient description of it in all respects. Said report of said engineer of construction shall also state the names of the persons owning lands over which a right of way for said improvement has been obtained, as well as the name of any lessee, encumbrancer, or other person having an interest in said land over which a right of way has been obtained, together with the particulars of their interest therein, and together with a waiver of any interest they may have had in said land so obtained for said right of way. Errors in the designation of the owner or owners of any land or improvement or any interest therein, or of the particulars of their interest, shall not affect the validity of the assessment.

The report of such engineer of construction and the affidavit accompanying it shall be filed with the clerk of the board of supervisors, and said board shall thereupon fix a time for the hearing thereon, and thereupon the clerk of said board shall give notice of said hearing by publication once each week for at least three weeks prior to the time fixed for said hearing, in the newspaper or newspapers designated in the resolution of intention. Such notice shall be substantially in the following form:

Notice of the filing of the report of the engineer of construction of drainage improvement district No. — (the number being that of the district) of the county of —.

Notice is hereby given that the engineer of construction of drainage improvement district No. — (the number being that of the district), did on the — day of —, 19—, file his report of the assessment of benefits in said district with the clerk of the board of supervisors of said county, which said report is now on file in the office of the said board of supervisors in the city of —, of said county, and that said report will be heard by said board at its chamber on the — day of —, 19—, at the hour of —M. Said report and the map, plans and specifications of the improvements mentioned therein are hereby referred to for further particulars. All persons interested are hereby required to show cause, if any they have, at the time and place fixed for said hearing, why such report should not be adopted and confirmed by said board, and why the several parcels of land referred to in said report should not be assessed for said improvement as therein set forth. All objections shall be in writing, signed by the person objecting, and filed with the clerk of said board at least one day prior to the time fixed for the hearing of said report.

Signed, — —,

Clerk of the board of supervisors, — county.

Any property owner may file with the clerk of said board at least one day before the time fixed for the hearing, a written objection to said report, or to any part thereof, to the assessment as a whole or to the assessments on the several parcels of land, as set forth in said report. At the time fixed for such hearing or at any time to which the hearing may be adjourned, the board of supervisors shall hear and pass upon all objections so filed, and shall proceed to pass upon said report and the assessments therein contained, and may confirm, correct or modify the same, or may direct the engineer of construction to make a new assessment, report and plat which shall be filed, heard and acted upon in the same manner, and on like notice as an original report. The action of the board upon the report and objections thereto shall be final and conclusive as to all matters therein, and no assessment shall be set aside except upon such hearing for any error, defect, or informality therein, or in the proceedings prior thereto, where notice of the hearing of the report has been given as herein prescribed. The board of supervisors shall, upon the adoption of said report, by order entered upon its minutes, levy against and upon all lands within said drainage improvement district No. — (being the district as established and bounded in the order for the work to be done) a special assessment upon the lands found to be benefited by such improvement in the amount set forth in the said report of the engineer of construction as adopted by the board of supervisors, and which said amount shall be available for the payment of said bonds and the interest thereon. Said assessment shall be payable as herein provided at the times and in the amounts indicated in said report of said engineer of construction. When the said board has levied the special assessment as hereinabove set forth, the clerk of said board shall cause to be filed with the recorder, and with the tax collector of the county or counties in which the district is situated, certified copies of the plat and report as adopted and confirmed by said board, together with certified copies of the order of said board levying said special assessment, and also give to the county auditor notice of the total amount of the installments for each year. If the district lies within more than one county as provided in section two, said certi-

fied copies shall be filed with the recorder and tax collector of each county affected. Upon the filing of such certified copies the charges assessed upon each piece of land for the first year shall immediately become due and payable, and shall constitute a lien thereon; thereafter the installments for the succeeding year shall become due and payable on the third Monday of October of each year, and shall thereupon constitute a lien upon the land against which it is assessed.

All moneys paid upon such assessment, either by property owners or by the county or municipality affected, shall be placed in the county treasury of the county in which such district was organized in a special fund to be known as drainage district improvement No. — interest and sinking fund (the number being that of the district), and shall be used only to retire the bonds issued to pay the cost of constructing the improvement and the incidental expenses thereof, and to pay the interest on said bonds. Any surplus remaining shall be paid into the maintenance fund of said district. Upon the filing of the certified copy of the report, assessment plat, and order with the tax collector of the county or counties as above provided, the tax collector shall give notice by ten days publication in the newspaper designated in the resolution of intention, that the assessment list of drainage improvement district No. — has been filed in his office, with the date of such filing; that the first installments entered thereon are due and payable, and that if not paid on or before the last Monday of April next ensuing the same will become delinquent and will be collected as are delinquent taxes. He shall note on said assessment list all assessments paid, and give receipts as upon the payment of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes.

Subsequent collections of installments shall be made in the manner above set forth, and the tax collector shall annually publish a like notice, and the same proceedings shall be had as upon the collection of the first installment.

When said installments have become delinquent the tax collector of the county shall proceed to collect the same, together with an additional ten per cent added thereon, and pay the same over to the county treasurer as state and county taxes are collected and paid over; for the purpose of collecting such assessments and delinquent installments and penalties, all of the provisions of chapter seven, title nine, part three of the Political Code not in conflict with any of the provisions of this act are hereby made applicable. The entire assessment against a parcel of land within the district, subsequent installments as well as the installment for the current year, may at any time be paid in full.

The board of supervisors shall each year, at the time of making the levy of taxes for county purposes, levy an ad valorem tax upon the real estate in each drainage improvement district in their county organized under this act in an amount sufficient to raise the revenue which will be needed for the current year for maintaining and repairing the works and improvements for said district. Said tax, when levied, shall be entered upon the assessment-roll and collected in the same manner as state and county taxes. When collected it shall be placed in the treasury of the county in a fund to be designated "drainage district improvement No. — maintenance fund," (the number being that of the district), and shall be used only for the purpose for which it was raised.

If said district includes land within more than one county as above provided in section two, the ad valorem tax herein provided to be levied, shall, by each of said counties be collected as to the lands lying within its boundaries; and said counties shall pay said tax so collected over to the county having jurisdiction of said district.

§ 13. Execution of contract. Bond of contractor. County to issue bonds. Taking over or reletting contract. Action on bond for material or labor furnished. The chairman of the board of supervisors is hereby authorized, in the name of the county to execute the contract with the awardee thereof, and to receive and approve all bonds required by this act on the part of the awardee, and shall, by the terms of said contract, fix the time for the beginning of the work, which shall not be more than twenty days from the date thereof. The contract shall provide that the work shall be prosecuted with diligence until completed, and shall fix a time for such completion. Such time of completion may be extended from time to time by the board of supervisors, in its discretion, and by resolution, entered by the clerk in the minutes of said board, a copy of which shall by said clerk be indorsed upon or annexed to the contract.

Before the execution of such contract, a bond shall be executed and filed, running to the county, in an amount not less than one-half of the contract price of the work, signed by the contractor and two or more sureties, who, unless surety companies, shall qualify before an officer entitled to administer the oath, in a sum aggregately equal to the amount of the bond, each surety in the amount for which he becomes surety. Such bond shall be conditioned for the faithful execution of the contract by the contractor, and for the payment by him for all labor and materials furnished for or in the doing of the work. The form and sufficiency of said bond shall be passed upon by some member of the board of supervisors, and such bond shall inure as well to the benefit of any and all persons furnishing labor or materials for the work as to that of the county.

By said contract the county shall undertake that the board of supervisors will, upon the fulfillment and performance of the contract on the part of the contractor, and under the provisions of the drainage district improvement act of 1919 take all steps, in or by said act authorized to be taken, to effect the issuing by the county treasurer of the bonds in said act authorized to be issued, and provide a fund for their payment, as in or by said act prescribed. The contract shall state that in no case shall the county be liable thereunder, nor any officer thereof be holden thereunder except for the discharge of official duty under the law.

If the contractor shall fail to begin in good faith the work provided for in said contract within the time in said contract set forth, or shall fail thereafter to prosecute said work in a workmanlike and diligent manner, or shall fail in any other respect to carry out the terms of said contract, then the board of supervisors shall cause written notice to be served upon said contractor, specifying the particular in which he is not fulfilling the requirements of said contract, and if for a period of three days thereafter said contractor shall fail to remedy the defects set forth in said notice, and to prosecute said work thereafter with diligence and in a workmanlike manner, then the board of supervisors shall either take over said contract and complete said work, or shall relet said con-

tract, without the necessity of advertising for bids, and cause the work to be completed, and shall declare the bond given by said contractor forfeited and order suit brought thereon, and all moneys collected therefrom shall be paid into the interest and sinking fund of the district.

If the contractor shall fail to pay for any labor or material furnished for or in the doing of said work by any person, such person may within ninety days after the making of the final order hereinafter referred to, file with the county treasurer a verified statement of such facts, and such person may thereafter, within six months after the filing of such statement, bring an action on said bond in his own name, or if he has assigned his claim, the action may be brought in the name of the assignee; provided, however, that the right of the county to recover on said bond shall be superior to the rights of any such person to recover thereon; provided, moreover, that if such statement shall be filed before the expiration of twenty days from the making of such final order, then the county treasurer shall be authorized to withhold from the contractor sufficient of the bonds, issued as herein provided, to satisfy said claim, and costs, which can reasonably be anticipated.

§ 14. Declaration that work has been completed. Hearing to determine whether work will be accepted. Notice of final hearing. Objections. Continuance of hearing. As soon as in good faith may be done, there shall be filed with the clerk of the board of supervisors a declaration that the work has been completed according to the contract, together with an itemized statement of all the incidental costs and expenses of the work and the cost of the proceedings inclusive of the estimated cost of publishing the notice of final hearing hereinafter provided. The aggregate amount of such items shall be stated, and also the amount due under the contract; and also the gross sum for a bond issue representing the entire amount thereof, as claimed by the contractor. The said declaration and statements shall be signed and verified by the engineer of construction and by the contractor or by some person cognizant of the facts signing on his behalf and stating why he, instead of the contractor, so signs and verifies. Either signer may except from his signature and verification any amount or item to which he does not assent. The chairman of the board of supervisors shall fix a time for a hearing, to be known as the final hearing, for the purpose of determining whether the work shall be accepted as completed according to the contract, and for determining the aggregate amount for which bonds shall be issued representing the total costs of the work and the incidental costs and expenses of the work and the proceedings, all of which have been charged to and are payable by the contractor. Notice of such hearing shall be given and may, in form, and shall, in substance be as follows (filling the blanks):

NOTICE OF FINAL HEARING.

In the matter of drainage district improvement No. —.

Notice is hereby given that a final hearing in the above-named matter will be had at the hour of —M. on the — day of —, 19—, at the chamber of the board of supervisors of the county of —, state of California, for the purpose of determining whether the work done under the contract with — under resolution of intention No. — in drainage improvement district No. — of the county of — shall be accepted

as being performed according to the contract, and for determining the aggregate amount for which bonds shall issue representing the cost of such work, including the incidental costs and expenses of the work and the proceedings, of which a statement has been filed with the clerk of said board of supervisors of the county of — to which statement the attention of all persons interested is hereby directed.

— of the board of supervisors of the county of —.

Attest: —,

Clerk of said board of supervisors.

Such notice shall be signed by the chairman of the board of supervisors and attested by the clerk of the board of supervisors and published by at least two insertions in the newspaper or newspapers designated in the resolution of intention, and a copy or copies thereof posted and kept posted for two days at or near the chamber door of the board of supervisors, the first day of such publication and that of such posting (they need not be simultaneous) to be not less than five days before the day in said notice specified for the hearing. Proof of such publication shall be made by affidavit or affidavits, and the same shall be filed. If a quorum be not present at the time specified in the notice of the hearing, the members of the board then present may continue the hearing; and at all stages the hearing may, by resolution entered in the minutes, be continued from time to time. At any time before the day in said notice specified for the hearing any property owner may file written objection to the acceptance of the work on the ground that the work has not been completed or done according to the contract, specifying in ordinary language the particulars in which the work has not been so completed or done. Any person interested in the proceeding, as of the interest of the contractor, shall be presumed to take issue with such objection and shall be heard accordingly. Questions as to the incidental costs or expenses of the work or the proceedings may be raised orally by any property owner within the district. Evidence may be adduced as to any of the matters to be determined, and in such order as the board may direct. If, when the matter has been fully heard, whether under, or in the absence of, objections, the board of supervisors is of the opinion that the work has not been completed or done according to the contract, it shall in writing specify what must be done in order to complete the work, and shall, by an order or resolution to be entered in its minutes, continue the further hearing of the whole matter to a specified day, expressly stating that such continuance is for the purpose of enabling the contractor to complete his contract. On said continued hearing, the objections to the work filed before the day of the first hearing shall continue in force, and evidence shall be received, if offered, as to what has been done by way of completing the contract in the particulars specified in the order of the board on the said continuance of the hearing. If, upon such continued hearing, the board is of the opinion that the work is still uncompleted in the particulars as to which it was ordered to be completed, it shall be discretionary with said board to order or refuse a second continuance of the hearing. If the board does order such second continuance, it shall be ordered in the same manner, with like effect as upon the first continuance; and likewise as to a second and any other or further continuance. Objections to any item of incidental costs and expenses shall pend and

be heard on said day, or at any continued hearing had as above in this section provided. Every continuance of said hearing for the purpose of enabling the contractor to complete his contract or the work shall continue or revive such powers in the proceeding as the board of supervisors had under the provisions of this act, at the time of the filing of the contractor's declaration that the work was completed, as above provided, and also operate to extend the time for the completion of said contract in such manner that its completion within the time to which the hearing is continued, shall be as valid performance of such contract as if completed at the time of filing such declaration.

§ 15. Acceptance of work. Whenever upon the hearing in section fourteen provided, whether original or continued, the board shall be of the opinion that the work has been completed and done according to the contract, said board shall by resolution to be entered upon its minutes so declare, and shall in said resolution declare that the work is accepted and the amount of the contract price for doing the work and the amount of the incidental costs and expenses of the work and proceedings and the aggregate amount for which bonds are to be issued and shall make final order that bonds be issued therefor as hereinafter provided. The decision and determination of said board at the hearing provided for in section fourteen shall, as to all matters determined at said hearing and as to all errors, informalities, irregularities, or omissions which said board might have avoided or remedied during the progress of the proceedings, or which it can at that time remedy, be final and conclusive upon all persons entitled to be heard before said board on said matters, and no assessment or tax levied for the payment of the bonds, and the interest thereon, to be issued for said work and expenses, shall be held invalid by any court for any error, informality, omission or other defect in the proceedings where the resolution of intention has been actually published as in this act provided, before the said board shall have ordered the work to be done.

§ 16. Bonds to be issued by treasurer. Drainage district improvement bond. Term and interest. Manner of making payments. Bonds evidence of prior proceedings. Upon the expiration of twenty days after the making of the final order provided in section fifteen of this act, the clerk of the board of supervisors shall transmit to the county treasurer of the county an attested copy of said final order, and upon receipt of the same, the treasurer shall proceed to issue bonds amounting in the aggregate to the principal sum for which bonds are to be issued as the same is stated in said final order. A bond may be issued in any amount, provided that the aggregate of the bond or bonds made payable in any one year is the proper part of the whole principal of the bond issue as specified in said final order, and that the interest thereon shall be payable as hereinafter provided. The said bonds may in form, and shall in substance, be as follows:

DRAINAGE DISTRICT IMPROVEMENT BOND.

County of —, State of California.

Drainage Improvement District No. —.

\$—.

Bond No. —.

Under and by virtue of an act of the legislature of the state of California, known as the "drainage district improvement act of 1919"

(here may be inserted a further designation of the act if desired) the county of —, state of California, will pay to the bearer, out of the fund hereinafter designated, at the office of the treasurer of the said county, on the — day of —, 19—, the sum of — dollars in gold coin of the United States of America, with interest thereon, in like gold coin at the rate of — per cent per annum, payable semi-annually on the — day of —, and the — day of — of each year from the date hereof (the last installment thereof shall be payable at maturity of this bond) upon presentation and surrender, as they respectively become due, of the proper interest coupons hereto attached, the first of which is for interest from date hereof to the next date of interest payment, and the last for interest to maturity hereof from the last preceding date of interest payment.

This bond is issued under and in conformity with the provisions of said drainage district improvement act of 1919 and the amendments thereof, and is one of a series of bonds of like date and effect numbered from one to — consecutively, amounting in the aggregate to — dollars, issued in behalf of drainage improvement district No. — of said county, which constitute the only indebtedness of said district. It is hereby certified, recited and declared that all proceedings, acts and things required by law precedent to or in the issuance of this bond have been regularly had, done and performed, and this bond is by law made conclusive evidence thereof.

This bond is payable out of drainage district improvement No. — interest and sinking fund exclusively, as the same appears on the books of the treasurer of said county, and neither said county nor any officer thereof shall be holden for its payment otherwise.

In witness whereof said county has caused this bond to be signed by the chairman of its board of supervisors and countersigned by its treasurer and the seal of said board to be hereto affixed and said interest coupons to be signed by the said treasurer this — day of —, 19—.

Chairman of the board of supervisors of the county of —.

Countersigned: —,

Treasurer of the county of —.

[Seal of board of supervisors.]

Said bonds shall be signed by the chairman of the board of supervisors and countersigned by the treasurer of the county, and shall have the seal of said board of supervisors thereto affixed, and when so signed shall be binding according to the terms thereof as prescribed in said form. The interest coupons attached to said bonds shall be in such form as said treasurer may determine, subject to the provisions of this act and the approval of the board of supervisors. Said coupons need be signed only by the treasurer either in writing or by lithographed or printed facsimile. Said bonds shall be delivered by the said treasurer to said contractor or to his order, assignee, or lawful representative.

The board of supervisors is hereby vested with power to determine the number of years, not to exceed twenty, within which the aggregate principal of bonds to be issued under this act shall be paid and discharged, and to fix the rate of interest, not to exceed seven per cent per annum, to be paid thereon, and it shall be a sufficient determination and fixing of the same to set forth in the resolution of intention

that bonds will issue for the work in any terms that will fairly indicate such time and such rate and the fractional part of the principal to be paid each year, which fractional part, for each year except the last, shall be that multiple of one hundred dollars nearest the amount obtained by dividing the amount of the total bond issue by the number of years through which said bond issue is to continue, and for the last year shall be for the balance of the total bond issue not provided to be paid in the previous years.

The interest payments on said bonds shall become due and payable semi-annually on such dates as will cause the final installment thereof to become due and payable on the date of the maturity of the bond in the manner indicated in said form of bond. Interest and principal shall be payable at the office of the county treasurer in gold coin of the United States of America; but it shall not be necessary, either in the resolution of intention or otherwise, to set forth or determine the days of the month on which payments of interest are to be made, nor that payments shall be made in such gold coin, nor that payments shall be made at such treasurer's office, but all persons are charged with notice of the contents of this section, especially in the aforesaid particulars.

§ 17. Bonds evidence of prior proceedings. Said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings prior thereto under this act, and after the same are issued, no tax levied or collected for the purpose of paying the principal or interest on said bonds shall be held to be illegal or set aside or refunded by reason of any informality, irregularity, omission or defect in any of the proceedings prior to the issuance of said bonds, nor shall any action be maintained to cancel or set aside said bonds, or to prevent the payment thereof or the levy or collection of a tax for such payment.

§ 18. Costs paid by contractor. All costs, charges and expenses of the proceeding, including the salaries of the engineer of construction and of any assistants or employees necessarily employed by or under him in his work as herein provided, and in making the report and spreading the assessment as by this act required, and the costs of all publications provided to be made, and any and all other expenses, whether for material or labor, necessary in the performance of the duties of said engineer of construction, as in this act provided, shall be paid by the county. But the amount thereof shall thereupon become a charge upon the contractor and shall have been repaid by him to the county before delivery of the bonds shall be made by the county treasurer; provided, however, that if said costs and expenses are not paid within ten days after notice given that said bonds, excepting such number thereof as may be withheld to satisfy claims filed as hereinabove provided are ready for delivery, a sufficient number of said bonds may be sold at not less than ninety-five per cent of their face value to fully satisfy said costs and expenses, any surplus over said costs and expenses obtained by such sale to be paid to said contractor; provided, further, that the county treasurer may make delivery of such bonds, if there be deposited with him, subject to the order of the board of supervisors, money to the amount of the costs and expenses chargeable to the contractor as the same is stated in the final order of the board of supervisors, provided for in section fifteen of this act; provided, fur-

ther, that for furnishing plans and specifications and posting and publishing the resolution of intention and other notices which have been posted or published, the county shall be liable in case the proceedings cease or are abandoned, before the award of the contract. The contractor and all persons claiming under him any interest in said bonds, whether of ownership, lien or otherwise, shall be deemed to have notice of the contents of this section.

§ 19. Publication in newspaper. If publication in the newspaper or newspapers designated in the resolution of intention become impossible for any reason, the board of supervisors may by a resolution to be entered in its minutes, stating the facts, designate another newspaper for each required publication as occasion therefor arises.

§ 20. Papers filed with clerk of board. All papers in a proceeding under this act (save such as thereunder may be returnable to owners) shall be filed with the clerk of the board of supervisors, and by him kept together in a package appropriately labeled. Whenever in this act the term "clerk of the board of supervisors" is employed, it shall be deemed to include one who is, ex officio, such, and it shall be immaterial that he designate himself as county clerk where the county clerk is ex-officio clerk of the board of supervisors, nor shall it be material that his act be by deputy.

§ 21. Augmenting other streams or drains. The provisions of this act shall not be so construed as to permit waters to be carried out of their natural course to augment other streams or drains, to the damage of the residents along the banks of the streams or drains so augmented.

§ 22. Securing rights of way. Costs charge on contractor. It shall be the duty of the engineer of construction where possible, to obtain options on rights of way necessary to the carrying out of the plans and specifications and to submit the same to the board of supervisors for ratification. Whenever the board of supervisors of any county in which a district is formed under this act cannot purchase at a reasonable price or procure the right of way, or any lands found by them to be necessary in order to carry out the plans and specifications for the proposed drainage of any such district, or procure the consent of all parties interested to join or connect with any existing ditches or outlets, the board may proceed to condemn the same under the provisions of title seven, part three of the Code of Civil Procedure.

The costs of such rights of way or such condemnation proceedings shall be paid by the county, but the amount thereof shall thereupon become a charge upon the contractor as provided in section eighteen of this act.

§ 23. Incidental expenses. Advance by county to pay interest or retire bonds. In all cases, when, after the bonds have been issued, it is found that the contractor has failed, through error or oversight, to pay any item of incidental expenses, the county shall pay the same and reimburse itself from the interest and sinking fund. Likewise, when the contractor has paid to the county an amount more than sufficient to cover the incidental expenses, for which bonds have been issued, the county shall pay such surplus to said interest and sinking fund.

If, for any reason whatsoever, there be insufficient money in the interest and sinking fund to pay the interest or retire said bonds when such interest or bonds become due and payable, the county shall advance the balance necessary to pay such interest or retire such bonds becoming due at that time, and shall reimburse itself from moneys paid into said interest and sinking fund.

§ 24. Maintenance of improvement. The engineer of construction shall, subject to the approval of the board of supervisors, do all things necessary for the proper maintenance of the improvement. The compensation of any assistants or employees or the cost of any material necessary shall be payable out of the maintenance fund.

In a like manner the engineer of construction shall maintain all existing drainage district improvements constructed under the act of 1903, being the act referred to in section twenty-seven of this act.

§ 25. Construction. This act shall be liberally construed with a view to promoting the objects and purposes thereof.

§ 26. Title. This act shall be known as the drainage district improvement act of 1919, and by such designation shall be sufficiently identified in any proceeding thereunder, and whenever in the resolution of intention it shall be set forth or recited that the proceeding is under the "drainage district improvement act of 1919," this act shall be construed as the paramount statute for such proceeding.

§ 27. Act, Stats. 1903, p. 354, repealed. Alternative act. This act shall supersede and repeal an act of the legislature of the state of California approved March 21, 1903, and amendments thereto entitled "An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie"; provided, however, that nothing contained herein shall operate to invalidate any proceedings heretofore taken under the provisions of said act approved March 21, 1903, as amended; provided, further, that any district formed under the provisions of the said act of 1903, but not completed at the time this act takes effect, shall be completed, accepted by the board of supervisors and bonds shall be issued in accordance with the provisions of the said act of 1903, but may be issued for all the purposes specified in this act including expenditures made to procure rights of way whether inside of such drainage district or outside thereof, where the board finds it necessary for such district, but such district shall thereafter be maintained under the provisions of section twenty-four of this act. Otherwise this act is not intended to supersede or repeal any other act for the construction of work for drainage purposes, but is intended as an independent and alternative act of the legislature of the state of California.

NOTE.—This act repealed the act of March 21, 1903, to promote the drainage of wet, swamp and overflowed lands (Act 986), although there was no mention of the repeal in the title.

ACT 988a.

An act declaring certain drainage work already done within drainage district number one, Butte county, to have been legally done, validating the same, and making such work a proper subject for the

levy of an assessment to pay therefor; authorizing the levy and collection of such assessment in said district to provide for such payment, and interest; the original assessment levied and collected being insufficient to provide for such payment.

[Approved May 21, 1917. Stats. 1917, p. 789. In effect July 27, 1917.]

§ 1. Work in drainage district No. 1, Butte county validated. All the work, labor, and services rendered drainage district number one in the county of Butte, state of California, in the construction, maintenance and repair of main and lateral drainage ditches, and drainage works, already done upon lands lying within said district, for the payment for which the original assessment levied and collected under the provisions of the act entitled, "An act to promote drainage," approved March 18, 1885, as amended, was insufficient, is hereby declared to have been legally done, is hereby validated and is hereby made a proper subject for the levy of an assessment for the payment therefor.

§ 2. Statement to board of supervisors. Order to make assessment. The board of trustees of said drainage district is hereby authorized and empowered to present to the board of supervisors of said county, a statement of all the work, labor and services rendered said district in the construction, maintenance and repair of main and lateral drainage ditches, and drainage works, already done upon lands lying within said district, for the payment for which the original assessment levied and collected under the provisions of said act approved March 18, 1885, as amended, was insufficient. Such statement shall contain a memorandum of the unpaid claims existing by reason of the performance of said work, and the names of the respective claimants; and shall specify those claims included in said memorandum for which warrants have been issued, if there are any such claims, and the date of their registration, and shall also specify those claims included in said memorandum for which no warrants have been issued, if there are any such claims. Said board of supervisors is hereby authorized and empowered to make an order directing that the commissioners who made such original assessment, or other commissioners to be named in such order, assess upon the lands situated within said district a charge proportionate to the whole expense incurred for such work, the total of which shall not exceed the sum of six thousand dollars, and to the benefit which has resulted from such work; which charges must be collected and paid into the county treasury of said county either in cash or in regularly issued warrants of said district as hereinafter provided, and must be placed by the treasurer of said county to the credit of said district, and applied to the payment of said claims, and to the payment of interest on any of said claims for which warrants were issued and registered, at the rate of six per cent per annum, from the respective dates of registration, upon the warrants of said trustees, approved by said board of supervisors.

§ 3. Warrants. All such warrants drawn by said trustees must, after they have been approved by said board of supervisors, be presented to said treasurer; and if they are not paid on presentation like indorsement must be made thereon, and they must be registered in like manner as county warrants, and paid in the order of their registration. All

... shall, from the date of their registration, bear interest ... per cent, per annum; provided, however, that any ... may be used in the payment of the assessment herein ... without regard to the order of their registration.

ACT 1934

... validating the formation and organization of Los Angeles County Drainage District Improvement No. 1 under the provisions of an act of the legislature of the state of California approved March 21, 1917, as amended May 7, 1915, and entitled as amended, "An act to promote the drainage of wet, swamp and overflowed lands and to promote the public health in the communities in which they lie, providing for the issuance of lands and levying of assessments on lands benefited, to pay the costs and expenses thereof." [Approved March 4, 1917. Stats. 1917, p. 227.]

The nature and purpose of the act sufficiently appear from the title.

ACT 1935c.

An act to recognize and declare valid all proceedings in drainage district number one hundred of Butte county. [Approved April 4, 1919. Stats. 1919, p. 32. In effect July 22, 1919.]

ACT 1935d.

An act to validate bonds of the Bellevue-Wilfred drainage district, and all proceedings relating thereto, and making final and conclusive, except as herein provided, the finding as to the result of the election at which said bonds were authorized. [Approved May 16, 1919. Stats. 1919, p. 713. In effect July 22, 1919.]

TITLE 160.

EGGS.

ACT 1911a.

An act to regulate the sale of eggs which have been in transit more than thirty-one days, and prescribing penalties for violations thereof. [Approved May 5, 1917. Stats. 1917, p. 258. In effect July 27, 1917.]

§ 1. Words defined. For the purpose of this act the words "person, firm, company or corporation" shall include wholesalers, retailers, jobbers, and every person, firm, company or corporation owning, operating or conducting any place of business where eggs are sold or offered for sale.

§ 2. Eggs in transit more than thirty-one days to be marked "storage." Every person, firm, company or corporation who sells, offers for sale, or has in his or their possession for sale, or consigns, ships or presents to any dealer, commission merchant, consumer, or other person, any egg or eggs which said egg or eggs is or were produced at any place requiring thirty-one days or more to transport the eggs to the selling point, shall, before so doing, cause to be stamped, marked or branded upon the container thereof in black-faced letters not less than one-half of an inch in height the word "storage."

§ 3. **Display of sign in salesroom.** Every person, firm, company or corporation selling or offering for sale any eggs which were produced at any place requiring thirty-one days or more to transport the eggs to the selling point, prior to the date of sale or offering for sale, shall display in a conspicuous place in his or their public salesroom a sign which shall not be less than one foot in height and six feet in length, bearing the words "storage eggs sold here" in black-faced letters not less than six inches in height and one inch in width upon a white ground.

§ 4. **Report to state board of health.** Every person, firm, company or corporation who receives eggs that have been produced at any place requiring thirty-one days or more to transport the eggs to the selling point, prior to their sale or offering for sale, shall, immediately thereafter report to the state board of health the number of eggs received, the date when received and the place where such eggs were produced, and the name of the person, firm, company or corporation to whom sold.

§ 5. **Enforcement.** It shall be the duty of the state board of health to enforce the provisions of this act, and to that end the said board may make necessary rules and regulations.

§ 6. **Penalty.** Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months; or by a fine of not more than two hundred dollars, or by both such fine and imprisonment in the discretion of the court.

TITLE 162.

ELECTIONS.

ACT 1010.

An act to provide for and regulate primary elections, and providing a method for choosing the delegates for political parties to state conventions and for nominating electors of President and Vice-president of the United States, and providing for the election of party county central committees, and to repeal the act approved April 7, 1911, known as the direct primary law, and also to repeal the act approved December 24, 1911, amending sections 1, 3, 5, 7, 10, 12, 13, 22, 23, and 24 of the said direct primary law, and also to repeal all other acts or parts of acts inconsistent with or in conflict with the provisions of this act.

[Approved June 16, 1913. Stats. 1913, p. 1379.]

Repealed 1915, p. 239. Amended 1916 (Extra Session), p. 41; 1917, p. 1341; 1919, pp. 40, 382.

The repealing act of 1915 was defeated by a referendum at a general election held October 26, 1915.

The amendatory act of 1916 (Extra Session) was repealed by a referendum at a general election held November 7, 1916. The act in force therefore consists of the original act of 1913 as amended in 1917 and 1919. The act is herewith given in full;

§ 1. Definitions. Words and phrases where used in this act shall, unless such construction be inconsistent with the context, be construed as follows:

1. The words "primary election," any and every primary nominating election provided for by this act.

2. The words "August primary election," the primary election held in August to nominate candidates to be voted for at the ensuing November election or to elect members of a party central committee or delegates to a party convention.

3. The words "May presidential primary election," any such primary election, held in May of each year of the general November election at which electors of President and Vice-president of the United States are to be chosen, as shall provide for the indication of preference in the several political parties for party candidates for President of the United States through the election of delegates to national party conventions.

4. The word "election," a general state, county, city or city and county election as distinguished from a primary election, recall election, or special election.

5. The words "November election," either the presidential election, or the general state, county, or city and county election held in November of each even-numbered year.

6. The words "judicial officer," any justice of the supreme court, justice of a district court of appeal, judge of the superior court, justice of the peace, or justice of such inferior court as the legislature may establish in any county, township, incorporated city or town, or city and county; and the words "judicial office," the office filled by any of the above judicial officers.

7. The words "school officer," the superintendent of public instruction and the superintendent of schools of a county or city and county; and the words "school office," the office filled by any of the above school officers.

8. The words "county officer," any officer elected within the boundaries of any county or city and county except a member of the state board of equalization, judge of the superior court, justice of the peace, member of the state senate or assembly or a member of the house of representatives of the congress of the United States or a member of any party county central committee or delegate to a state convention from a hold-over senatorial district; and the words "county office," the office filled by any county officer. The words "township officer," any such county officer as is elected within the boundaries of any judicial township that is now or may be hereafter provided by law; and the words "township office," the office filled by any township officer.

9. The word or words "political party," "party," "political organization," or "organization," a political party or organization of electors which has qualified, as hereafter provided, for participation in any primary election; and such party or organization shall be deemed to have so qualified when one or both of the following conditions have been complied with:

(a) **Qualification as political party.** If at the last preceding November election there was polled for any one of its candidates who was the candidate of such party only for any office voted on throughout the state, at least three per cent of the entire vote of the state, or for any one of its candidates who was the joint candidate of such party and

any other party for any office voted on throughout the state, at least six per cent of the entire vote of the state; or

(b) If on or before a date which shall be the seventy-fifth day before any primary election, there shall be filed with the secretary of state a petition signed by registered qualified electors of the state, equal in number to at least three per cent of the entire vote of the state at the last preceding November election, declaring that they represent a political party or organization the name of which shall be stated therein, which party said electors desire to have participate in such primary election; such petition to be circulated, signed, and the signatures thereon of the registered electors certified to and transmitted to the secretary of state by the county clerks substantially as provided in section five of this act, for the circulation, signing, certification, and transmission of nomination papers for state officers; providing, however, that no electors or organization of electors shall assume a party name or designation which shall be so similar to the name of an existing party or organization as to mislead voters.

Construction. This statute shall be liberally construed, so that the real will of the electors shall not be defeated by any informality or failure to comply with all the provisions of this law.

In counties having registrar. In each county and city and county in this state, having a registrar of voters or registrar of voters and a board of election commissioners, the powers conferred and the duties imposed in this statute upon a county clerk and his deputies, and other officers, in relation to matters of election and polling places, shall be exercised and performed by such registrar of voters or his deputies, or registrar of voters or his deputies and board of election commissioners; and all nominating papers, list of candidates, expenses, and oaths of office, required by this statute to be made to or filed with county clerks, shall be made to or filed with the registrar of voters. [Amendment approved May 29, 1917; Stats. 1917, p. 1341.]

§ 2. Nomination of candidates. All candidates nominated at a primary election for elective public offices shall be nominated by direct vote at such election held in accordance with the provisions of this act; provided, that electors of President and Vice-president of the United States shall be nominated as provided in subdivision 2 of section 24 of this act. This act shall not apply to recall elections or to special elections to fill vacancies; nor to the nomination of officers of municipalities, counties, or cities and counties whose charters provide a system for nominating candidates for such officers; nor the nomination of officers for any district not formed for municipal purposes; nor to the nomination of freeholders to be elected for the purpose of framing a charter; nor to the nomination of officers for cities of the fifth and sixth classes, nor to the nomination of school district officers. [Amendment approved May 29, 1917; Stats. 1917, p. 1343.]

§ 3. August primary. Legal holidays. The August primary election shall be held at the legally designated polling places in each precinct on the last Tuesday in August, for the nomination of all candidates to be voted for at the ensuing November election. The day of the August primary election and the day of the May presidential primary election

are hereby declared to be holidays within the meaning of section 10 of the Political Code. Any person entitled to vote at such August or May primary elections shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for the period of two consecutive hours, between the time of opening and the time of closing the polls; and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made, on account of such absence, from his usual salary or wages. Any primary election other than the August primary election, or May presidential primary election shall be held on Tuesday, three weeks next preceding the election for which such primary election is held.

§ 4. Statement of electors registered. Notice of offices for which candidates are to be nominated. On the twenty-fifth day before the first Tuesday in May, on the twenty-fifth day before the last Tuesday in August, and on the twenty-fifth day before the date of the November election, in each even-numbered year, the county clerk or registrar of voters of each county or city and county shall transmit a statement to the secretary of state of the total number of electors registered in his county between the first day of January next preceding and a date in each instance five days preceding the date of transmission of such statement as herein provided for, together with the number so registered under each of the several political affiliations, and also the number declining or failing to declare such affiliation. At least seventy days before the time of holding the August primary election in 1918 and biennially thereafter, the secretary of state shall prepare and transmit to each county clerk and to the registrar of voters in any city and county a notice in writing designating all the offices, except township offices, for which candidates are to be nominated at such primary election, together with the names of the political parties qualified to participate in such election.

2. Publication of notice. Within ten days after receipt of such notice such county clerk or registrar of voters in any city and county shall publish once in each week for two successive weeks in not more than two newspapers published in such county or city and county so much thereof as may be applicable to his county, including a statement of the township offices in the county for which candidates are to be nominated, and a statement of the number of members of the county central committee to be elected by each political party in each supervisorial or assembly district, as the case may be, according to the provisions of subdivision 4 of section 24 of this act.

3. Publication of notice of other primaries. In the case of primary elections other than the August primary elections the city clerk or secretary of the legislative body of the political subdivision for which such primary election shall be held shall cause one publication of such notice to be given, such publication to be not more than forty and not less than fourteen days before such primary election. [Amendment approved May 29, 1917; Stats. 1917, p. 1344.]

§ 5. 1. Method of getting name on ballot. The name of no candidate shall be printed on an official ballot to be used at any primary election unless at least forty days prior to the primary election, if the candidate is to be voted for at the August primary election or the May presidential primary election, and at least twenty-five days prior to the

2. (b) Five electors may propose candidate. Consent of candidate. Form of nomination paper. Additional deputies. Any five qualified

electors of any county or city and county who are registered as intending to affiliate with the same political party may join in proposing a candidate for nomination to any office to be voted on in such county or city and county at the next ensuing primary election, and in appointing verification deputies to serve within such county or city and county in securing signatures to the nomination paper of such candidate for such office. If the office is an office the candidate for which is to be voted on in more than one county, he may be proposed for nomination as herein provided by five of the registered qualified electors in each of the counties in which such electors may desire to circulate a nomination paper in his behalf. The signatures of the said five qualified electors shall be verified free of charge before any officer authorized to administer an oath, and the document containing such signatures shall be filed with the county clerk of the county or city and county in which said five qualified electors reside, at or before the time the nomination paper of the candidate is left with the county clerk or registrar of voters for filing or for examination as provided in subdivision four of this section. In said document the five signers shall make affidavit that the candidate therein named for the office therein specified has given his consent to be thus proposed for nomination to such office; and shall also state that the verification deputies therein appointed are duly registered qualified electors of said county or city and county; and the verification deputies therein appointed shall be recognized as the duly authorized verification deputies to secure signatures to the nomination paper of such candidate in such county or city and county. Said document shall be substantially in the following form:

State of California, }
County of —, } ss.

We, the undersigned, do solemnly swear (or affirm) that we are each qualified electors of the county of —, state of California, and that we are each registered as intending to affiliate with the — party and we do hereby propose —, who resides at No. —, — street in the city of (or in the town of) —, county of —, as a candidate for the nomination of such party for the office of —, to be voted for at the primary election to be held on the — day of August, 19—; and we do solemnly swear (or affirm) that said — has consented to this proposal of his name as candidate for the nomination for said office. We hereby appoint the following registered qualified electors of this county as verification deputies to obtain signatures in this county to the nomination paper of said — to said office of —.

Verification Deputies.

Name.	Residence.
— —	— —
— —	— —
— —	— —
— —	— —
— —	— —
— —	— —
— —	— —
etc.	etc.
(Signed)	

Name.	Residence.
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Subscribed and sworn to before me this ____ day of ____, 19__.

(Seal)

_____,
Notary public (or other official).

In case it is desired to appoint additional verification deputies to secure signatures to the nomination paper of said candidate, one or more similar documents may be filed, to supplement the first document. When the office for which the candidate is proposed is a judicial, school, county, township, or municipal office, the provisions of this subdivision shall apply, except that the five qualified electors shall make no statement of their party affiliation and may be affiliated with different parties or with no party; and the candidate proposed for nomination shall not be so proposed as the candidate of any party.

3. Obtaining signatures to nomination papers. Verification deputies appointed as provided in subdivision two of this section to obtain signatures to the nomination paper of any candidate for any office to be voted for at any primary election, may, at any time not more than sixty-five days nor less than forty days prior to such election, obtain signatures to such nomination paper of such candidate for such office; each signer of a nomination paper shall sign but one such paper for the same office, except that in case two or more persons are to be elected to the same office at the same election, an elector may sign the nomination papers of as many persons as there are persons to be elected to such office, and such act on the part of such elector shall not be deemed in conflict with the signer's statement hereinafter provided. In the case of primary elections other than August primary elections or May presidential primary elections, signatures may be obtained not more than forty days nor less than twenty-five days prior to such election.

Presentation in sections. Affidavit of deputies. Sections returned to five electors. He shall also declare his intention to support such candidate for nomination, and shall add his place of residence, giving his street and number if any. His election precinct shall also appear on the paper just preceding his name, and he shall write the date of his signature at the end of the line just after his residence. Any nomination paper may be presented in sections, but each section shall contain the name of the candidate and the name of the office for which he is proposed for nomination. Each section shall bear the name of the city or town, if any, and also the name of the county or city and county, in which it is circulated, and only qualified electors of such county or city and county, registered as intending to affiliate with the political party by which the nomination is to be made shall be competent to sign such section. Any section circulated within any incorporated city or

town shall be signed only by registered qualified electors of such city or town. Each section shall be prepared with the lines for signatures numbered, and shall have attached thereto the affidavit of the verification deputy who has obtained signatures to the same, stating that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief, each signature to the section is the genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any verification deputy obtaining signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such nomination paper so verified shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are registered qualified electors, unless and until it is otherwise proven by comparison of such signatures with the affidavits of registration in the office of the county clerk or registrar of voters. Each section of the nomination paper, after being verified, shall be returned by the verification deputy who circulated it to one of the five electors by whom the said verification deputy was appointed; and in this manner all the sections circulated in any county shall be collected by said five electors of that county and shall be by them arranged for filing or for examination, as provided in subdivision four of this section, and shall then be by some one of them filed or left for examination and filing. In case said verification deputy was appointed directly by the candidate according to the provisions of subdivision two (a) of this section, the collecting, arranging, and filing, or leaving for examination and filing, of the sections of the nomination paper shall be done by the candidate, or on his behalf, instead of by the "five electors" as hereinbefore provided. Each section of the nomination paper shall be in substance as follows:

Form of each section. County of —, city (or town) of — (if any).

Nomination paper of —, candidate for — party nomination for the office of —.

State of California, }
County of —, } ss.

Signer's Statement.

I, undersigned, am a qualified elector of the city (or town) of —, county of —, state of California, and am registered as intending to affiliate with the — party; and I hereby nominate — who resides at No. — street, city of —, county of —, state of California, as a candidate for the nomination of the — party for the office of — to be voted for at the primary election to be held on the — day of August, 19—. I have not signed the nomination paper of any other candidate for the same office, and I further declare that I

intend to support for such nomination the candidate named herein.

I furthermore declare that I have not signed the nomination paper of this candidate or any other candidate for office, as candidate of any other party at such primary election.

No.	Precinct	Signature	Residence	Date
1
2
3
4
5
etc.

Verification Deputy's Affidavit.

I, —, solemnly swear (or affirm) that I have been appointed according to the provisions of subdivision two, section five of the direct primary law, as a verification deputy to secure signatures in the county of — to the nomination paper of — as candidate for the nomination of the — party for the office of —; that all the signatures on this section of said nomination paper, numbered from one to — inclusive, were made in my presence, and that, to the best of my knowledge and belief, each of said signatures is the genuine signature of the person whose name it purports to be.

(Signed) —, —,
Verification deputy.

Subscribed and sworn to before me this — day of —, 19—.
(Seal) —, —,

Notary public (or other official).

In case of judicial office, etc. In the case of a nomination paper for any candidate for a judicial, school, county, township or municipal office, the provisions of this subdivision shall apply, except that no such nomination paper nor any section thereof shall contain the name of any political party and any nomination paper for any candidate for a judicial office, school office, county office, township office, or municipal office may be signed by any registered qualified elector of the county or city and county, whether registered as being affiliated with any, or with no, political party.

4. Arrangement prior to filing. Prior to the filing of a nomination paper for any candidate, the sections thereof must be numbered in order and fastened together by cities or towns or portions of the county not included in such cities or towns, substantially in the manner required for the binding of affidavits of registration by the provisions of section one thousand one hundred thirteen of the Political Code; provided, that the sections of the nomination paper may be preceded by an index of precincts, arranged by cities, towns or outside territory in the numerical or alphabetical order of such precincts for each such city, town or outside territory and showing after the name or number of such precinct the numbers of the sections on which the names of the electors registered in such precinct are to be found, and after the number of each section, the number (in parenthesis) of times such names are to be so

found on such section. Such index shall be in substantially the following form:

Form of index.

City of —.

No. of precinct	Numbers of sections containing voters of precinct				
1.....	1 (3 times)	2 (5 times)	3 (7 times)	etc.	
2.....	1 (4 times)	2 (0 times)	3 (6 times)	etc.	
etc.....		etc.			

Town of —.

etc.

Outside Territory.

etc.

Candidates voted for in more than one county. Examination by clerk. Time for filing. Persons who may not verify signatures. Statement of candidate. And provided, further, that for all nominations of candidates to be voted for in more than one county, or throughout the entire state, the nomination papers, properly assembled, may be consolidated and fastened or bound together by counties; but in no case shall nomination papers signed by electors of different counties be fastened or bound together. The county clerk or registrar of voters of any county or city and county shall examine all nomination papers herein provided for which purport to have been signed by electors of his county or city and county, and shall disregard and mark "not sufficient" any name appearing on such paper or papers which does not appear in the same handwriting on an affidavit of registration in his office made on or before the date when such name was signed, or which, except in the case of nomination papers of candidates for judicial, school, county, township or municipal offices, the signers of which may be registered as of any or of no party, does not appear on said affidavit as intending to affiliate with the party named in such nomination papers. Such officer shall, within five days after any nomination papers are filed with him or left for examination, examine the same as herein provided, and affix thereto a certificate reciting that he has examined the same and stating the number of names signed thereto which have not been marked "not sufficient" as hereinabove provided. All nomination papers which by this act are required to be filed in the office of the secretary of state, shall be left with the county clerk or registrar of voters for examination, as above provided, at least forty days prior to the August primary election or the May presidential primary election, and shall, with such certificate of examination attached, within five days after being so left, be forwarded by such county clerk or registrar of voters to the secretary of state, who shall receive and file the same. All nomination papers which by this act are required to be filed in the office of the city clerk or secretary of the legislative body of any city or municipality shall be left with the county clerk or registrar of voters for examination, as above provided, at least twenty-five days prior to the primary election at which such nominations are to be made, and shall, with such certificate of examination attached, within five days after being so left be forwarded by such county clerk or registrar of voters to the city clerk or secretary of the legislative body of such city or municipality

who shall receive and file the same. The verification of signatures to nomination papers shall not be made by the candidate, nor by any county clerk, or registrar of voters, nor by any of the deputies in the office of such county clerk or registrar of voters, nor within one hundred feet of any election booth, polling place, or any place where registration of electors is being conducted. Each candidate on or before the thirty-fifth day prior to the August primary election or the May presidential primary election, or on or before the twenty-fifth day prior to any other primary election, shall file in the place where his nomination paper is required to be filed, as provided in section six of this act, his affidavit, stating his residence, with street and number, if any; his election precinct; that he is a qualified elector in the election precinct in which he resides; the name of the office for which he is a candidate; that he will not before said primary election withdraw as a candidate for nomination and that if nominated he will accept such nomination and not withdraw, and that he will qualify as such officer if nominated and elected; and he shall also make the statement required in subdivision five of section six of this act. Nothing in this act contained shall be construed to limit the rights of any person to become the candidate of more than one political party for the same office upon complying with the requirements of this act, but no person shall be entitled to become a candidate for more than one office at the same election. No more than one affidavit need be filed by any candidate, even though he is the candidate for nomination by more than one political party. In no case shall the secretary of state, county clerk, or city clerk, place the name of any candidate on this ballot or certify any such name to be placed thereon unless the requisite affidavit has first been filed as herein provided.

5. Number of signatures required. Except in the case of a candidate for nomination to a judicial office, school office, county office, or township office, nomination papers shall be signed as follows: If the candidate is the candidate for an office to be voted on throughout the state, by not less than one-half of one per centum and not more than two per centum of the vote constituting the basis of percentage as defined in subdivision six of this section, of the party of the candidate seeking nomination, within the state; if the candidate is the candidate for an office to be voted on in some political subdivision of the state, but not throughout the state, by not less than one per centum nor more than two per centum of the vote constituting the basis of percentage, as defined in subdivision six of this section, of the party of the candidate seeking nomination within said political subdivision in which such candidate seeks nomination.

6. Basis of percentage. Except in case of a candidate for nomination to a judicial, school, county, township or municipal office, the basis of percentage in each political party shall be the vote polled for such party's candidate for governor, at the last preceding November election at which a governor was elected, in the state or in that political subdivision for which the candidate is proposed for nomination; provided, that such candidate for governor was the candidate of such political party alone. If such party's candidate for governor was not the candidate of such party alone, the basis of percentage shall be the vote polled at said election by that one of such party's candidates voted on through-

out the state who received the greatest number of votes of all of such party's candidates who were the candidates of such party alone. But if no candidate voted on throughout the state was the candidate of such party alone, then the basis of percentage shall be the vote polled at said election by that one of such party's candidates voted on throughout the state who received the greatest number of votes of all of such party's candidates who were the candidates of such party in conjunction with one or more other parties.

7. In case of change of political subdivision. Whenever by rearrangement of political subdivisions of the state by any legislature, board of supervisors or other legislative body, the boundaries of such political subdivisions are changed, the vote polled for governor at the last preceding gubernatorial election by each party in each of the new political subdivisions shall be determined as follows: If the change occurs wholly within any county or city and county, the county clerk or registrar of voters of such county or city and county shall determine as nearly as possible such vote of each party in the new political subdivision by adding together for each party the vote for such party's candidate for governor in each of the former precincts which now are combined to make up such new political subdivision. If the change occurs outside the limits of any county or city and county, the secretary of state shall determine such vote of each party in such new political subdivision by adding together for each party the vote for such party's candidate for governor in the counties which now are combined to make up such new political subdivision. In the same way that the highest vote for each party in each new political subdivision is ascertained, shall also be ascertained the total vote at such election as is required to be determined by the provisions of subdivision eight of this section. Every political party qualified to participate in the primary election by the provisions of subdivision nine of section one of this act, for nomination by which party there shall have been filed nomination papers for one or more candidates containing a sufficient number of signatures, shall be entitled to a separate party ticket at the primary election; but all such party tickets must be alike in the designation of candidates for judicial, school, county, and township offices.

8. In case of judicial office, etc. In the case of a candidate for nomination to a judicial, school, county, township or municipal office, nomination papers shall be signed by not less than one-half of one per centum, nor more than two per centum of the total vote cast at the last general election in the state or political subdivision thereof in which such candidate for judicial or school, county, or township office seeks nomination.

9. Independent candidates. Nothing herein shall be construed as prohibiting the independent nomination of candidates as provided by section one thousand one hundred eighty-eight of the Political Code, as said section reads at the time of said nomination; except that a candidate for whom a nomination paper has been filed as one of the candidates for nomination to any office on the ballots of any political party at a primary election held under the provisions of this act, and who is defeated for such party nomination at such primary election, shall be ineligible for nomination as an independent candidate, or as a candidate named by a party central committee to fill a vacancy as provided

in section twenty-five of this act, for the same office at the ensuing general election; and no person shall be permitted to file nomination papers for a party nomination and an independent nomination for the same office, or for more than one office at the same election. Nor shall any person whose name has been written in upon any ballot or ballots for any office at any primary election, have his name placed upon the ballot as a candidate for such office at the ensuing general election, except under the provisions of said section one thousand one hundred eighty-eight of the Political Code or of section twenty-five of this act providing for the filling of vacancies by party central committees, unless at such primary election he shall have received for such office votes equal in number to the minimum number of signatures to the nomination paper which would have been required to be filed to have placed his name on the primary ballot as a candidate for nomination to such office. [Amendment approved April 9, 1919; Stats. 1919, p. 39.]

10. Record of papers filed. The officer with whom nomination papers are filed shall keep a record in which he shall enter the names of every person presenting the same for filing, the name of the candidate, the title of the office, the party, if any, and the time of filing. [Amendment approved April 9, 1919; Stats. 1919, p. 39.]

§ 6. Office in which papers must be filed. All nomination papers provided for by this act shall be filed as follows:

1. For state officers, United States senators, representatives in Congress, members of the state senate and assembly, delegates to state conventions from "hold-over senatorial districts" and all officers voted for in districts comprising more than one county, in the office of the secretary of state.

2. For officers to be voted for wholly within one county or city and county, except representatives in Congress, delegates to state conventions from "hold-over senatorial districts" and members of the state senate and assembly, in the office of the county clerk of such county or in the office of the registrar of voters in such city and county.

3. For city officers, in the office of the city clerk or secretary of the legislative body of such city or municipality.

4. When a nomination paper or sections thereof shall have been received which contain a number of signatures equal to two per centum of the vote constituting the basis of percentage as provided in subdivisions five, six and eight of section five of this act, the officer with whom such papers are required to be filed shall not receive or file further sections of the nomination paper for the candidate named therein.

5. No more signatures shall be secured for any candidate than a number equal to three per centum of the vote constituting the basis of percentage as provided in subdivisions five, six and eight of section five of this act; provided, that if through miscalculation or otherwise, more signatures are secured than the said three per centum, all sections of the nomination paper containing signatures in excess of said three per centum must be sent to the candidate; and before any nomination paper is filed as provided in this section, the candidate must notify each signer of such excess sections that his name has not been used; and in the affidavit required to be filed in subdivision four of section five of this act, affiant must state whether he has complied with the provisions contained

in subdivision five of section six of this act. - [Amendment approved April 8, 1919; Stats. 1919, p. 49.]

§ 7. Filing fees. 1. A filing fee of fifty dollars shall be paid to the secretary of state by each candidate for state office or for the United State senate, except as otherwise provided in this section.

2. A filing fee of twenty-five dollars shall be paid to the secretary of state by each candidate for representative in congress or for any office, except member of state senate and assembly, to be voted for in any district comprising more than one county.

3. A filing fee of ten dollars shall be paid to the secretary of state by each candidate for the state senate or assembly.

4. A filing fee of ten dollars shall be paid to the county clerk or registrar of voters in any city and county when the nomination paper or papers and affidavit of any candidate to be voted for wholly within one county or city and county are filed with such county clerk or registrar of voters.

5. A filing fee of ten dollars shall be paid to the city clerk or secretary of the legislative body of any municipality when the nomination paper or papers and affidavit of any candidate for a city office are filed with such clerk or secretary of such legislative body.

6. No filing fee shall be required from any person to be voted for at the May presidential primary election, or from any candidate for an office to the holder of which no fixed compensation is required to be paid, or for township or municipal offices the compensation to the holder of which does not exceed the sum of six hundred dollars per annum.

7. In no case shall the secretary of state, county clerk, registrar of voters, or city clerk, receive any nomination papers for filing until the requisite fee for such filing, as prescribed in this section, has first been paid to him.

8. When a person for whom a nomination paper has not been filed is nominated for an office by having his name written on a primary election ballot, he must pay the same filing fee that would have been required if his nomination paper had been filed; otherwise his name must not be printed on the ballot at the ensuing general election.

9. When a candidate for nomination to office is proposed for nomination by more than one political party, he must pay a separate filing fee for each party in which he is proposed for nomination; or if, having filed a nomination paper for one party, he is nominated by another party by having his name written on a primary election ballot, he must pay the same filing fee for such other party nomination that would have been required if his nomination paper for such other party had been filed; otherwise his name shall not be printed on the general election ballot as the nominee of such other party. [Amendment approved May 29, 1917; Stats. 1917, p. 1354.]

§ 8. Clerk to pay fees to treasurer. The county clerk shall immediately pay to the county treasurer and the registrar of voters in any city and county shall immediately pay to the city and county treasurer all fees received from candidates. The city clerk or secretary of the legislative body of any municipality shall immediately pay to the city treasurer all fees received from candidates. Within ten days after the primary election the secretary of state shall pay to the state treasurer all fees received from candidates and shall apportion the fees paid to

him by each candidate equally among the counties within which such candidate is to be voted for, and certify such apportionment to the state controller, who shall issue warrants on the state treasurer for the amount due each county and the state treasurer shall pay the same.

§ 9. Expense of primary. The expense of providing all ballots, blanks and other supplies to be used at any primary election provided for by this act and all expenses necessarily incurred in the preparation for or the conduct of such primary election shall be paid out of the treasury of the city, city and county, county or state, as the case may be, in the same manner, with like effect and by the same officers as in the case of general elections.

§ 10. Secretary of state to transmit list of nominees. Publication by clerk. At least thirty days before any August primary election preceding a November election or before any May presidential primary election the secretary of state shall transmit to each county clerk or registrar of voters in any city and county a certified list containing the name and postoffice address of each person for whom nomination papers have been filed in the office of such secretary of state, including the candidate for delegate to a state convention, if any, from a "hold-over senatorial district" and who is entitled to be voted for in such county at such primary election, together with a designation of the office for which such person is a candidate and except in the case of a judicial office, or a school office of the party or principle he represents. Such county clerk or registrar of voters shall forthwith, upon receipt thereof, publish under the proper party designation the title of each office (except a judicial office or a school office) which appears upon the certified list transmitted by the secretary of state as hereinbefore provided, together with the names and addresses of all persons for whom nomination papers have been filed for each of said offices in the office of the secretary of state, and also the names of all candidates for the county central committee, filed in the office of the county clerk or registrar of voters. He shall also publish the title of each judicial office, school office, county office, and township office, together with the names and addresses of all persons for whom nomination papers have been filed for each of said offices, either in the office of the secretary of state or in the office of the county clerk or registrar of voters, and shall state that candidates for said judicial, school, county, and township offices may be voted for at the primary election, by any registered, qualified elector of the county, whether registered as intending to affiliate with any political party or not. He shall also publish the date of the primary election, the hours during which the polls will be open, and that the primary election will be held at the legally designated polling places in each precinct, which shall be particularly designated. It shall be the duty of the county clerk or registrar of voters in any city and county to cause such publication to be made once each week for two successive weeks prior to said primary election.

§ 11. Newspapers in which publication shall be made. Every publication required by this act shall be made in not more than two newspapers of general circulation published in such county or city and county, and one of such newspapers shall represent the political party that cast at the last preceding general election the highest number of votes in

such county or city and county, and one of such newspapers, if any, shall represent the party which cast the next highest number of votes at such election. In any case where the publication of the notices provided for by this act cannot be made as hereinbefore provided it shall be made in any newspaper having a general circulation in the city or county in which the notice is required to be published.

§ 12. Ballots. 1. All voting at primary elections within the meaning of this act shall be by ballot. A separate official ballot for each political party shall be printed and provided for use at each voting precinct; but all such party ballots must be alike in the designation of candidates for judicial, school, county, and township offices. The ballots must have a different tint or color for each of the political parties participating in the primary election. There shall also be printed and provided a nonpartisan ballot of a different tint and color from all the others (or white, if all the others are colored), which shall contain only, but in like manner, all the candidates for judicial, school, county, and township offices to be voted for at the primary election; and one of the nonpartisan ballots shall, at the primary election, be furnished to each registered qualified elector who is not registered as intending to affiliate with any one of the political parties participating in said primary election; but to any elector registered as intending to affiliate with any political party participating in the primary there shall be furnished, not a nonpartisan ballot, but a ballot of the political party with which said elector is registered as intending to affiliate.

It shall be the duty of the county clerk of each county or of the registrar of voters in any city and county to provide such printed official ballots to be used at any August primary election for the nomination of candidates to be voted for in such county or city and county at the ensuing November election and at any May presidential primary election. It shall be the duty of the city clerk or secretary of the legislative body of any municipality to provide such printed official ballots for any primary election other than the August primary election or the May presidential primary election. Such official ballots to be used at any primary election shall be printed on official paper, furnished by the secretary of state, in the manner provided by section one thousand one hundred ninety-six of the Political Code, and in the form hereinafter provided. The names of all candidates for the respective offices for whom the prescribed nomination papers have been duly filed shall be printed thereon.

2. Official primary election ballots used at any primary election for the nomination of candidates to be voted for at any presidential or general state election, except as provided in subdivision five of this section, shall be as long as the herein prescribed captions, headings, party designations, directions to voters and lists of names of candidates, properly subdivided according to the several offices to be nominated for, may require; and no official primary election ballot shall be less than six and one-half inches wide.

3. Across the top of the ballot shall be printed in heavy-faced gothic capital type, not smaller than forty-eight point, the words: "Official Primary Election Ballot"; providing, that on a nonpartisan ballot said words may be printed in gothic capital type not smaller than twenty-four point. Beneath this heading shall be printed in heavy-faced gothic

capital type, not smaller than twenty-four point, the party designation if it be a party ballot; or, in the case of a ballot containing the names of no candidates except candidates for a judicial, school, county, or township office, the words "Nonpartisan Ballot." Beneath the party designation or the words "Nonpartisan ballot," as the case may be, insert the respective number of the congressional, senatorial, or assembly district in which the ballot is to be voted, in black-face type, as large as the width of the ballot shall make possible. In the case of official primary election ballots to be used at any primary election held for the nomination of candidates other than those to be voted for at a presidential or a general state election, and on which, in accordance with the provisions of this act, the names of candidates may be printed in a single column or in two parallel columns, as the case may be, the words "Official Primary Election Ballot" shall be printed thereon in heavy-faced gothic capital type, not smaller than twenty-four point. The party or nonpartisan designation shall be printed in heavy-faced gothic capital type, not smaller than eighteen point. The instructions to voters shall be printed in ten point gothic type.

4. Instructions to voters. At least three-eighths of an inch below the district designation shall be printed in ten point gothic type, double leaded, the following instructions to voters: "To vote for a person whose name appears on the ballot, stamp a cross (X) in the square at the right of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose."

5. Candidates' names in parallel columns. Order of precedence. Manner of printing names. Tally sheets. The instructions to voters shall be separated from the lists of candidates and the designations of the several offices to be nominated for by one light and one heavy line or rule. The names of the candidates and the respective offices shall, except as may be hereinafter otherwise provided, be printed on the ballot in four or more parallel columns, each two and one-half inches wide. The number of such parallel columns shall be exactly divisible by two, and such parallel columns shall be equally divided on the ballot for party and nonpartisan tickets by a solid black line, extending down from the printed lines separating the instructions to voters from the list of names of candidates to the bottom margin of the ballot. In the case of a primary election for the nomination of candidates to be voted for at a presidential or general state election, the order of precedence shall be as follows, that is to say: In the column to the left, under the heading STATE shall be printed the groups of names of candidates for state offices, except judicial and school offices, and for members of the state board of equalization. In the second column, under the heading CONGRESSIONAL shall be printed the groups of names for United States senator in Congress, if any, and for representative in Congress. Next, under the heading LEGISLATIVE shall be printed the groups of names for state senator, if any, for member of assembly, and for election as delegate to the state convention from a "hold-over senatorial district," if any. Finally under the heading COUNTY COMMITTEE shall be printed the names of the candidates for election to membership in the county central committee of the party. In the case of primary elections where state officers are not to be nominated, at the left of the solid black

dividing line there may be only one column. In the parallel columns to the right of the solid black dividing line shall be printed the groups of names of candidates for nomination to judicial, school, county, and township offices in the following order: Under the heading JUDICIAL shall be printed all the names of candidates for judicial offices, in the order of chief justice supreme court, associate justices supreme court, judge of district court of appeals, judge of superior court and justice of the peace. Next, under the heading SCHOOL shall be printed all the names of candidates for school offices in the order of state superintendent of instruction, superintendent of schools, and school district officers, if any. Next, under the heading COUNTY AND TOWNSHIP shall be printed the groups of candidates for all county and township offices except judicial or school offices. In the case of primary elections where county officers are not to be nominated, at the right of the solid black dividing line there may be only one column. The nonpartisan ballot provided for in subdivision one of this section shall be identical as to offices and names of candidates with that portion of the party ballot which is printed to the right of the solid black dividing line hereinabove described. The tally sheets furnished to election officers shall have the names of offices and candidates arranged in the order in which said names of officers and candidates are printed on the ballots according to the provisions of this section and subdivision. In the case of primary elections for the nomination of candidates for city, city and county or municipal offices only, the groups of names of candidates may be printed in two parallel columns and the order of precedence shall be determined by the legislative body of such city or municipality or by the board of election commissioners of any such city and county.

6. Candidates for judicial offices, etc. The group of names of candidates for nomination to any judicial office, school office, county office, or township office shall include all the names receiving the requisite number of signatures on a nomination paper for such office, and shall be identical for each such office on the primary election ballots of each political party participating at the primary election; but the groups of names of candidates for all other offices on the ballots of each political party shall comprise only the names of the candidates for nomination by such party.

7. Order of lists of candidates. The order in which the list of candidates for any office shall appear upon the primary election ballot shall be determined as follows:

(a) If the office is an office the candidates for which are to be voted on throughout the entire state, including United States senator in Congress, the secretary of state shall arrange the names of all candidates for such office in alphabetical order for the first assembly district; and thereafter for each succeeding assembly district, the name appearing first for each office in the last preceding district shall be placed last, the order of the other names remaining unchanged. If the office is that of representative in Congress, or is an office the candidates for nomination to which are to be voted on in more than one county or city and county, but not throughout the entire state, except the office of state senator or assemblyman, the secretary of state shall arrange the names of all candidates for such office in alphabetical order for that assembly district which is lowest in numerical order of any assembly district in

which such candidates are to be voted on; and thereafter for such succeeding assembly district in which such candidates are to be voted on, the name appearing first for such office in the last preceding district shall be placed last, the order of the other names remaining unchanged. In transmitting to each county clerk or registrar of voters the certified list of names as required in section ten of this act, the secretary of state shall certify and transmit the list of candidates for nomination to each office according to assembly districts, in the order of arrangement as determined by the above provisions; and in the case of each county or city and county containing more than one assembly district he shall transmit separate lists for each assembly district. Except for the office of state senator or assemblyman, the order in which the names filed with the secretary of state shall appear upon the ballot, shall be for each assembly district the order as determined by the secretary of state in accordance with the above provisions, and as certified and transmitted by him to each county clerk or registrar of voters.

(b) **Office to be voted on throughout state.** If the office is an office to be voted on throughout, but wholly within, one county or city and county, except the office of representative in Congress or state senator or assemblyman, the county clerk of such county or the registrar of voters of such city and county, shall arrange the names of all candidates for such office in alphabetical order for the first supervisorial district; and thereafter for each supervisorial district, the name appearing first for each such office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged; provided, there are no more than five assembly districts in such county, or city and county. If there are more than five assembly districts in such county, or city and county, the county clerk or registrar of voters shall so arrange on the ballot the order of names of all candidates for such office that they shall appear in alphabetical order for that assembly district in such county, or city and county, which is lowest in numerical order, and thereafter for each succeeding assembly district in such county, or city and county, the name appearing first for each office in the last preceding assembly district shall be placed last, the order of the other names remaining unchanged.

(c) **Senator or assemblyman.** If the office is that of state senator or assemblyman, or delegate to the state convention from a "hold-over senatorial district," or member of a county central committee, or any office except the office of representative in Congress to be voted on wholly within any county or city and county but not throughout such county or city or county, the names of all candidates for such office shall be placed upon the ballot in alphabetical order.

(d) **Municipal office.** If the office is a municipal office in any city or town whose charter does not provide for the order in which names shall appear on the ballot, the names of candidates for such office shall be placed upon the ballot in alphabetical order.

8. Order of publication of names and addresses. In publishing the names and addresses of all candidates for whom nomination papers have been filed, as required in section ten of this act, the county clerk or registrar of voters shall publish the names in the order in which they will appear upon the ballot; provided, that in counties or cities and coun-

ties containing more than one assembly district the order of names of candidates shall be that of the assembly district in such county or city and county which is lowest in numerical order.

9. Designation of office. Each group of candidates to be voted on shall be preceded by the designation of the office for which the candidates seek nomination, and the words "Vote for One" or "Vote for Two" or more according to the number to be elected to such office at the ensuing election. Such designation of the office to be nominated for and of the number of candidates to be nominated shall be printed in heavy-faced gothic type, not smaller than ten point. The word or words designating the office shall be printed flush with the left-hand margin and the words "Vote for One" or "Vote for Two" or more, as the case may be, shall extend to the extreme right of the column and over the voting square. The designation of the office and the direction for voting shall be separated from the names of the candidates by a light line.

10. Printing names of candidates. Headings. Borders and perforations. Number of ballots. Form of ballot. The names of the candidates shall be printed on the ballot without indentation, in roman capital type not smaller than eight point, between light lines or rules three-eighths of an inch apart. Under each group of names of candidates shall be printed as many blank spaces, defined by light lines or rules, three-eighths of an inch apart, as there are to be candidates nominated for such office. To the right of the names of the candidates shall be printed a light line or rule so as to form a voting square three-eighths of an inch square. Each group of names of candidates shall be separated from the succeeding group by one light and one heavy line or rule. Each series of groups shall be headed by the word "State," "Congressional," "Legislative," "County and Township" or "Municipal" or other proper general classification, as the case may be, printed in heavy-faced gothic capital type, not smaller than twelve point. The left-hand side of the first column of names on the ballot, and also the right-hand side of the last column of voting squares on the ballot shall be bordered by a broad printed line one-twelfth of an inch wide. The binding or stitching of each package of ballots shall be on the left side thereof. The ballots shall be printed on the same leaf with a stub not over one and one-half inches in width, and separated therefrom by a perforated line from top to bottom, one-half inch to the left of the broad printed line along the left border of the ballot. Upon this stub shall be printed the number of the ballot only. On each ballot a perforated line shall extend across the top of the ballot one inch from the top thereof. The same number as appears on the stub shall be printed above such perforated line within two inches of the perforated line on the left side of the ballot, and above this number shall be printed in parenthesis in small type as follows: "(This number to be torn off by inspector)"; and one-half inch to the right of this ballot number there shall be a short perforated line extending from the perforated line along the top of the ballot to the top edge of the ballot. Immediately above said perforated line shall be printed in black-face lower case type, at least twelve point in size, and inclosed in a parenthesis, the following: "(Fold Ballot to this Perforated Line, Leaving Top Margin Exposed)." Above this printed direction, and midway between it and the top edge of the ballot, shall be printed in black-face capital type, at least twelve point in size,

if possible, and with the four middle words underlined or otherwise made prominent, the following: MARK CROSSES (X) ON BALLOT ONLY WITH RUBBER STAMP; NEVER WITH PEN OR PENCIL. The number on each ballot shall be the same as that on the corresponding stub, and the ballots and stubs shall be numbered consecutively in each county; provided, that the sequence of numbers on such official ballots and stubs for each party shall begin with the number one. The official ballots of each political party shall be made up in stub-books, each book to contain ten, or some multiple of ten, ballots, in the manner provided by law for official election ballots, and except as to the order of the names of candidates shall be printed in substantially the following form: [Form of ballot on pages 1008 and 1009.] [Amendment approved May 7, 1919; Stats. 1919, p. 381.]

(Place signature for the elector in the space provided for the elector's name.)
28-67

MARK CROSSSES (X) ON BALLOT ONLY WITH INK. NEVER WRITE OR PENCIL.
Official Ballots are to be prepared and distributed by the Municipal Clerk, under the supervision of the Municipal Council.
OFFICIAL PRIMARY ELECTION BALLOT
NON-PARTISAN BALLOT
80 Compensation, 1700 Standard, 4000 Assembly District

On this day a primary election was held upon the ballot, giving a vote (X) in the margin of the 28600 of the name of the person for whom you desire to vote. On this day a primary election was held upon the ballot, giving a vote (X) in the margin of the 28600 of the name of the person for whom you desire to vote.

JUDICIAL	County Clerk
<p>Chief Justice Vote for One</p> <p>JOHN A. ALLEN</p> <p>A. C. CALDWELL</p> <p>J. C. CALDWELL</p>	<p>ALEXANDER CHESMAN</p> <p>LEE S. BUCKLEY</p> <p>B. C. DAVIS</p>
<p>Associate Justice Vote for Two</p> <p>A. B. BOWMAN</p> <p>JOHN A. CALDWELL</p> <p>A. H. HAYES</p> <p>DAVID WHITE</p>	<p>Justice Vote for One</p> <p>B. F. BOWMAN</p> <p>B. H. BOWMAN</p> <p>M. L. BOWMAN</p> <p>F. G. FAY</p>
<p>President of the District Court of Appeals Vote for One</p> <p>C. H. BUCKLEY</p> <p>C. H. BUCKLEY</p>	<p>Associate Vote for One</p> <p>N. B. BUCKLEY</p> <p>F. J. BOWMAN</p> <p>ROBERT H. BOWMAN</p>
<p>Judge of the Superior Court Vote for Two</p> <p>J. J. BUCKLEY</p> <p>B. H. BOWMAN</p> <p>B. H. BOWMAN</p> <p>M. L. BOWMAN</p> <p>J. J. BUCKLEY</p>	<p>Associate Vote for Two</p> <p>M. C. CALDWELL</p> <p>C. H. BUCKLEY</p> <p>CALDWELL S. BOWMAN</p>
<p>Justice of the Peace Vote for Two</p> <p>A. H. BOWMAN</p> <p>A. H. BOWMAN</p> <p>J. J. BUCKLEY</p>	<p>Associate Vote for Two</p> <p>M. C. CALDWELL</p> <p>M. C. CALDWELL</p> <p>J. J. BUCKLEY</p>
<p>CORPORAL</p> <p>President of Police Vote for One</p> <p>JOHN A. CALDWELL</p> <p>J. C. CALDWELL</p> <p>A. H. HAYES</p>	<p>Police Administration Vote for One</p> <p>M. C. CALDWELL</p> <p>C. H. BUCKLEY</p>
<p>County Commissioner Vote for Two</p> <p>F. J. BOWMAN</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>	<p>County Vote for Two</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>
<p>County Commissioner Vote for Two</p> <p>F. J. BOWMAN</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>	<p>County Vote for Two</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>
<p>COUNTY AND TOWNSHIP</p> <p>County Vote for One</p> <p>M. C. CALDWELL</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>	<p>County Vote for One</p> <p>M. C. CALDWELL</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>
<p>County Commissioner Vote for Two</p> <p>F. J. BOWMAN</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>	<p>County Vote for Two</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>
<p>COUNTY AND TOWNSHIP</p> <p>County Vote for One</p> <p>M. C. CALDWELL</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>	<p>County Vote for One</p> <p>M. C. CALDWELL</p> <p>JOHN A. CALDWELL</p> <p>JOHN A. CALDWELL</p>

§ 13. Sample ballots. Mailed to voters. Printing of official ballot. In cities. At least twenty days before the August primary election or before the May presidential primary election each county clerk or registrar of voters in any city and county shall prepare separate sample ballots for each political party, and a separate sample nonpartisan ballot, placing thereon in each case in the order provided in subdivision 7 of section 12 of this act, and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him, or have been certified to him by the secretary of state, to be voted for at the primary election in his county or city and county. Such sample ballots shall be printed on paper of a different texture from the paper to be used on the official ballot, and one sample ballot of the party to which the voter belongs as evidenced by his registration shall be mailed to each such voter entitled to vote at such August primary election or May presidential primary election, as the case may be, not more than ten nor less than five days before the election. Not more than ten nor less than five days before the August primary election a nonpartisan sample ballot printed on paper of a different texture from the paper to be used on the official ballot shall be mailed to each registered qualified elector who is not registered as intending to affiliate with any of the parties participating in said primary election. Such clerk or registrar of voters shall forthwith submit the ticket of each political party to the chairman of the county committee of such party and shall mail a copy to each candidate for whom nomination papers have been filed with him or whose name has been certified to him by the secretary of state, to the postoffice address as given in such nomination paper or certification, and he shall post a copy of each sample ballot in a conspicuous place in his office. Before such primary election the county clerk or registrar of voters in any city and county shall cause the official ballot to be printed as provided by section 12 of this act, and distributed in the same manner and in the same quantities as provided in sections 1198, 1199 and 1201 of the Political Code for the distribution of ballots for elections; provided, that the number of party ballots to be furnished to any precinct shall be computed from the number of voters registered in such precinct as intending to affiliate with such party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in such precinct without statement of intention to affiliate with any of the parties participating in the primary election. In the case of primary elections for the nomination of candidates for city offices it shall be the duty of the city clerk, secretary of the legislative body of such city or municipality, or such other officer charged by law with the duty of preparing and distributing the official ballots used at elections in such city or municipality, to prepare and mail the sample ballot and to prepare and distribute the official primary election ballots, and so far as applicable and not otherwise provided herein the provisions of this act shall apply to the nomination of all candidates for city offices.

§ 14. Polls open 6 A. M. to 7 P. M. The polls must be open at 6 o'clock of the morning of the day of primary election and must be kept open until 7 o'clock in the afternoon of the same day, when the polls shall be closed; provided, however, that if at the hour of closing there

are any voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote. But no one who shall arrive at the polling place after 7 o'clock in the afternoon shall be entitled to vote, although the polls may be open when he arrives. No adjournment or intermission shall be taken except as provided in the case of general elections.

§ 15. Election officers. The officers for primary elections shall be the same, and shall be appointed in the same manner, as provided by law for general elections, and such officers shall receive the same compensation for their services at primary elections as provided by law for general elections.

It shall be the duty of the proper officers to furnish the original affidavits of registration and indexes for use at primary elections, which shall show the names of all voters entitled to vote at such primary elections, and shall be numbered, for purposes of the primary election, in like manner as provided in section 1113 of the Political Code. And all the provisions of section 1096 of the Political Code, as far as they are consistent with the provisions of this act, are hereby made applicable to primary elections within the meaning of this act.

§ 16. Challenge of voter. Any elector offering to vote at a primary election may be challenged by any elector of the city, city and county or county, upon either or all of the grounds specified in section 1230 of the Political Code, but his right to vote the primary election ticket of the political party designated in his affidavit of registration, as provided in section 1096 of the Political Code, or his right to vote the nonpartisan primary ticket providing no such party is so designated, shall not be challenged on any ground or subjected to any tests other than those provided by the constitution and section 1230 of the Political Code of this state.

§ 17. Qualified electors may vote. Any elector qualified to take part in any primary election, who has, at least thirty days before the day of such primary election, qualified by registration, as provided by section 1096 of the Political Code, shall be entitled to vote at such primary election, such right to vote being subject to challenge only as hereinbefore provided; and shall, on writing his name or having it written for him on the roster, as provided by law for general elections in this state, receive the official primary election ballot of the political party designated in his affidavit of registration; (or the nonpartisan ballot, providing no such party was so designated), and no other; provided, however, that no one shall be entitled to vote at any primary election who has not been a resident of the state one year, and of the county ninety days, preceding the day upon which such primary election is held. He shall be instructed by a member of the board as to the proper method of marking and folding his ballot, and he shall then retire to an unoccupied booth and without undue delay stamp the same with the rubber stamp there found. If he shall spoil or deface the ballot he shall at once return the same to the ballot clerk and receive another.

§ 18. Designating choice. The voter shall designate his choice on the ballot by stamping a cross (X) in the small square opposite the name

of each candidate for whom he wishes to vote. If he shall stamp more names than there are candidates to be nominated for any office, or if for any reason it be impossible to determine his choice for any office, his ballot shall not be counted for such office, but the rest of his ballot, if properly stamped, shall be counted. No ballot shall be rejected for any technical error which does not render it impossible to determine the voter's choice, nor even though such ballot be somewhat soiled or defaced.

§ 19. Folding ballot. When a voter has stamped his ballot he shall fold it so that its face shall be concealed and only the printed designation on the back thereof shall be visible, and hand the same to the member of the board in charge of the ballot-box. Such folded ballot shall be voted as ballots are voted at general elections, and the name of the voter checked upon the affidavit of registration as having voted as is required at such general elections. [Amendment approved May 29, 1917; Stats. 1917, p. 1354.]

§ 20. No intermission between closing of polls and counting of votes. No adjournment or intermission whatever shall take place until the polls shall be closed and until all the votes cast at such polls shall be counted and the result publicly announced, but this shall not be deemed to prevent any temporary recess while taking meals or for the purpose of other necessary delay; provided, that no more than one member of the board shall at any time be absent from the polling place.

§ 21. Canvass of votes. As soon as the polls are finally closed the judges must immediately proceed to canvass the votes cast at such primary election. The canvass must be public, in the presence of bystanders, and must be continued without adjournment until completed and the result thereof declared. Except as hereinafter provided, the canvass shall be conducted, completed and returned as provided by sections 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1264a, 1265, 1266, 1267, 1268 of the Political Code of this state; provided, however, that the ballots of each party must be sealed and returned in separate envelopes, and the nonpartisan ballots must be sealed and returned in another separate envelope. The number of ballots agreeing or being made to agree with the number of names on the lists, as provided by section 1255 of the Political Code, the board must take the ballots from the box, count those cast by each party, and string them separately; count all the votes cast for each party candidate for the several offices and record the same on the tally lists; and count all the votes on all the ballots, both party and nonpartisan, for the candidates for judicial, school, county, township, and municipal offices, and record the same on the tally lists. [Amendment approved May 29, 1917; Stats. 1917, p. 1354.]

§ 22. Canvass of returns. Declaration of result. Returns to secretary of state. Secretary of state to compile returns. The board of supervisors of each county, the board of election commissioners in any city and county, or, in the case of a city or municipal primary election, the officers charged by law with the duty of canvassing the vote at any city or municipal election in such political subdivision, shall meet at the usual place of such meeting, or at any other place permitted by law, at

one o'clock in the afternoon of the first Thursday after each primary election to canvass the returns, or as soon thereafter as all the returns are in. When begun the canvass shall be continued until completed, which shall not be later than six o'clock in the afternoon of the sixteenth day following such primary election. The clerk of the board must, as soon as the result is declared, enter upon the records of such board a statement of such result, which statement shall contain the whole number of votes cast for each candidate of each political party, for each candidate for each judicial, school, county, township, or municipal office, for each candidate for delegate, if any, to a state convention from a hold-over senatorial district, and for each candidate for membership in the county central committee; provided, however, that in entering the statement of such result, the provisions of subdivision six of section 1282 of the Political Code shall apply, and a duplicate as to each political party shall be delivered to the county, city and county or city chairman of such political party, as the case may be. The clerk shall also make an additional duplicate statement in the same form showing the votes cast for each candidate not voted for wholly within the limits of such county or city and county. The county clerk or registrar of voters in any city and county shall forthwith send to the secretary of state by registered mail or by express one complete copy of all returns as to such candidates, and as to all candidates voted for wholly within one county for the following offices: State assembly, state senate, representatives in congress, members of the state board of equalization, judicial officers, except justices of the peace, and delegate, if any, to a state convention from a hold-over senatorial district; and as to all persons voted for at the May presidential primary election. The secretary of state shall, not later than the twenty-fifth day after any primary election, compile the returns for all candidates voted for in more than one county, and for all candidates for the assembly, state senate, representatives in congress, member of the state board of equalization, and judicial offices (except justices of the peace), delegate, if any, to a state convention from a hold-over senatorial district, and for all persons voted for at the May presidential primary election, and shall make out and file in his office a statement thereof. He shall compile the returns for the May presidential primary election not later than the twenty-first day after such election, and shall compile said returns in such a manner as to show, for each candidate, both the total of the votes received and the votes received in each congressional district of the state. [Amendment approved May 29, 1917; Stats. 1917, p. 1355.]

§ 23. Names which go on ballot for final election. In case of judicial office, etc. Certificates of nomination. List of persons entitled to receive votes. Except in the case of a candidate for nomination to a judicial, school, county, township, or municipal office, the person receiving the highest number of votes, at a primary election as the candidate for the nomination of a political party for an office shall be the candidate of that party for such office, and his name as such candidate shall be placed on the official ballot voted at the ensuing election; provided, he has paid the filing fee as required by section seven of this act; and provided, further, that no candidate for a nomination for other than a

judicial, school, county, township or municipal office who fails to receive the highest number of votes for the nomination of the political party with which he was affiliated thirty-five days before the date of the primary election, as ascertained by the secretary of state from the affidavit of registration of such candidate in the office of the county clerk of the county in which such candidate resides, shall be entitled to be the candidate of any other political party.

In the case of a judicial, school, county, township, or municipal office, the candidates equal in number to twice the number to be elected to such office, or less, if the total number of candidates is less than twice the number of offices to be filled, who receive the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination to such office, shall be the candidates for such office at the ensuing election, and their names as such candidates shall be placed on the official ballot voted at the ensuing election; provided, however, that in case there is but one person to be elected at the November election to any judicial, school, county, or township office, any candidate who receives at the August primary election a majority of the total number of votes cast for all the candidates for such office shall be the only candidate for such office whose name shall be printed on the ballot at the ensuing election; and provided, further, that in case there are two or more persons to be elected at the November election to any judicial, school, county, or township office, and in case any candidate for such office receive at the August primary election the votes of a majority of all the voters participating in the primary election in the state or political subdivision in which said office is voted upon, such candidates being herein designated as "majority candidates," said "majority candidates" shall, if their number is not less than the number of persons to be elected to such office, be the only candidates for such office whose names shall be printed on the ballot at the ensuing November election; and if the number of such "majority candidates" falls short of the number of persons to be elected to such office, the names of said "majority candidates" shall be printed on the ballot at the ensuing November election, together with such number of additional names only of such other candidates receiving the next highest number of votes for nomination to such office as may make the number of such additional names equal to twice the difference between the number of such "majority candidates" and the number to be elected, or a smaller number, if the list of said other candidates is exhausted. Of the candidates for election to membership in the county central committee, the candidates equal in number to the number to be elected receiving the highest number of votes in their supervisorial district or assembly district, as the case may be in accordance with the provisions of subdivision four of section twenty-four of this act, shall be declared elected as the representatives of their district to membership in such committee. It shall be the duty of the officers charged with the canvass of the returns of any primary election in any county, city and county or municipality to cause to be issued official certificates of nomination to such party candidates (other than congressional and legislative candidates, candidates for the state board of equalization, and delegates to the state convention from a hold-over senatorial district), as have received the highest number of votes as the candidates for the nomina-

tion of such party for any offices to be voted for wholly within such county, city and county, or municipality, and cause to be issued to each member of a county central committee a certificate of his election; and to cause to be issued official certificates of nomination to such candidates for judicial, school, county, township or municipal offices voted for wholly within one county as may be entitled to nomination under the provisions of this section. It shall be the duty of the secretary of state to issue official certificates of nomination to candidates nominated under the provisions of this act for representatives in congress, members of the state senate and assembly, members of the state board of equalization, and officers voted for in more than one county; and to issue a certificate of election to each delegate elected to the state convention from a hold-over senatorial district; and to issue certificates of election to all persons elected at the May presidential primary election as delegates to their respective national party conventions.

Not less than thirty days before the November election the secretary of state shall certify to the county clerks or registrars of voters of each county and city and county within the state, the name of every person entitled to receive votes within such county or city and county at said November election who has received the nomination as a candidate for public office under and pursuant to the provisions of this act, and whose nomination is evidenced by the compilation and statement required to be made by said secretary of state and filed in his office, as provided in section 22 of this act. Such certificates shall in addition to the names of such nominees respectively, also show separately and respectively for each nominee the name of the political party or organization which has nominated such person if any and the designation of the public office for which he is so nominated. [Amendment approved May 29, 1917; Stats. 1917, p. 1356.]

§ 24. 1. Party conventions. Party conventions of delegates chosen as hereinafter provided may be held in this state, for the purpose of promulgating platforms and transacting such other business of the party as is not inconsistent with the provisions of the act.

2. State conventions. Platforms. State central committee. Presidential electors. Membership qualifications. Certificate stating affiliation. In districts represented by hold-over senator. Filling vacancies. Executive committees. The candidates of each political party for congressional offices and for state offices, if any, except judicial and school offices, and such candidates for senate and assembly as have been nominated by such political party at the primary election, and in whose behalf nomination papers have been filed, together with the hold-over senators affiliated with and nominated by such political party at the election at which said hold-over senators were elected and one delegate chosen by such political party from each senatorial district not represented by a hold-over senator affiliated with and nominated by such political party at the election at which the hold-over senator was elected, shall meet in a state convention at the state capitol at two o'clock in the afternoon of the third Tuesday in September after the date on which any primary election is held preliminary to the general November election. They shall forthwith formulate the state platforms of their party, which said state platform of each political party shall be framed at such time that it

shall be made public not later than six o'clock in the afternoon of the following day. They shall also proceed to elect a state central committee to consist of at least three members from each congressional district, who shall hold office until a new state central committee shall have been selected. In each year of the general November election at which electors of president and vice-president of the United States are to be chosen, they shall also nominate as the candidates of their party as many electors of president and vice-president of the United States as the state is then entitled to, and it shall be the duty of the secretary of state to issue certificates of nomination to the electors so nominated, and to cause the names of such candidates for elector to be placed upon the ballots at the ensuing November election.

Membership in the state convention shall not be granted to a party nominee for a congressional office, state office, or office of senator or assemblyman who has become such by reason of his name having been written on a ballot, and who has not had his name printed on the primary ballot by having had a nomination paper filed in his behalf, as provided in section five of this act; nor shall membership in such convention be granted to the nominee of any party if such nominee has not stated his affiliation with such party in his affidavit of registration used at such primary election; and, in every such case, a vacancy in the membership of such convention shall be deemed to exist; and any such vacancy thereby existing, or existing because no nomination for such office has been made, or for any other cause, shall be filled as hereinafter provided. Each candidate who has received the nomination of more than one party for a congressional, state, or legislative office shall procure from the county clerk of the county in which he resides, a certificate stating the party with which such candidate was affiliated thirty-five days before the date of the primary election, as shown by the affidavit of registration of such candidate in the office of such county clerk; and this certificate shall be the credentials of such candidate to membership in the convention of his party.

In any senatorial district represented by a hold-over senator there shall be chosen at such primary election by the electors of each political party, other than the party which the hold-over senator was affiliated with and nominated by, one delegate to the state convention, who shall have nomination papers circulated in his behalf, shall have his name placed upon the ballot, and shall be chosen in the same manner as a state senator is nominated from any senatorial district; but no such delegate shall be disqualified by reason of holding any office, nor shall any filing fee be required in order to have his name placed upon the ballot. The term "hold-over senator" as herein used shall apply to a state senator whose term of office extends beyond the first Monday in January of the year next ensuing after the primary election, and the term "hold-over senatorial district" shall apply to the district represented by such hold-over senator.

In the event that there shall not have been filed any nomination paper for a candidate for any congressional or state office or office of senator or assemblyman or delegate from a hold-over senatorial district by the electors of any political party, or in the event that the nominee of any party for such office has not declared his affiliation with such party, as herein provided, or in the event of the death of the

candidate prior to the convention, the vacancy thus created in the state convention of such party shall be filled as follows:

(a) If the vacancy occurs in a senatorial or assembly district situated wholly within the limits of a single county or city and county, by appointment by the newly elected county central committee of such party in such county or city and county.

(b) If the vacancy occurs in a senatorial or assembly district comprising two or more counties, by appointment by the newly selected chairman of the several newly elected county central committees of such party in such counties.

(c) If the vacancy occurs in a congressional or state office, by appointment by the state central committee of such party.

Such delegate so appointed shall present to the convention credentials signed by the chairman and the secretary of the appointing committee, or by the appointing chairman of the several committees, as the case may be.

3. Executive committee. Each state central committee may select an executive committee, to which executive committee it may grant all or any portion of its powers and duties. It shall choose its officers by ballot and each committee and its officers shall have the power usually exercised by such committees and the officers thereof in so far as may be consistent with this act. The various officers and committees now in existence shall exercise the powers and perform the duties herein prescribed until their successors are chosen in accordance with the provisions of this act.

4. District congressional committee. The executive committee of the state central committee of each political party shall, in conjunction with each nominee for Congress affiliated with such party, select a congressional committee for the district in which such nominee is a candidate. Such committee shall consist of not less than fifteen nor more than thirty-five members, and shall have charge and conduct of the campaign of such nominee, subject to the supervision of the state central committee of such party.

5. County central committee. At each August primary election there shall be elected in each county or city and county a county central committee for each political party, which shall have charge of the party campaign under general direction of the state central committee or of the executive committee selected by such state central committee. In any city and county containing more than ten assembly districts the county central committee of such party shall be elected by each assembly district and shall consist of five members from each assembly district in such city and county. In all counties containing five or more assembly districts the county central committee of such party shall be elected by assembly districts and shall consist of one member for each seven hundred votes or fraction thereof in each such assembly district cast for such party's candidate for governor at the last general election at which a governor was elected. In all counties containing less than five assembly districts the county central committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows: The number of votes cast in such supervisor district for such party's candidate for governor at the last general election at which such governor was

elected shall be divided by one-twentieth of the number of votes cast for such governor in such county; and the integer next larger than the quotient obtained by such division shall constitute the number of members of the county central committee to be elected by such party in said supervisor district. The county clerk or registrar of voters in each county or city and county shall, between the first Monday and the second Monday of June next preceding the primary election, compute the number of members of the county central committee allotted to each assembly district or supervisor district, as the case may be, by the provisions of this subdivision. Each candidate for member of a county central committee shall appear upon the ballot upon the filing of a nomination paper according to the provisions of section five of this act, signed in his behalf by the electors of the political subdivision in which he is a candidate, as above provided; and the number of candidates to which each party is entitled, as hereinbefore provided, in each political subdivision, receiving the highest number of votes shall be declared elected; but no candidate for county committeeman shall be declared elected unless he shall have received votes equal in number to the minimum of signatures to the nomination paper which would have been required to place his name on the primary ballot as a candidate for member of the county committee. Each county central committee shall meet in the courthouse at its county seat on the second Tuesday in September following the August primary election, and shall organize by selecting a chairman, a secretary and such other officers and committees as it shall deem necessary for carrying on the campaign of the party.

6. Persons ineligible. Filling vacancies. No person shall be eligible for appointment or election to the state, county or district committee of any party who is not registered as affiliated with such party at the time of such appointment or election. In the event of the appointment or election to any party committee of an ineligible person, or whenever any member of any such committee dies, resigns or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of such committee's party, a vacancy shall exist, which shall be filled by appointment by the chairman of the committee in which such ineligibility or vacancy occurs. [Amendment approved April 8, 1919; Stats. 1919, p. 49.]

§ 25. Withdrawing as candidate. Filling vacancies. Power of committees. Name printed on ballot. No candidate whose nomination papers have been filed for any primary election can withdraw as a candidate at such primary election. No candidate nominated at any primary election can withdraw as a candidate at the ensuing general election except such as are permitted to withdraw by this section. In case as a result of any primary election a person has received a nomination to any office without first having nomination papers filed, and having his name printed on the primary election ballot, he may at least thirty-one days before the day of election cause his name to be withdrawn from nomination by filing in the office where he would have filed his nomination papers had he been a candidate for nomination, his request therefor in writing, signed by him and acknowledged before the county clerk of the county in which he resides; and no name so withdrawn shall be printed on the election ballot for the ensuing general election. The vacancy created by the withdrawal of such person as aforesaid,

or on account of the ineligibility of such person to qualify as a candidate because of the inhibitions of subdivision nine of section five of this act, or by reason of the failure of a party to nominate any candidate for the office at the primary election, or for any other cause shall not be filled except in the following cases:

1. By reason of the death of a candidate occurring at least twenty-five days before the date of the next ensuing November election.

2. By reason of the disqualification of a candidate occurring on account of the failure of such candidate to secure the nomination in his own party as required by section twenty-three of this act.

Vacancies occurring by reason of such death of any candidate, or because of such disqualification imposed by section twenty-three of this act, may, in the case of legislative offices, be filled by the newly elected county central committee or committees of the party in which such vacancy occurs, in the county or counties comprising the legislative district of such deceased or disqualified candidate; and in the case of all other district or state offices requiring party nomination, by the newly selected state central committee of such party.

If such vacancy occurs among candidates chosen at the primary election to go on the ballot for the succeeding general election for a judicial, school, county, township, or municipal office according to the provisions of section twenty-three of this act, in which case that candidate receiving at said primary election the highest vote among all the candidates for said office who have failed to receive a sufficient number of votes to get upon said ballot according to the provisions of said section twenty-three, shall go upon said ballot to fill said vacancy; provided, however, that if the vacancy occurs in a case where, by reason of having received a majority vote at the primary election, only one person is entitled to have his name printed upon the ballot at the ensuing November election, the names of the two candidates receiving the next highest vote at the primary election, if there were such number, shall be placed upon the ballot for the November election; and provided, further, that a vacancy authorized to be filled by the provisions of this section shall be filled and certified to the officer charged with the duty of printing the ballots twenty-five days before the day of election.

Whenever a nomination paper containing a sufficient number of signatures has been filed for any person as a candidate to be voted for at a primary election, the name of such person must be printed upon the ballot or ballots of such primary election as hereinbefore provided in section twelve of this act, unless such person has died and such fact has been ascertained, by the officer charged with the duty of printing the ballot, at least twenty-five days before the day of election.

Whenever a candidate has been nominated at any primary election after having nomination papers filed, the name of such candidate must be printed upon the ballot at the ensuing general election unless such candidate has died and such fact has been ascertained, by the officer charged with the duty of printing the ballots, at least twenty-five days before the day of election.

Whenever, upon the death or disqualification of any candidate, the vacancy thereby created is filled by a party committee, a certificate to that effect shall be filed with the officer with whom a nomination paper for such office may be filed, and shall be accepted and acted upon

by him as in the case of such nomination paper. [Amendment approved April 8, 1919; Stats. 1919, p. 53.]

§ 26. Tie vote. In case of a tie vote, if for an office to be voted for wholly within one county or city and county, the county, city and county or city board, as the case may be, shall forthwith summon the candidates who have received such tie votes to appear before such board, at a time and place to be designated by said board, and such board shall at said time and place determine the tie by lot. In the case of a tie vote for an office to be voted on in more than one county, the secretary of state shall forthwith summon the candidates who have received such tie votes to appear before him at his office at the state capitol at a time to be designated by him and said secretary of state shall at said time and place determine the tie by lot. Such summons must in every case be mailed to the address of the candidate as it appears upon his affidavit of registration, at least five days before the date fixed for the determination of such tie vote. [Amendment approved April 8, 1919; Stats. 1919, p. 55.]

§ 27. Correction of errors or omission. Whenever it shall be made to appear by affidavit to the supreme court or district courts of appeal or superior court of the proper county that an error or omission has occurred or is about to occur in the placing of any name on an official primary election ballot, that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county clerk, registrar of voters in any city and county, canvassing board or any member thereof, or other person charged with any duty concerning the primary election, or that any neglect of duty has occurred or is about to occur, such court shall order the officer or person charged with such error, wrong or neglect to forthwith correct the error, desist from the wrongful act or perform the duty, or forthwith show cause why he should not do so. Any person who shall fail to obey the order of such court shall be cited forthwith to show cause why he shall not be adjudged in contempt of court.

§ 28. Contest of nomination. Copy of affidavit mailed to contestee. Precincts considered. Hearing. No demurrer. Additional judges. Recount of votes. Decision. No appeal. Any candidate at a primary election, desiring to contest a nomination of another candidate for the same office, may, within five days after the completion of the official canvass, file an affidavit in the office of the clerk of the superior court of the county in which he desires to contest the vote returned from any precinct or precincts in such county, and thereupon have a recount of the ballots cast in any such precinct or precincts, in accordance with the provisions of this section. Such affidavit must specify separately each precinct in which a recount is demanded, and the nature of the mistake, error, misconduct, or other cause why it is claimed that the returns from such precinct do not correctly state the vote as cast in such precinct, for the contestant and the contestee. The contestee must be made a party respondent, and so named in the affidavit. No personal service or other service than as herein provided need be made upon the contestee. Upon the filing of such affidavit the county clerk shall forthwith post in a conspicuous place in his office a copy of the affidavit. Upon the filing

of such affidavit and the posting of the same, the superior court of the county shall have jurisdiction of the subject matter and of the parties to such contest, and all candidates at any such primary election are permitted to be candidates under this act, only upon the condition that such jurisdiction for the purposes of the proceeding authorized by this section shall exist in the manner and under the conditions provided for by this section. The contestant on the date of filing such affidavit, must send by registered mail a copy thereof to the contestee in a sealed envelope, with postage prepaid, addressed to the contestee at the place of residence named in the affidavit of registration of such contestee, and shall make an affidavit of such mailing and file the same with the county clerk to become a part of the records of the contest. At any time within three days after the filing of the affidavit of the contestant to the effect that he has sent by registered mail a copy of the affidavit to the contestee, such contestee may file with the county clerk an affidavit in his own behalf, setting up his desire to have the votes counted in any precincts, designating them, in addition to the precincts designated in the affidavit of the contestant, and setting up his grounds therefor. On the trial of the contest all of the precincts named in the affidavits of the contestant and the contestee shall be considered, and a recount had with reference to all of said precincts; and the contestant shall have the same right to answer the affidavit of the contestee as is given to the contestee herein with reference to the affidavit of the contestant except that such answer must be filed not later than the first day of the trial of said contest. On the eighth day after the completion of the official canvass the county clerk shall present the affidavits of the contestant and the contestee and proof of posting, as aforesaid, to the judge of the superior court of the county, or any judge acting in his place, or the presiding judge of the superior court of a county or city and county, or anyone acting in his stead, which judge shall, upon such presentation, forthwith designate the time and place where such contest shall proceed, and in counties or cities and counties where there is more than one superior judge, assign all the cases to one department by the order of such court. Such order must so assign such case or cases, and fix such time and place for hearing, which time must not be less than one nor more than three days from the presentation of the matter to the court by the county clerk as herein provided. It shall be the duty of the contestee to appear either in person or by attorney, at the time and place so fixed, and to take notice of the order fixing such time and place from the records of the court, without service. No special appearance of the contestee for any purpose except as herein provided shall be permitted, and any appearance whatever of the contestee or any request of the court by the contestee or his attorney, shall be entered as a general appearance in the contest. No demurrer or objection can be taken by the parties in any other manner than by answer, and all the objections must be contained in the answer. The court if the contestee shall appear, must require the answer to be made within three days from the time and place as above provided, and if the contestee shall not appear shall note his default, and shall proceed to hear and determine the contest with all convenient speed. If the number of votes which are sought to be recounted, or the number of contests are such that the judge shall be of opinion that it will require additional judges to enable the contest or contests

to be determined in time to print the ballots for the election, if there be only one judge for such county, he may obtain the service of any other superior judge, and the proceedings shall be the same as herein provided in counties where there is more than one superior court judge. If the proceeding is in a county or city and county where there is more than one superior court judge, the judge to whom the case or cases shall be assigned, shall notify the presiding judge forthwith, of the number of judges which he deems necessary to participate, in order to finish the contest or contests in time to print the ballots for the final election, and the said presiding judge shall forthwith designate as many judges as are necessary to such completion of such contest, by order in writing, and thereupon all of the judges so designated shall participate in the recount of such ballots and the giving of judgment in such contest or contests in the manner herein specified. The said judges so designated by said last-mentioned order, including the judge to whom said contests were originally assigned, shall convene upon notice from the judge to whom such contest or contests were originally assigned, and agree upon the precincts which each one of such judges will recount, sitting separately, and thereupon such recount shall proceed before each such judge sitting separately, as to the precincts so arranged, in such manner that the recount shall be made in such precincts before each such judge as to all the contests pending, so that the ballots opened before one judge need not be opened before another judge or department, and the proceedings before such judge in making such recount as to the appointment of the clerk and persons necessary to be assistants of the court in making the same, shall be the same as in contested elections, and the judge shall fix the pay or compensation for such persons, and require the payment each day in advance of the amount thereof, by the person who is proceeding with and requiring the recount of the precinct being recounted. When the recount shall have been completed in the manner herein required, if more than one judge has taken part therein, all the judges who took part shall assemble and make the decision of court, and if there be any differences of opinion, a majority of such judges shall finally determine all such questions, and give the decision or judgment of the court in such contest or contests, separately. Such decision or judgment of the court shall be final in every respect, and no appeal can be had therefrom. The judgment shall be served upon the county clerk or registrar of voters by delivery of a certified copy thereof, and may be enforced summarily in the manner provided in section twenty-seven of this act, and if the contest proceeds in more than one county, and the nominee is to be certified by the secretary of state from the compilation of election returns in his office, then the judgment in each county in which a contest may be had shall show what, if any changes in the returns in the office of the secretary of state relating to such county or city and county, ought to be made, and all such judgments shall be served upon the secretary of state, by the delivery of a certified copy, and he shall make such changes in the record in his office as such judgment or judgments require, and conform his compilation and his certificate of nomination in accordance therewith. If the office contested is one to be voted upon in more than one county, the time within which such contest may be brought in any county involved shall begin to run at the time of the declaration of the official canvass by the board of supervisors of the

county last making such declaration. [Amendment approved May 29, 1917; Stats. 1917, p. 1363.]

§ 29. Campaign expenses. No candidate for nomination to any elective office, including that of United States senator in congress, shall directly or indirectly pay, expend or contribute any money or other valuable thing, or promise so to do, except for lawful expenses. Lawful expenses as used in this section are limited to expenses for the following purposes only:

1. For the candidate's official filing fee.
2. For the preparing, printing, circulating, and verifying of nomination papers.
3. For the candidate's personal traveling expenses.
4. For rent and necessary furnishing of halls or rooms, during such candidacy, for public meetings or for committee headquarters.
5. For payment of speakers and musicians at public meetings and their necessary traveling expenses.
6. For printing and distribution of pamphlets, circulars, newspapers, cards, handbills, posters and announcements relative to candidates or political issues or principles.
7. For his share of the reasonable compensation of challengers at the polls.
8. For making canvassers of voters.
9. For clerk hire.
10. For conveying infirm or disabled voters to and from the polls.
11. For postage, expressage, telegraphing, and telephoning, relative to candidacy.

§ 30. Campaign expenses. Every person who shall be a candidate for nomination to any elective office shall make in duplicate, within fifteen days after the primary election, a verified statement, setting forth each and every sum of money contributed, disbursed, expended or promised by him, and, to the best of his knowledge and belief, by any and every other person or association of persons in his behalf wholly or partly in endeavoring to secure his nomination. This statement must show in detail all moneys paid, loaned, contributed, or otherwise furnished to him directly or indirectly in aid of his nomination, together with the name of the person or persons from whom such moneys were received; and must also show in detail, under each of the subdivisions of section 29 of this act, all moneys contributed, loaned, or expended by him directly or indirectly by himself or through any other person, in aid of his nomination, together with the name of the person or persons to whom such moneys were paid, or disbursed. Such statement must set forth that the affiant has used all reasonable diligence in its preparation, and that he same is true and is as full and explicit as he is able to make it. Within the time aforesaid the candidate shall file one copy of said statement with the officer with whom his nomination papers were filed, and the other with the recorder of the county or city and county in which he resides, who shall record the same in a book to be kept for that purpose, and to be open to public inspection. No officer shall issue any certificate of nomination to any person until such statement as herein provided has been filed and no other statement of expenses shall be required except that provided herein, and no fee or charge whatsoever

shall be made or collected by any officer for the verifying, filing, or recording of such statements or a copy thereof. [Amendment approved May 29, 1917; Stats. 1917, p. 1365.]

§ 31. Penalty. Any person violating any of the provisions of section 29 or section 30 of this act shall be guilty of a misdemeanor, and upon trial and conviction thereof, in addition to the sentence imposed by the court, he shall forfeit all right to the office for which he was a candidate at the time of violating the provisions aforesaid.

§ 32. Bribes. Penalty. 1. Any person who shall offer, or with knowledge of the same permit any person to offer for his benefit, any bribe to a voter to induce such voter to sign any nomination paper, and any person who shall accept such bribe or any promise of gain of any kind in the nature of a bribe as consideration for signing any nomination paper, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after signing, shall be guilty of a misdemeanor and upon trial and conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than one hundred and twenty days, or by both such fine and imprisonment.

2. **Failure to file nomination papers.** Any person who, being in possession of any nomination paper or papers and affidavits entitled to be filed under the provisions of this act, shall wrongfully either suppress, neglect or fail to cause the same to be filed at the proper time and in the proper place shall be guilty of a misdemeanor, and upon trial and conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

3. **Other offenses.** Any act or omission declared to be an offense by the general laws of this state concerning primaries and elections shall also in like case be an offense concerning primary elections as provided for by this act, and shall be punished in the same manner and form as therein provided, and all the penalties and provisions of the law governing elections, except as herein otherwise provided, shall apply in equal force to primary elections as provided for by this act.

§ 33. Preparation of forms. It shall be the duty of the secretary of state and the attorney general to prepare on or before September 1, 1917, all forms necessary to carry out the provisions of this act, which forms shall be substantially followed in all primary elections held in pursuance hereof. [Amendment approved May 29, 1917; Stats. 1917, p. 1366.]

§ 34. Title of act. This act shall be known as the direct primary law.

§ 35. Constitutionality of act. If any section, subdivision, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subdivisions, sentences, clauses, or phrases be declared unconstitutional.

§ 36. Repeal. The act approved April 7, 1911, known as the direct primary law, and also the act approved December 24, 1911, amending sections 1, 3, 5, 7, 10, 12, 13, 22, 23, and 24 of the said direct primary law, are hereby repealed; and all other acts or parts of acts, inconsistent with or in conflict with the provisions of this act, are also hereby repealed.

ACT 1010a.

An act making an appropriation to pay the expenses of electors of President and Vice-President of the United States of America. [Approved January 18, 1917. Stats. 1917, p. 1. In effect immediately.]

The act appropriated \$900 for the purpose indicated.

TITLE 163.

ELECTRICITY.

ACT 1025.

An act to regulate the construction and maintenance of subways, man-holes, and underground rooms, chambers, and excavations, used to contain, encase, cover, or conduct wires, cables, or appliances to conduct, carry, or handle electricity, and providing the punishment for the violation thereof.

[Approved April 22, 1911. Stats. 1911, p. 1042.]

Amended 1917, p. 801.

The amendment of 1917 follows:

§ 1. Regulation of. No commission, officer, agent, or employee of the state of California or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation, shall build or rebuild or cause to be built or rebuilt within the state of California:

(a) **Dimensions of electric wire subways.** Any subway, manhole, chamber, or underground room used or to be used to contain, encase, cover or conduct any wire, cable, or appliance, to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room shall have an inside measurement of not less than four feet at the maximum points between the side walls thereof, and between the end walls thereof, and not less than five feet at all points between the floor thereof, and the top or ceiling thereof, or if circular in shape, at least four feet diameter inside measurement, and not less than five feet at all points between the floor and ceiling thereof; provided, however, that this paragraph shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor or be employed; further provided, that the provisions of this paragraph (a) shall not be held to apply where satisfactory proof shall be submitted to the railroad commission of the state of California, that it is impracticable or physically impossible to comply with this law within the space or location so designated by the proper municipal authorities.

(b) **Opening to outer air.** In any subway, manhole, chamber or underground room used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening to outer air which is less than twenty-six inches if circular in shape, or less than twenty-four inches by twenty-six inches clear measurement if rectangular in shape.

(c) **Openings to be not less than three feet from street-car track.** In any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening which is at the surface of the ground, within the distance of three feet at any point from the rail of any railway or street-car track; provided, that the provisions of this paragraph (c) shall not be held to apply where satisfactory proof shall be submitted to the railroad commission of the state of California, that it is impracticable or physically impossible to comply with this law in the space or location so designated by the proper municipal authorities.

(d) **Floor of subway to be of concrete, etc.** Any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable, or appliance to conduct, carry, or handle electricity, unless the floor of such subway, manhole, chamber or underground room is made of stone, concrete brick or other similar material not subject to decomposition; provided, that this paragraph (d) shall not be held to apply to any such subway, manhole, chamber or underground room within which it is not intended or required that any human being perform work or labor or be employed.

(e) **Subways to be kept free from seepage.** Or maintain any subway, manhole, chamber or underground room used, or to be used, to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room is kept at all times in a sanitary condition, and free from stagnant water, or seepage, or other drainage, or any offensive matter dangerous to health, either by sewer connection or otherwise; provided, that this paragraph (e) shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor, or be employed. [Amendment approved May 22, 1917; Stats. 1917, p. 801.]

§ 2. Penalty for violation. Any violation of any provision of this act shall be deemed a misdemeanor, and shall be punishable upon conviction by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment. [Amendment approved May 22, 1917; Stats. 1917, p. 802.]

§ 5. Power of railroad commission. The railroad commission of the state of California is hereby vested with authority and power to inspect all work which is included in the provisions of this act, and to make such further additions or changes as said commission may deem necessary for the purpose of safety to employees and the general public, and the said railroad commission is hereby charged with the duty of seeing that all the provisions of this act are properly enforced. [New section added May 22, 1917; Stats. 1917, p. 802.]

TITLE 164.**ELEVATORS.****ACT 1025b.**

An act to provide for the periodical inspection of elevators operated in places of employment in this state; to require a permit for such operation; to make it a misdemeanor to operate such elevator without such permit; and to provide for an injunction against such operation if dangerous to the life or safety of employees; to vest in the industrial accident commission the power to make such inspections and determine the competency of inspectors and require reports of inspections and to issue such permits and prescribe maximum fees therefor.

[Approved April 6, 1917. Stats. 1917, p. 84. In effect July 27, 1917.]

§ 1. Permit to operate elevator. Injunction to restrain operation without permit. No power elevator or hand-power elevator, unless exempted in the following section, shall be operated in any place of employment in this state unless a permit, as hereinafter provided, for the operation thereof, shall have been issued by the industrial accident commission, and unless such permit shall remain in full force and effect. The operation of such elevator by any person owning or having the custody, management or operation of such elevator without such permit shall constitute a misdemeanor, and each day of operation of such elevator without such permit shall constitute a separate offense; provided, that no prosecution shall be maintained where the issuance or renewal of such permit shall have been requested and shall remain unacted upon. Whenever any elevator in any place of employment is being operated without the permit herein required, and is in such condition that its use is dangerous to the life or safety of any employee, the industrial accident commission, a commissioner or any safety inspector thereof, or any person affected thereby may apply to the superior court of the county in which such elevator is located for an injunction restraining the operation of such elevator until such condition shall be corrected. Proof by certification of the said commission that such permit has not been issued, together with the affidavit of any safety inspector of the commission that the operation of such elevator is dangerous to the life or safety of any employee, shall be sufficient ground for the immediate granting of a temporary restraining order.

§ 2. Exemptions. Elevators under the jurisdiction of the United States government, and all elevators operated by employers not subject to the safety provisions of the workmen's compensation, insurance and safety act of 1917 and acts amendatory thereof, are exempted from the provisions of this act.

§ 3. Inspection of elevators. Order for repairs. Temporary permit to operate. The industrial accident commission shall cause power elevators to be inspected, not less frequently than twice each year and hand-power elevators not less frequently than once each year. If such elevators shall be found upon such inspection to be in a safe condition for operation, a permit shall be issued by said commission for their operation for not longer than six months for a power elevator or longer than one year for a hand-power elevator, which shall be the permit referred to in section one.

If such inspection shall show such elevator to be in an unsafe condition, the commission, or a commissioner, may issue a preliminary order requiring such repairs or alterations to be made to such elevator as may be necessary to render it safe, and may order the use of such elevator discontinued until such repairs or alterations are made or such unsafe conditions are removed. Unless such preliminary order be complied with, a hearing before the commission, a commissioner or referee of such commission shall be allowed, upon request, at which the owner, operator or other person in charge of such elevator shall have opportunity to appear and show cause why he should not comply with said order. If it shall thereafter appear to the commission that such elevator is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make such elevator safe, the commission may order or confirm the withholding of the permit to operate such elevator and may make such requirements as it deems proper for its repair or alteration or for the correction of such unsafe condition. Such order may thereafter be reheard by the commission or reviewed by the courts in the manner specified by the workmen's compensation, insurance and safety act of 1917 for safety orders, and not otherwise. If the operation of such elevator during the making of repairs or alterations is not immediately dangerous to the safety of employees, the commission may, in its discretion, issue a temporary permit for the operation of such elevator for not to exceed thirty days during the making of such repairs or alterations. Nothing contained in this act shall be construed as a limitation upon the authority of the commission to prescribe or enforce general or special safety orders.

§ 4. Inspectors. Certificate of competency. The commission may, in its discretion, cause the inspection herein provided for to be made either by its safety inspectors or by any qualified elevator inspector employed by an insurance company, or may issue its permit, based upon a certificate of inspection issued by qualified elevator inspectors of any municipality, upon proof to its satisfaction that the safety requirements of such municipality are equal to the minimum safety requirements for elevators adopted by the commission; provided, that such persons making inspections shall first secure from the commission a certificate of competency to make such inspections. The commission is hereby vested with full power and authority to determine the competency of any applicant for such certificate, either by examination or by other satisfactory proof of qualifications. The commission may rescind at any time, upon good cause being shown therefor, any certificate of competency issued by it to an elevator inspector, or may at any time, upon good cause being shown therefor, and after notice and an opportunity to be heard, revoke any permit to operate such elevator. Nothing contained in this act shall be construed to limit the authority of the commission to prescribe or enforce general or special safety orders.

§ 5. Fees for inspection. The commission may fix and collect such fees for the inspection of elevators as it may deem necessary, not to exceed two dollars for each inspection or four dollars per year for each elevator. Such fees must be paid before the issuance of any permit to operate such elevator. No fee shall be charged by the commission where an inspection has been made by an inspector of any insurance company or municipality, if such inspector holds a certificate of compe-

tency from said commission. All fees collected by the commission under this act shall be paid into the accident prevention fund.

§ 6. Report of inspections. Every inspector so certified shall forward to the commission, on the forms provided by it, within twenty-one days after such inspection is made, a report of such inspection, in default of which his certificate of competency may be canceled.

TITLE 165a.

EMERYVILLE.

ACT 1028.

An act granting certain tide-lands and submerged lands of the state of California, to the city of Emeryville, and regulating the management, use and control thereof.

[Approved May 23, 1919. Stats. 1919, p. 1087.]

§ 1. Tide-lands granted to Emeryville. There is hereby granted to the city of Emeryville, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty in and to all tide-lands and submerged lands, whether filled or unfilled, which are included within the present boundaries of the city of Emeryville, to be forever held by said city and by its successors in trust for the use and purposes, and upon the express conditions following, to wit:

(a) **Use of land.** That said lands shall be used by said city and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city or its successors shall not, at any time, grant, convey, give or alien said lands or any part thereof to any individual, firm or corporation, for any purposes whatever; provided, that said city or its successors may grant franchises thereon, for limited periods, but in no event exceeding fifty years, for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, but in no event exceeding fifty years, for the purposes consistent with the trusts upon which said lands are held by the state of California, and with the requirements of commerce or navigation at said harbor.

(b) **Improvement of harbor.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California.

(c) **Rates, tolls, etc.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

(d) **Right to fish reserved to people.** There is hereby reserved, however in the people of the state of California the absolute right to fish in all the waters of said harbor, with the right of convenient access to said waters over said land for said purpose.

TITLE 167a.

ENGINEERS.

ACT 1040.

An act providing for a county engineer for each county in this state, providing for his appointment, manner of removal, qualifications, compensation and duties; transferring to such engineer certain powers, functions and duties heretofore vested in and performed by county surveyors and members of the board of supervisors; also authorizing the board of supervisors for each county to purchase and obtain all necessary equipment, materials and instrumentalities to carry out the objects of this act; to provide said county engineer with an office and necessary assistants; to provide for abolishing the office of county surveyor and for the fixing and levying of taxes for road purposes.

[Approved May 27, 1919. Stats. 1919, p. 1290. In effect July 27, 1919.]

§ 1. Appointment of county engineer. The board of supervisors of any county at their option may appoint, and upon petition therefor signed by qualified electors of the county equaling in number not less than twenty-five per cent of the total vote cast in the county for governor at the last preceding election at which a governor was elected, they must appoint a competent civil engineer who has had within five years last past, not less than one year's actual experience in practical road building as county engineer, who shall be deemed an employee and not a county officer. The county engineer shall, under the general direction and supervision of the board of supervisors and except as otherwise provided in this act, have complete direction and control over all of the construction, improvement, maintenance and repair of county roads, highways and bridges.

§ 2. Term. The county engineer shall hold his employment for the term of four years from the date of his appointment; provided, that he may be removed at any time by the board of supervisors for inefficiency, neglect of duty, malfeasance or misconduct in office, or other good cause shown, upon written charges to be filed with and heard by the board of supervisors and sustained by a three-fifths vote of said board after a hearing as herein provided. Said board is hereby vested with the power to administer oaths, compel the attendance of witnesses and the production of books, papers and testimony. A copy of such charges shall be personally served upon said county engineer and he shall be given not less than ten days' time in which to file a written answer to the charges, and if it appears to the satisfaction of such board that the charges have been substantiated, the said board shall so notify said county engineer by mail, and such notice shall specifically state the findings and judgment of said board, and the board of supervisors of such county must thereupon forthwith remove such county engineer from office and shall immediately appoint his successor in the manner provided in section two of this act. Prior to entering upon the duties of

his employment the county engineer shall file with the county clerk the oath of office as prescribed for the county officers and a bond conditioned upon the faithful performance of his duties, with sufficient sureties approved by a judge of the superior court, in the sum of five thousand dollars.

§ 3. Salary. The salary of the county engineer shall be fixed by the board of supervisors, and said salary, together with the compensation of said engineer's assistants, shall be paid monthly out of the county treasury of the county in which he is appointed and in the same manner as county officers. The county engineer shall also be allowed from the county treasury his actual traveling and other necessary expenses incurred in the performance of the duties of his employment, and shall be a charge against the general fund. The salary of the county engineer in the several counties shall be fixed by the board of supervisors of said county; provided, however, that the compensation of county engineer in any county shall be not less than the compensation received by the county surveyor of that county at the time said county engineer is first appointed.

§ 4. Ex-officio road commissioner. The county engineer shall be ex-officio road commissioner of and for each and every road district of his county, and, subject to the control and supervision of the board of supervisors as herein provided, shall have and exercise the powers and duties hereinafter set forth and specified, and such duties as may hereafter be provided by law.

§ 5. Duties. The county engineer shall:

(a) Make, or cause to be made, all surveys, maps, plans, specifications and estimates necessary or required for the construction, improvement, maintenance and repair of the county roads, highways and bridges, and shall, from and after the first Monday in September, 1919, have and exercise all the powers and duties, and perform all the functions which are now by law conferred or imposed upon county surveyors, except as herein otherwise provided.

(b) Examine and inspect, or cause to be examined and inspected, the work performed on such roads, highways and bridges, and report to the board of supervisors whether or not the work has been done in accordance with the plans and specifications and contracts therefor.

(c) Approve and certify to the progress estimates and allowances for work performed under all contracts for the construction, improvement, maintenance, or repair of county roads, highways and bridges.

(d) Inspect, or cause to be inspected, all county roads, highways and bridges within the county, and keep such roads, highways and bridges clear from obstructions, and when authorized by the board of supervisors he may employ all men, teams and equipment necessary to keep such roads in good repair when the same is not let by contract, and report to the board of supervisors with respect to such inspection and such work from time to time as said board shall require; and certify to the correctness of all pay-rolls for work done by day labor or force account on county roads, highways and bridges.

(e) Have control and management under the general supervision of the board of supervisors of all county rock quarries, oil pits and depots, gravel-pits and all materials, property, implements, instruments, tools,

machinery and other appurtenances necessary for the construction, improvement, maintenance and repair of county roads, highways and bridges, and shall be the custodian of the plans therefor.

(f) He may also hold and perform the duties of the office of county surveyor, but in all such cases no salary or other compensation shall be paid to him as county surveyor. He shall not be interested either directly or indirectly in any contracts within his jurisdiction, nor shall he be interested in the purchase of materials, supplies or equipment of any kind used in connection with the performance of his duties under the provisions of this act.

(g) Prepare annually a budget showing in detail the needs of the county for construction, improvement, maintenance or repair of county roads, highways and bridges for the ensuing year, and submit the same to the county auditor and board of supervisors at least sixty days prior to the date of the meeting at which the board of supervisors is required to fix the county tax rate and levy the county taxes.

(h) Make a written report to the board of supervisors at their first regular meeting of each month, and in it he shall state the amount and character of work done, during the preceding month, the progress of any contracts under way, approximate cost of the work and matters pertaining to the public roads, highways, streets and bridges or other public works, which, in his judgment, should be brought to their attention. This report shall contain the recommendation of acceptance or rejection of any public work completed, and all official announcements or statements which the engineer is required to make to the board. The size and form of these reports shall be uniform and upon blanks supplied by the state engineer and a copy shall be filed, one in the office of the board of supervisors and another in the office of the county engineer.

(i) On or before the first day of July of each year, file with the board of supervisors a complete report of the work of the preceding year, which report shall be in the form required and contain the information desired and requested by the state engineer and upon blank forms supplied by him. A copy of said report shall also be filed in the office of the board of supervisors.

(j) Perform such other duties pertaining to the construction, improvement, maintenance or repair of county roads, highways and bridges as the board of supervisors may prescribe.

§ 6. Employment of additional help. The board of supervisors shall provide by ordinance or resolution for the employment, when necessary, of additional field and office help by said county engineer, and shall prescribe the compensation to be paid to all persons so employed, for the time during which they may be actually engaged in the service of the county and for their actual necessary expenses incurred in the performance of their duty.

§ 7. Office accommodations. The board of supervisors shall provide and assign to the county engineer and his assistants a suitable office or offices in the courthouse, or in some place conveniently located with reference thereto with all necessary instruments, tools, implements, stationery and supplies.

§ 8. Requisition for supplies. The county engineer shall make requisition upon the board of supervisors for the purchase of all tools, imple-

ments, machinery, materials and supplies required to carry out the intent of this act, and said requisition shall state plainly the estimated cost of the article or articles to be purchased. He shall approve all claims for the same before such claims are audited and passed by the board of supervisors. He shall be the custodian and be responsible for all equipment under his control. All such property shall be stored and protected from the weather when not in use. An inventory of all property in his custody shall be made annually and kept on file in the office of the county engineer.

§ 9. Certificate of approval of contract work. Upon the completion of work done for the county on its roads, highways, streets, bridges and aqueducts, or in connection with the same, the county engineer must examine the same and if completed in accordance with the specifications thereof, he must submit to the board of supervisors a certificate over his signature and official seal to the effect that such work by the contractors thereof has been completed in accordance with the specifications thereof and recommending its acceptance. The board shall thereupon audit the same and direct its payment out of the proper fund or funds.

§ 10. Purchase of material from state. Whenever the state department of engineering has authority to sell equipment, materials or supplies for road building, repairs or maintenance and a saving may be made to a county by purchasing from said department, the board of supervisors upon the recommendation of the county engineer may purchase such equipment, materials or supplies from the state.

§ 11. County surveyor replaced by county engineer. The office of county surveyor of any county shall be and is hereby abolished upon the occurrence of any of the following conditions:

(a) Upon the appointment as county engineer of the person who holds the office of county surveyor at the time such appointment is made and the acceptance of such appointment by the county surveyor; or

(b) In other cases, upon the expiration of the term of the person who holds the office of county surveyor at the time the appointment of county engineer is made; provided, that if such appointment is made within six months of the expiration of the then current term of county surveyor, the office of surveyor in such county shall be and is hereby abolished upon the expiration of the next succeeding term.

§ 12. Does not limit powers of supervisors. Nothing herein contained shall be held, deemed or construed to prevent members of boards of supervisors from visiting and inspecting work in progress within the county or from receiving for such services the mileage now allowed by law.

§ 13. Title. This act shall be known as and when cited or amended may be designated as "the county engineer act."

TITLE 172.

ESTRAYS.

ACT 1071.

An act concerning trespassing of animals upon private lands in certain counties in the state of California.

[Approved March 7, 1878. Stats. 1877-78, p. 176.]

Amended 1877-78, p. 878; 1919, p. 524; Supp. 1907, p. 300.

The amendment of 1919 is as follows:

§ 16. Trespassing of animals upon private lands in certain counties. This act shall apply to all of that part of the county of San Bernardino, not embraced within the boundaries of the Angeles national forest, and lying south of a line drawn due east and west from the Colorado river to the western boundary line of said county, on the township line between townships two and three north, of San Bernardino base line, and shall also apply to Alpine county, and to all that portion of Salmon Falls township, in El Dorado county, lying south of the south fork of the American river, and to the counties of Colusa, and to that portion of Tehama county lying west of the Sacramento river and south of Red Bank creek, and to the counties of Humboldt, Merced, Solano, Santa Barbara, San Joaquin, San Luis Obispo, Sacramento and Los Angeles, and also to the townships of White Oak and Mud Springs, in the county of El Dorado. [Amendment approved May 11, 1919; Stats. 1919, p. 524.]

ACT 1074.

An act relating to estrays, providing for taking them up and giving a lien on them for damages, costs, and expenses incurred by reason of taking them up.

[Approved May 25, 1919. Stats. 1919, p. 1150.]

§ 1. Estray domestic animals may be taken up. Any person finding at any time any estray domestic animal or animals upon his premises, or upon premises to which he has the right of possession, may take up the same and have a lien thereon for all expenses incurred and costs in keeping and caring for said animal or animals, as hereinafter provided; and no person shall remove them from the possession of the taker-up, or from the possession of the officer to whom they may have been delivered, except as hereinafter provided.

§ 2. "Premises." Substantial fence defined. Whenever the term "premises" is used in this act, it shall be construed to mean land entirely inclosed with a good and substantial fence, and none of the provisions of this act shall apply to any unfenced lands. No wire fence shall be deemed a good and substantial fence within the meaning of this act unless the same has three tightly stretched barbed wires securely fastened to posts of reasonable strength, firmly set in the ground not more than one rod apart, one of which wires shall be at least four feet above the surface of the ground; provided, however, that any kind of wire or other fence of height, strength and capacity, equal to or greater than the wire fence herein described shall also be deemed a good and substantial fence within the meaning of this act.

§ 3. Enforcement of lien. Any such lien shall be enforced in the manner prescribed by the provisions of sections two to nine inclusive of the act entitled "An act relating to estrays, providing for taking them up and giving a lien on them for all damages, costs, and expenses incurred by reason of taking them up, and repealing all other acts and parts of acts now in force relating to estrays," approved March 23, 1901, as amended, which sections are incorporated herein and made a part hereof.

§ 4. Election in supervisorial district to make act operative. The provisions of this act shall not become operative or effective in any

supervisory district until, at a general election or at a special election called for that purpose by the board of supervisors, the electors of the district shall have declared by a majority vote in favor thereof. The form of the ballot shall be substantially as follows:

Shall the provisions of this act become effective?	YES	
	NO	

To vote for making effective the provisions of this act, electors shall stamp a cross in the square opposite the word "Yes" on the ballot. To vote against making effective the provisions of this act, electors shall stamp a cross in the square opposite the word "No." Such an election shall be conducted and the ballots cast thereat, counted, canvassed and returned as in the case of the election of a member of the county board of supervisors.

§ 5. Exceptions. Except in such districts as shall hereafter elect to accept the provisions of this act by the method set forth in section four hereof, none of the provisions of any act of this state relative to or affecting estrays shall be repealed, modified or effected hereby.

§ 6. Counties excepted. None of the provisions of the act shall apply to the counties of Del Norte, Lassen, Modoc, Shasta, Siskiyou or Trinity.

§ 7. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 174.

EUREKA.

ACT 1083.

Charter of Eureka. [Stats. 1895, p. 356.]

Amended 1907, p. 1172; 1911, p. 2036; 1913, p. 1544; 1917, p. 1742.

TITLE 175.

EXPLOSIVES.

ACT 1092.

An act relating to explosives and prescribing regulations for the transportation, storage and selling of explosives, and providing penalties for the violation of this act.

[Became a law under constitutional provision without governor's approval, March 21, 1911. Stats. 1911, p. 391.]

Amended 1917, p. 695; 1919, p. 148.

The amendments of 1917 and 1919 follow:

§ 3. Magazine. Magazines in which explosives may lawfully be stored or kept shall be two classes, as follows:

(a) **First class.** Magazines of the first class shall consist of those containing explosives exceeding one hundred pounds, and shall be constructed wholly of brick, wood covered with iron, or other fireproof material, and must be fireproof, and, except magazines where gunpowder or black blasting powder only is stored must be bullet proof, and shall have no openings except for ventilation and entrance. The doors of such magazines must be fireproof and bullet proof, and at all times kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks or fire through the same. Upon each side of such magazine there shall at all times be kept conspicuously posted a sign, with the words, "magazine," "explosives," "dangerous," legibly printed thereon in letters not less than six inches high. No matches, fire or lighting device of any kind except electric light shall at any time be permitted in any such magazines. No package of explosives shall at any time be opened in any magazine. No blasting caps, or other detonating or fulminating caps, or detonators, or electric fuzes, shall be kept or stored in any magazine in which explosives are kept or stored, but such caps, detonators or fuzes may be kept or stored in a magazine constructed as above provided which must be located at least one hundred feet from any magazine in which explosives are kept or stored. Magazines in which explosives are kept or stored must be detached and must be located at least one hundred feet from any other structure.

(b) **Quantity depends on distance from buildings, etc.** On and after January 1, 1919, the quantity of explosives that may be lawfully had, kept or stored in any magazine shall depend upon the distance that such magazine is situated from buildings, highways, or railroads, and upon the protection afforded by natural or efficient artificial barricades to such buildings, highways or railroads. Whenever any of the quantities given in column one of the quantity and distance table herein-after set forth is had, kept or stored in any magazine in this state, the distance that any quantity given in column one of said table may be lawfully had, kept or stored from buildings is the distance set opposite said quantity in column two of said table, and the distance that any quantity in column one of said table, may be lawfully had, kept or stored from railroads is the distance set opposite said quantity in column three of said table, and the distance that any quantity given in column one of said table may be lawfully had, kept or stored from highways is the distance set opposite said quantity in column four of said table. The quantity and distance table governing the keeping or storing of explosives is as follows:

QUANTITY AND DISTANCE TABLE.

Column 1. Quantity that may be lawfully kept or stored from nearest building, highway or railroad				Column 2	Column 3	Column 4
Blasting caps		Other explosives		Distance from nearest building, feet	Distance from nearest railroad, feet	Distance from nearest highway, feet
Number over	Number not over	Pounds over	Pounds not over			
1,000	5,000	.....	.....	30	20	10
5,000	10,000	.....	.....	60	40	20
10,000	20,000	.....	.....	120	70	35
20,000	25,000	.....	50	145	90	45
25,000	50,000	50	100	240	140	70
50,000	100,000	100	200	360	220	110
100,000	150,000	200	300	520	310	150
150,000	200,000	300	400	640	380	190
200,000	250,000	400	500	720	430	220
250,000	300,000	500	600	800	480	240
300,000	350,000	600	700	860	520	260
350,000	400,000	700	800	920	550	280
400,000	450,000	800	900	980	590	300
450,000	500,000	900	1,000	1,020	610	310
500,000	750,000	1,000	1,500	1,060	640	320
750,000	1,000,000	1,500	2,000	1,200	720	360
1,000,000	1,500,000	2,000	3,000	1,300	780	390
1,500,000	2,000,000	3,000	4,000	1,420	850	420
2,000,000	2,500,000	4,000	5,000	1,500	900	450
		5,000	6,000	1,560	940	470
		6,000	7,000	1,610	970	490
		7,000	8,000	1,660	1,000	500
		8,000	9,000	1,700	1,020	510
		9,000	10,000	1,740	1,040	520
		10,000	20,000	1,780	1,070	530
		20,000	30,000	2,110	1,270	630
		30,000	40,000	2,410	1,450	720
		40,000	50,000	2,680	1,610	800
		50,000	60,000	2,920	1,750	880
		60,000	70,000	3,130	1,880	940
		70,000	80,000	3,310	1,990	1,000
		80,000	90,000	3,460	2,080	1,040
		90,000	100,000	3,580	2,150	1,080
		100,000	200,000	3,800	2,280	1,140
		200,000	300,000	4,310	2,590	1,300

Whenever the building, railroad or highway to be protected is effectually screened from the magazine, where explosives are had, kept or stored, either by natural features of the ground or by an efficient artificial barricade of such height that any straight line drawn from the top of any side wall of the magazine to any part of the building to be protected, will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the magazine to any point twelve feet above the center of the railroad or highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distances given in

column two, three and four of the quantity and distance table may be reduced one-half.

Whenever the building, railroad or highway to be protected is effectually screened from the magazine, where explosives are had, kept or stored by a natural barrier which, at any one point thereon, is forty feet or more in height above a straight line drawn from the top of any side wall of the magazine to any part of the building to be protected or to any point twelve feet above the center of the railroad or highway to be protected, which natural barrier has a natural thickness of not less than two hundred feet where the same is intersected by the straight line drawn as aforesaid then, the quantity and distance table shall not be applicable to such magazine.

If at any time the distances from a magazine to a building, highway or railroad be decreased through the construction of a new building, highway or railroad or by any other means, then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to correspond with the quantity and distance table; provided, in the case of a new building, that the same is constructed in good faith for any of the purposes specified in the following paragraph, and not with intent to annoy, harass, oppress or hinder the owner of said magazine.

The term "building" when used in the foregoing table shall be held to mean and include only any building regularly occupied in whole or in part as a habitation for human beings, and any store, church, school-house, railway station or other public place of assembly.

The term "highway" when used in the foregoing table shall be held to mean public streets or public roads, and shall not include roads constructed and maintained by private persons.

The term "railroad" when used in the foregoing table shall be held to mean and include any steam, electric or other railroad that carries passengers or articles of commerce for hire.

The term "efficient artificial barricade" when used in the foregoing shall be held to mean an artificial mound or properly revetted wall of earth of a thickness of not less than three feet. The provisions of this subsection (b) shall not apply to mining or quarrying operations. Nothing contained in this subsection (b) shall be held to prohibit the keeping or storing of explosives at any explosive manufacturing plant which was actually used in manufacturing explosives prior to the fifteenth day of April, 1917.

(c) **Magazines of second class. Storage in tunnels.** Magazines of the second class shall consist of a stout box, and not more than one hundred pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign with the words, "magazine," "explosives," "dangerous," legibly printed thereon.

Nothing in this section contained shall be held to prohibit the keeping or storing of explosives in any tunnel, where no person or persons are employed; provided, always, that any tunnel so used for the storage of explosives shall have fireproof doors, which must at all times be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons law-

fully entitled to enter the same. The door of such tunnel magazine shall at all times have legibly printed thereon the words, "magazine," "explosives," "dangerous."

§ 2. Repealed. All acts or parts of acts in conflict herewith are hereby repealed. [Amendment approved May 2, 1919; Stats. 1919, p. 148.]

This section was also amended in 1917. See Stats. 1917, p. 695.

§ 11. Explosives in mines. [Repealed May 18, 1917; Stats. 1917, p. 698.]

TITLE 176.

EXPOSITIONS.

ACT 1093a.

An act giving and granting to the board of park commissioners of the city of San Diego the right to use and the right to authorize the use of Balboa Park in said city for exposition purposes.

[Approved March 24, 1911. Stats. 1911, p. 478.]

Amended 1916, Stats. 1916 (Extra Session), p. 43; 1917, Stats. 1917, p. 1.

The amendment of 1917 follows:

§ 1. Use of San Diego park for exposition. The board of park commissioners of the city of San Diego, California, is hereby authorized and empowered to use, or authorize any exposition company to use, any part or portion of the lands set aside as a public park by resolution of the board of trustees of the city of San Diego and approved and ratified by an act of the legislature of the state of California, approved February 4, 1870, for the purpose of giving an exposition in the year 1917 to celebrate the completion of the Panama canal. [Amendment approved January 19, 1917; Stats. 1917, p. 1. Section 1 was also amended at the Extra Session of 1916; Stats. 1916 (Extra Session), p. 43.]

§ 2. Emergency measure. This act is hereby declared to be an emergency measure within the meaning of section one, article four, of the constitution of the state of California, and shall take effect immediately.

The facts constituting such emergency are as follows: The directors of the Panama-California International Exposition and the members of the board of park commissioners of the city of San Diego are desirous of continuing the Panama-California International Exposition, situated in the city park of San Diego, for a further period of time, not to exceed one year. A large amount of money has been expended in the permanent improvement of the exposition site in the park, and many of the buildings contain exhibits that cannot be removed for some time. Therefore, it is necessary for legislative action immediately, in order to authorize the maintenance of such an exposition for the further period of time—the authorization of the state of California for the maintenance of said exposition having expired on the first day of January, 1917.

TITLE 181.

FEES.

ACT 1119.

To regulate fees and salaries of certain officers.

[Stats. 1869-70, p. 148.]

Amended 1869-70, pp. 677, 680; 1871-72, pp. 140, 178, 188, 219, 910; 1873-74, pp. 102, 204, 212, 885; 1877-78, pp. 134, 738; 1917, p. 788.

The amendment of 1917 follows:

§ 28. Fees of grand and trial jurors. Grand and trial jurors shall receive the fees as established by law. No juror who shall be excused from attendance upon his own motion, on the first day of his appearance, in obedience to the venire, shall receive per diem, but mileage only. In civil actions tried by a jury the party or parties to the action who shall announce that a trial by jury is required shall pay the trial jury their per diem fees as jurors but shall recover the fees so paid, except in actions to recover the possession of personal property where the value of the property recovered amounts to less than three hundred dollars and in actions for the recovery of money or damages where the recovery is less than three hundred dollars, as costs from the party or parties against whom the verdict is rendered. For that purpose the party or parties to the action who shall announce that a trial by jury is required shall be required during the trial to deposit daily with the clerk of the court, at or before the time the case each day is called for trial, the amount of money necessary to pay in full the trial jury fees, for such day. Out of the total sum of money so deposited the clerk shall pay daily to each trial juror the fees to which he shall be entitled as provided by law. Clerks of courts of record shall keep an account of all moneys received for trials by each juror during the term, and if the sum so received by such juror shall not amount to the jury fees provided by law per day, he shall deliver to such juror a certificate of the time for which he is entitled to receive pay, which shall be paid out of the county treasury as other county dues. If in any trial in a civil case the jury be for any cause discharged without finding a verdict, the fees of the jury shall be paid by the party who shall have announced that a trial by jury is required, but may be recovered as costs if he afterwards obtain judgment; and until they are paid no further proceedings shall be allowed in the action. On the first day of each regular meeting of the board of supervisors the clerks of courts of record shall file with the clerk of the board of supervisors of their respective counties a detailed statement, containing a list of the jurors, and the amount of fees earned by each juror and paid out of the county treasury. No allowances shall be made to any clerk for any service performed by him, until the statement required by this section shall have been filed as aforesaid.

The amendatory act of 1917 contained the following provision:

§ 2. All acts and parts of acts in conflict with this act are hereby repealed. [Amendment approved May 21, 1917; Stats. 1917, p. 788.]

TITLE 182.**FELTON.****ACT 1129.**

An act to incorporate the town of Felton in the county of Santa Cruz, state of California. [Approved March 8, 1878. Stats. 1877–78, p. 185.]

Repealed by act approved April 20, 1917; Stats. 1917, p. 151.

TITLE 188.**FIRE.****ACT 1171.**

An act to provide for the fighting of forest fires in the San Dimas canyon in the San Gabriel mountains, California, and to make an appropriation therefor. [Approved May 14, 1917. Stats. 1917, p. 476. In effect July 27, 1917.]

ACT 1171a.

An act to provide for the prevention of forest fires in the San Antonio canyon in the San Gabriel mountains, California, and to make an appropriation therefor. [Approved May 22, 1919. Stats. 1919, p. 818. In effect July 22, 1919.]

The act appropriated five thousand dollars for the purpose indicated.

ACT 1172.

An act to provide for the prevention of forest fires in the San Antonio canyon in the San Gabriel mountains, California, and to make an appropriation therefor. [Approved May 14, 1917. Stats. 1917, p. 526. In effect July 27, 1917.]

TITLE 189.**FIRE DEPARTMENT.****ACT 1173.**

An act to create a firemen's relief, health, and life insurance and pension fund in the several counties, cities and counties, cities, and towns of the state.

[Approved March 20, 1905. Stats. 1905, p. 412.]

Amended 1913, p. 690; 1917, p. 119.

The amendment of 1917 follows:

§ 12. Moneys to be paid into firemen's pension fund. The board of supervisors, or other governing authority, of any county, city and county, city or town, shall, for the purposes of said "firemen's relief and pension fund," hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund, of the following moneys:

First—All rewards given or paid to members of such firemen's force.

Second—All fines imposed upon members of such fire department in keeping with rules and regulations of the department.

Third—An amount equal to two per cent of the salaries paid to the firemen of such county, city and county, city or town during the preceding year, payable from the funds of such municipal corporation.

Fourth—One-half of all fines imposed and collected for violation of laws pertaining to precaution against fire. [Amendment approved April 14, 1917; Stats. 1917, p. 119.]

ACT 1174.

An act to allow unincorporated towns and villages to equip and maintain a fire department, and to assess and collect taxes, from time to time, for such purpose, and to create a board of fire commissioners.

[Approved March 4, 1881. Stats. 1881, p. 26.]

Amended 1899, p. 69; 1909, p. 1028; 1919, p. 7.

The amendment of 1919 follows:

§ 3½. Purchase of land as site for firehouse. Special election. Sale of land purchased as site for firehouse. The board of fire commissioners so appointed by said board of supervisors, and their successors, are further authorized and empowered, in their discretion, to purchase or otherwise acquire land and to erect thereon a firehouse for purposes of housing the fire equipment and fire apparatus, or to purchase or otherwise acquire land already improved with a building thereon suitable for housing said equipment and apparatus, and to pay for said land, improved or unimproved, as the case may be out of the annual tax provided for under section nine of this act, or by special tax to be voted by the voters within the fire limits in the manner provided for by section fifteen of this act. Said board of fire commissioners may furthermore in their discretion submit to the qualified electors within said fire limits at a special election for that purpose, or at the annual election provided for in section seventeen of this act, the proposition whether or not land shall be purchased or otherwise acquired and a firehouse built thereon, or the proposition of whether or not land with a firehouse already thereon shall be purchased or otherwise acquired, or both of said propositions, and in event of such submission the vote registered for or against the proposition or propositions so made to the voters shall be binding upon said board of fire commissioners. Said board of fire commissioners are further hereby empowered to sell or otherwise dispose of any such land, improved or unimproved, as the case may be, theretofore by them or by their predecessors acquired for firehouse purposes; provided, however, that if the same shall have been originally acquired pursuant to the vote of the electors within the fire limits, as herein permitted, then the same shall not be sold excepting by like vote of the electors within said limits. The proceeds derived from the sale of any such land or improvements thereon shall be exclusively devoted to the purchase of other land or other improvements. All real property acquired under the provisions of this section shall be conveyed to, and held in the name of, the "board of fire commissioners of the unincorporated town (or village) of —" (naming said town or village). [New section added March 26, 1919; Stats. 1919, p. 8.]

§ 17. Annual elections. An election shall be held on the first Monday of April subsequent to the appointment of the fire commissioners by

the board of supervisors for the election of three fire commissioners who shall take office on the next succeeding Monday of the same month. Said commissioners shall at their first meeting so classify themselves by lot that one of their number shall go out of office on the second Monday of April of the year next succeeding said first election, one thereof on the second Monday of April of the second year succeeding, and one thereof on the second Monday of April of the third year succeeding. On the first Monday of April of the year next succeeding said first election and on the first Monday of April of every year thereafter, an election shall be held for the election of one fire commissioner, who shall take office on the next succeeding Monday in the same month and shall hold office for the term of three years, or until his successor is elected and qualified; provided, that as to fire districts heretofore created under this act, the commissioners of which were elected prior to the date this amendment becomes operative, said commissioners at their first meeting after said amendment becomes operative shall classify themselves by lot so that one of their number shall go out of office on the second Monday of April of the year next succeeding, one thereof on the second Monday of April of the second year succeeding, and one thereof on the second Monday of April of the third year succeeding. Notice of such elections shall be given by the board of fire commissioners by posting in three public places within the fire limits for at least two weeks before the day of election. They shall also appoint the judges of election. The elections shall be conducted in accordance with the provisions of the general election laws of the state of California, excepting as in this act provided to the contrary. [Amendment added March 26, 1919; Stats. 1919, p. 7.]

§ 21. Regulation of chimneys, etc. The said board of fire commissioners may regulate the construction of, and order the suspension, discontinuance, removal, repair, or cleaning of, fireplaces, chimneys, stove and stovepipes, flues, ovens, boilers, kettles, forges or any apparatus used in any building, manufactory, or business, which may be dangerous in causing or promoting fires, and prescribe limits within which no dangerous nor obnoxious and offensive business may be carried on, and they may order the clearing of land or the removal therefrom of dry grass, stubble, brush, rubbish, litter, or other inflammable material, if, in their judgment, said inflammable material endangers the public safety by creating a fire hazard. [Amendment approved March 26, 1919; Stats. 1919, p. 9.]

TITLE 190.

FIRE DISTRICTS.

ACT 1185.

An act to provide for the formation, government, operation and dissolution of Tamalpais forest fire district, to prevent and extinguish forest, brush and grass fires therein, and protect persons and property from injury, loss or damage resulting from any such fires; and to provide for the assesment, levy, collection and disbursement of taxes and revenues therein, and the contribution or payment of public funds therefor.

[Approved May 21, 1917. Stats. 1917, p. 774. In effect July 27, 1917.]

§ 1. "Tamalpais forest fire district" organized. There is hereby organized, created, established and incorporated a forest fire district within the county of Marin, to be known as "Tamalpais forest fire district," the boundaries of which are hereby established, described and determined as follows, to wit: Commencing at the point where the electric pole line of the Pacific Gas and Electric Company running from the Alto power-house to Bolinas first joins the state highway between the town of Mill Valley and Alto; running thence along the line of said pole line, southerly, south-westerly, and westerly across the Rancho Saucelito and the Rancho Las Baulinas until the said pole line crosses the county road along the easterly side of Bolinas inner bay or lagoon; running thence north-westerly along said county road to its intersection with the lower county road leading from Bolinas to Olema; running thence northwesterly along said Bolinas and Olema county road to its intersection with the Tocaloma road at the village of Olema; running thence easterly along said county road leading to Tocaloma to its intersection with the county road running along the easterly bank of Paper Mill creek; running thence north-erly and easterly along said county road running along the easterly bank of Paper Mill creek to the mouth of Nicasio creek; running thence up the county road running up Nicasio creek, in an easterly and southerly direction, through the village of Nicasio to the intersection of the Nicasio and San Geronimo county road with the Lucas Valley county road; thence easterly along said Lucas Valley county road to its inter-section with the state highway at Las Gallinas; thence southerly along the state highway as at present laid out to the northerly corporate limits of the city of San Rafael; thence westerly along said northerly corporate limits of said city of San Rafael to the easterly corporate limits of the town of San Anselmo; thence southerly along the easterly corporate limits of the town of San Anselmo to the easterly corporate limits of the town of Ross; thence southerly along the easterly corporate limits of the town of Ross and westerly along the southerly corporate limits of the town of Ross to the intersection thereof with the state highway; thence southerly along the state highway to the northwesterly corporate limits of the town of Larkspur; thence northerly, easterly and southerly, along the corporate limits of the town of Larkspur to their intersection with the northerly corporate limits of the town of Corte Madera; thence easterly, southerly and westerly along the corporate limits of the town of Corte Madera to their intersection with the state highway; and thence southerly along the state highway to the point of beginning.

§ 2. Appointment of board of trustees. Term. Within thirty days after this act shall go into effect, a governing board of trustees for said district shall be appointed. Said board shall consist of one trustee to be appointed from said district at large by the board of supervisors of said county of Marin, and of one trustee to be appointed from each municipal-ity lying wholly or partially within said district by the governing board of such municipality. The governing board of such district shall be called "the board of trustees of Tamalpais forest fire district." Each trustee appointed by a municipal board shall be an elector of the municip-ality from which he is appointed, and each appointee of the board of supervisors shall be an elector of the district. All such trustees shall hold office for the term of two years from and after the second day of the calendar year succeeding their appointment; provided, however, that

the first board of trustees appointed under the provisions of this act shall, at their first meeting, so classify themselves by lot that one-half of their number, if the total membership is an even number, and if uneven then that a majority of their number, shall go out of office at the expiration of one year and the remainder at the expiration of two years, from the second day of the calendar year succeeding their appointment.

§ 3. Officers. Expenses. Meetings. The members of the board of trustees shall meet on the first Monday subsequent to thirty days after this act shall go into effect and shall organize by the election of one of their members as president and one thereof as secretary. The members of the board shall serve without compensation provided that the necessary expenses of each member for actual traveling expenses on meetings or business connected with said board shall be allowed and paid. In event of the resignation, death or disability of any member, his successor shall be appointed by the board of supervisors, if such board originally made such appointment, or by the governing board of the appropriate municipality, if such appointment were originally made by the board of a municipality. The board of trustees shall provide for the time and place of holding its regular meetings, and the manner of calling the same, and shall establish rules for its proceedings. Special meetings may be called by three trustees and notice of the holding thereof shall be given to each member at least three hours before the meeting. All sessions, whether regular or special, shall be open to the public and a majority of the members of the board shall constitute a quorum for the transaction of business.

§ 4. Powers of board of trustees. The board of trustees of such district shall have power to take all necessary or proper steps for the prevention or extinguishing of forest, brush or grass fires within the district, and for the protection of persons or property from any injury, loss or damage resulting from any such fire or fires; to purchase such supplies and materials and to employ such labor or skilled services as may be necessary or proper in furtherance of the objects of this act, and if necessary or proper in the furtherance of the same to build, construct and thereafter to keep clear and maintain necessary fire roads or fire trails, hydrants or other fire-fighting apparatus upon the lands within the district or adjacent thereto, and to acquire by purchase, condemnation, license or other lawful means, in the name of the district, all necessary lands, rights of way, easements or property or material requisite or necessary for any of such purposes; to make contracts, to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of such property for any such purposes, and generally to do any and all things necessary or incident to the powers hereby granted and to carry out the objects specified herein.

§ 5. Estimate of money needed. "Tamalpais forest fire district tax." Levy and collection. The board of trustees of said district shall at least fifteen days before the first day of the month in which the board of supervisors of Marin county is required by law to levy the amount of taxes required for county purposes, furnish to said board of supervisors and to the county auditor of said county, respectively, an estimate in writing of the amount of money necessary for all purposes required under

the provisions of this act during the next ensuing fiscal year. The board of supervisors of such county shall thereafter at the time and in the manner of levying other county taxes levy upon all of the taxable property within the district and cause to be collected a tax, to be known as the "Tamalpais forest fire district tax," the maximum rate of which must not be greater than sufficient to raise the amount estimated to be raised by the said board of trustees of the district, nor in any event shall such tax exceed ten cents on each one hundred dollars of taxable property in such district.

All taxes levied under the provisions of this section shall be computed and entered on the county assessment-roll of said county by the county auditor thereof, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury of said county for the use of said district.

The funds shall be withdrawn from said county treasury upon the warrant of the board of trustees of such district signed by the president or acting president of the board, and countersigned by its secretary.

§ 6. Proposal of amount to be paid toward expenses by state, etc. Governing board authorized to make proposal. The board of trustees of such forest fire district prior to its estimate of the amount of money necessary for all purposes of the district for the ensuing fiscal year, as hereinabove provided, may request from the governing board or body having jurisdiction and control over any forest, brush or grass lands within such district owned or held for any purpose whatsoever by the state of California, or any county, city, township, municipal corporation, public corporation, or other political corporation or subdivision of the state, a proposal or promise as to what amount, if any, the state of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state owning or holding such lands, will agree to pay to such district towards its necessary expenses for the next ensuing fiscal year, or such proposal may be for the next two ensuing fiscal years in the event that such lands shall be under the control of the state of California, in consideration of said district taking over the supervision and concurrent control, as hereinafter set forth, of such lands so owned or held, only, however, in so far as is necessary or proper to prevent or extinguish forest, brush or grass fires thereon or within such district, or to protect persons or property from any injury, loss or damage resulting from any such fire, and said governing body having jurisdiction and control over such lands is hereby authorized and empowered, for the consideration aforesaid, to propose or promise, as aforesaid, and so obligate the state of California or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state owning or holding such lands respectively, to such district upon its board of trustees accepting such proposal for such purpose, whereupon such agreement shall be duly executed in the form of a contract, and such district shall thereupon take over the supervision and control of the prevention and extinguishing of forest, brush or grass fires upon such lands in the manner aforesaid for the next ensuing fiscal year, or for the life of such contract.

§ 7. Annexation of territory. Petition. Proposition submitted to electors. If majority vote favors. Territory deemed added when. Ex-

clusion of land. Petition. Hearing. Notice. Deemed excluded when. Any territory, incorporated or unincorporated, lying adjacent and contiguous to said forest fire district, and within the same county therewith, may be added and annexed to such district, at any time, upon proceedings being had and taken as in this act provided; and any territory, incorporated or unincorporated, lying within said district, may be withdrawn and excluded therefrom upon proceedings being had and taken as in this act provided. The board of trustees of such district upon receiving a written petition containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment-roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "for annexation," or "against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district, and also in a newspaper, if any, printed and published in such territory so proposed to be annexed. The board of trustees, shall canvass, separately, the votes cast within said district, and the votes cast within said territory so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the secretary of state describing said property proposed to be annexed and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the Tamalpais forest fire district and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the territory named therein shall be deemed added and annexed to and form a part of said forest fire district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed is included within a municipality, consent to such annexation shall first be obtained from the governing board of such municipality, and an authenticated copy of the resolution or order of such board so consenting to such annexation, shall be attached to the petition, and be made a part thereof. At any time after the organization of said forest fire district, and the appointment of the board of trustees thereof, the owner or owners of the record title to any land or lands within said district may file a petition with the board of supervisors of the county praying that his or their lands be excluded from the district; provided, that no petition shall be presented or received for the exclusion of lands which, either by themselves, or together with other lands included in the same petition, do not lie adjacent to the exterior boundaries of said forest fire district. At its first regular meeting after the filing of such petition the board of supervisors shall, by its order, set said petition for hearing, which hearing shall not be more than forty days nor less than

ten days from the date of its said order. Notice of such hearing shall be mailed to the petitioners, and to the members of the board of trustees of the forest fire district at least one week before the hearing. At such hearing, or at any continuation thereof, the board of supervisors shall hear and determine the facts urged for or against said petition, and shall make a finding determining whether or not the said lands petitioned to be withdrawn, or any part thereof, shall be withdrawn from the district. In case such finding shall be in favor of excluding such lands, or any portion thereof from the district, the board of supervisors shall make its order certifying such fact to the secretary of state, describing said property proposed to be excluded by said findings, and upon receipt of such last mentioned certificate, the secretary of state shall issue his certificate reciting that the territory (describing the same) has been excluded from the Tamalpais forest fire district, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of the county of Marin. From and after the date of such certificate, the territory described therein shall be deemed excluded from said forest fire district.

§ 8. Dissolution of district. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called either by its board of trustees or by petition signed by twenty-five per cent of the registered voters within the district upon the question of dissolution, and the proposition which shall be submitted to the electors at such election shall be as follows: "Shall the district be dissolved?" Such election must be called and held; and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district. If two-thirds of the votes at such election shall be in favor of the dissolution of the district, the board of trustees shall certify such fact to the secretary of state, and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that said forest fire district has been dissolved, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the district named therein shall be deemed dissolved, and the property of the district shall thereupon vest in the county wherein said district is situate, if the district at the time of its dissolution comprises unincorporated territory alone, and if it comprises incorporated territory alone, or partly incorporated and partly unincorporated territory, then in such event its property shall be ratably apportioned amongst the several municipalities and the county in proportion to the assessed value of the property included within said district as shown upon the last county assessment-roll; provided, however, that any real property, easements or rights of way belonging to said district shall in such event remain the property of the municipality wherein the same is situate, if situated within incorporated territory, otherwise the same shall remain the property of the county.

§ 9. Publication of notices. Words defined. Every notice herein required to be published may be published in a daily or weekly or semi-weekly newspaper; and if there is no daily, or weekly or semi-weekly newspaper published within the district or within a subdivision thereof or other territory wherein the same is required to be published, then

such notice shall be posted for the length of time herein required for the publication of the same in three public places of such district or such subdivision thereof or such other territory as the case may be. The term "municipality," as used in this act, shall include a city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes. The words "district" shall apply, unless otherwise expressed or used, to said forest fire district formed under the provisions of this act, and the word "trustees," and the words "board of trustees," shall apply to the trustees and to the board of trustees of such district.

§ 10. Provision optional and permissive. The provision herein contained for the entering into proposals and contracts with said forest fire district by the state of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of this state, is hereby declared to be optional and permissive and no further authority of law shall be required for such proposals or contracts than that herein contained, and no further authority of law shall be required than that contained in this act for the levy of taxes by boards of supervisors for the purposes herein specified, and no further authority shall be required by law for the bringing of actions in eminent domain, for the acquiring by said forest fire district of rights of way for fire roads or trails, and easements to cut timber, brush or grass thereon, and to maintain the same, than the authority contained in this act.

§ 11. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 195.

FOODS.

ACT 1206.

An act providing for the inspection of animals slaughtered for human food, providing for the inspection of the meat and meat food products of such animals, providing for the collection of fees to defray the expenses incurred by maintaining such inspection, providing for the appointment and duties of officials to carry into effect the provisions of this act, providing for the marking of carcasses and parts thereof, and providing a penalty for violation thereof.

[Approved May 11, 1917. Stats. 1917, p. 423. In effect July 27, 1917.]

§ 1. Inspection of slaughtering establishments by state veterinarian. Any person, firm or corporation in the state of California, engaged in the slaughtering of cattle, sheep, swine, or goats, desiring to have the healthfulness of the meat and meat food products of such animals certified to, may make application for the inauguration of an inspection service in such establishment. Said application shall be in writing

addressed to the state veterinarian of California, and shall be made on blanks which will be furnished by said state veterinarian. In such application such applicant for inspection shall agree to comply with the provisions of this act and to maintain said establishment in a clean and sanitary manner. Upon receipt of said application the state veterinarian shall make an inspection of said establishment and if found clean and sanitary, and properly equipped to conduct its business in a clean and sanitary manner, he shall inaugurate an inspection service therein, and shall give to such establishment an official number, and this number shall be used to mark the meat and meat food products of the establishment as hereinafter provided. Such an establishment shall thereafter be known as "Official Establishment No. —."

§ 2. Fees. The cost of such inspection service shall be borne by the establishment where it is maintained and shall be paid for in the following manner: When, in the opinion of the state veterinarian, the volume of business is sufficient to occupy the continuous services of one inspector, such establishment shall pay a fee of one hundred fifty dollars per month. When, in the opinion of the state veterinarian, the services of more than one inspector are required to properly carry on the work, the fee in such cases shall be one hundred fifty dollars per month for the first inspector, and one hundred twenty-five dollars per month for each additional inspector. When, in the opinion of the state veterinarian, the inspection work in two or more neighboring establishments can be properly supervised by one inspector, said state veterinarian may, in such cases, probate the fees among such establishments, but in no instance where only one inspector is employed to supervise the work in more than one establishment shall the aggregate fees be less than one hundred fifty dollars per month, and in no such instance shall the individual fees be less than fifty dollars per month. All such fees shall be paid during the first week of January, April, July and October of each year and they shall be paid in advance for the ensuing three months. Such fees shall be paid to the state veterinarian, who shall at least as often as once each month and oftener if required to do so, report to the state controller the total amount of fees collected, and at the same time he shall pay into the state treasury the entire amount of said receipts. All such receipts shall be credited to the meat hygiene fund, which fund is hereby created, out of which shall be paid the salaries of inspectors who are appointed in accordance with the provisions of this act, as well as other expenses that may be incurred incidental thereto. In no instance, however, shall any of the fees collected as provided herein be refunded. The state veterinarian is hereby authorized to appoint such inspectors as may be necessary to carry out the provisions of this act.

§ 3. Hours for slaughtering. All slaughtering in each official establishment shall be conducted between the hours of seven o'clock A. M. and seven o'clock P. M. of any one week day, unless a special permit in writing or by telegram, authorizing slaughtering at any other time, is granted by the state veterinarian. The manager or other person in charge of such establishment shall inform the inspector when work has been concluded for the day, and of the day and hour when work will be resumed. Where one inspector is detailed to conduct the work at two or more establishments where few animals are slaughtered, the inspector may designate the hours for work.

§ 4. Ante-mortem examination of animals. In each official establishment an ante-mortem examination shall be made of all cattle, sheep, swine and goats about to be slaughtered, and satisfactory facilities shall be provided for conducting such examinations, and for separating and holding apart from passed animals those that are unfit for immediate slaughter.

§ 5. Parts inspected. Mark. In each official establishment a careful inspection shall be made of all animals at the time of slaughter. The head and tongue, tail, thymus gland, and all viscera, and all parts and blood used in the preparation of meat food and medicinal products shall be retained in such a manner as to preserve their identity until after the post-mortem examination has been completed. Carcasses and parts thereof found to be sound, healthful, wholesome and fit for human food shall be passed and marked in the following manner: Upon all passed carcasses and parts thereof slaughtered in an official establishment the inspector shall place a mark bearing the words "Cal. Inspected and Passed." This mark shall also contain the official number of the establishment. The number of such marks that shall be affixed and their location on the carcasses and parts thereof shall be determined by the state veterinarian. Each carcass or part thereof, which is found on post-mortem inspection to be unsound, unhealthful, unwholesome or otherwise unfit for human food shall be marked conspicuously by the inspector at the time of inspection with the words "Cal. Inspected and Condemned," and such carcass or part thereof shall, under the supervision of the inspector, be rendered unfit for human consumption in some manner approved by the state veterinarian.

§ 6. Rules and regulations. The state veterinarian shall, from time to time, make such rules and regulations as are necessary for the efficient execution of the provisions of this act, and all inspections and examinations made under this act shall be such and made in such manner as described in the rules and regulations prescribed by said state veterinarian not inconsistent with the provisions of this act; provided, however, that in making such rules and regulations said state veterinarian shall be guided by the regulations governing meat inspection of the United States department of agriculture.

§ 7. Violation. It shall be unlawful for any person, firm or corporation except the inspector as herein provided, to have in possession, keep or use any mark, stamp or brand provided or used for marking, stamping or branding any article herein required to be marked, stamped or branded. It shall be unlawful for any person, firm or corporation to have in possession, keep, make or use any mark, stamp or brand having thereon a device or words similar in character or import to the marks, stamps or brands provided or used for marking, stamping or branding such articles, and any violation hereof shall be deemed a misdemeanor.

ACT 1207.

An act to define commercial feeding stuffs and to establish a standard therefor, providing for the branding and labeling of same, empowering the state board of health to enforce the provisions of the act and providing penalties for the violation of same.

[Approved May 16, 1919. Stats. 1919, p. 551. In effect November 1, 1919.]

judge for the violations of the provisions of this act shall be paid to the state treasurer, and the state treasurer shall deposit such money to the credit of the fund for the maintenance of the state laboratory, to be drawn against by warrants of the state controller upon claims which shall be approved by the state board of health and the state board of control. No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party, residing in the United States, from whom he purchased such commercial feeding stuffs to the effect that the same are not adulterated, mislabeled or misbranded within the meaning of this act, and can also establish by satisfactory evidence that the commercial feeding stuffs sold, offered or exposed for sale or distributed in this state were mislabeled or did not conform to the analysis declared on the label or tag affixed thereto, and that at the time of selling, offering or exposing for sale or distributing in this state such commercial feeding stuffs the dealer was not aware of that fact; such guaranty may be either general or special. A general guaranty shall guarantee, without condition or restriction all of the commercial feeding stuffs purchased, prepared, compounded, packed, distributed or sold by the guarantor as not mislabeled or adulterated within the meaning of this act. A special guaranty shall guarantee in the same manner the particular commercial feeding stuffs listed in an invoice of the same and shall be attached to or shall fully identify such invoice. Both said guaranties to afford protection must contain the name and address of the party or parties making the sales of such commercial feeding stuffs to said dealer. If the guaranty be to the effect that such commercial feeding stuffs are not adulterated, mislabeled or misbranded within the meaning of the national pure food act, approved June 30, 1906, it shall be sufficient for the purposes of this act and have the same force and effect as though it referred to this act, except that a guaranty referring to the said national pure food act alone shall not be sufficient for the purposes of this act in any case where at any time the standard for the commercial feeding stuffs concerned under this act is higher than the standard for like commercial feeding stuffs under said national pure food act. In case the wholesaler, jobber, manufacturer or other party making such guaranty to said dealer resides without this state and it appears from the certificate of the director of the state laboratory that such commercial feeding stuffs were adulterated, mislabeled or misbranded, within the meaning of this act or the national pure food act approved June 30, 1906, the district attorney must forthwith notify the attorney general of the United States of such violation.

§ 9. Enforcement. The state board of health is hereby empowered to enforce the provisions of this act and to prescribe the form of tags, or labels to be used, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this act.

§ 10. In effect when. This act shall take effect on the first day of November, 1919.

§ 11. Repealed. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

TITLE 198.**FORESTRY.****ACT 1216.**

An act to provide for the regulation of fires on, and the protection and management of, public and private forest lands within the state of California, creating a state board of forestry and certain officers, subordinate to said board, prescribing the duties of such officers, creating a forestry fund, and appropriating the moneys in said fund, and defining and providing for the punishment of certain offenses for violations of the provisions of this act, and making an appropriation therefor.

[Approved March 18, 1905. Stats. 1905, p. 234.]

Amended 1911; Stats. 1911, p. 709; 1919, pp. 235, 1191.

The amendments of 1919 follow:

§ 1. State board of forestry. The governor shall appoint four persons, one of whom shall be familiar with the timber industry, one with the livestock industry, one with the grain and hay industry, and one at large, who together with the state forester, shall constitute the state board of forestry, which shall supervise and direct all matters of state forest policy, management and protection. Said board shall make rules and regulations for its government, and shall meet at such times and places as it sees fit. The members, except the state forester, shall receive no compensation for their services, but shall be paid actual traveling expenses which may be incurred in the performance of their official duties, which shall be paid out of the fund appropriated for the support of the state board of forestry. [Amendment approved May 25, 1919; Stats. 1919, p. 1191.]

§ 18. Civil liability for forest fires. In addition to the penalties provided in sections fourteen, fifteen, sixteen and seventeen of this act, the United States, state, county, or private owners, whose property is injured or destroyed by such fires may recover in a civil action, double the amount of damages suffered if the fires occurred through willfulness, malice or negligence; but if such fires were caused or escaped accidentally or unavoidably, civil action shall lie only for the actual damage sustained as determined by the value of the property injured or destroyed, and the detriment to the land and vegetation thereof. The presumption of willfulness, malice or neglect shall be overcome; provided, that the precautions set forth are observed; or, provided, fires are set during the "dry season" with written permission of and under the direction of the district firewarden. Persons or corporations causing fires by violations of this act shall be liable to the United States, state, county, or private owners in action for debt to the full amount of all expenses incurred by the United States, state, county or private owners in fighting such fires.

§ 2. Repealed. All acts and parts of acts inconsistent herewith are hereby repealed. [Amendment approved May 2, 1919; Stats. 1919, p. 234.]

§ 1. "Commercial feeding stuffs" defined. Exceptions. The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding livestock and poultry, except the following:

- (a) Whole seeds or grains.
- (b) The unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, milo and light rice; provided, that light rice shall be labeled "light rice" when ground.
- (c) Whole bays, straws, cottonseed hulls and corn stover, when unmixed with other materials.
- (d) All other materials containing sixty per centum or more of water.

§ 2. Standards. The standards for commercial feeding stuffs shall be the latest revision of the definitions of feeding stuffs adopted by the association of feed control officials of the United States.

§ 3. Label for parcels. Contents of label. Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trademark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum per centum of crude protein;
- (e) The minimum per centum of crude fat;
- (f) The maximum per centum of crude fiber;
- (g) The maximum per centum of ash;
- (h) The specific name of each ingredient used in its manufacture.
- (i) The per centum of such ingredients as corn cobs, corn bran, oat hulls, barley hulls, rice hulls, ground light rice, alfalfa meal or similar materials, when such constitute a portion of the package, lot or parcel.
- (j) In the case of poultry feeds, the per centum of grit or mineral matter they contain.

The crude protein, crude fat, crude fiber and ash shall be determined by the methods in force at the time by the association of official agricultural chemists of North America.

§ 4. Inspection by state board of health. The state board of health and its agents and inspectors shall have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs, and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and upon tender and full payment of the selling price of said sample, to take therefrom samples for analysis. The methods of analysis shall be those in force at the time by the association of official agricultural chemists of North America.

§ 5. Adulterated. Commercial feeding stuffs shall be deemed adulterated if they do not conform to the analysis declared on the label or tag.

§ 6. Mislabelled. Commercial feeding stuffs shall be deemed mislabeled if they are not labeled or tagged in accordance with the provisions of section three of this act.

§ 7. Prosecution for violation of act. If it appears that any of the provisions of this act has been violated, the state board of health shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the result of the analysis or other examination of such feeding stuffs duly authenticated by the analyst or other officer making the determination, under the oath of such officer; provided, that it shall appear from any such examination that any of the provisions of this act has been violated the state board of health shall cause notice to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the state board of health before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this act, certificates of the analyst or other officer making the examination or analysis, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified.

§ 8. Penalties. One-half of fines to be paid to state treasurer. Guaranty of wholesaler. State standard higher than national. Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this state, any commercial feeding stuffs without having attached thereto or furnished therewith such labels or tags as required by the provisions of this act, or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said state board of health or its authorized agent in the performance of its duty in connection with the provisions of this act, or who shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs as defined in section one, without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs which contains a smaller per centum of crude protein or crude fat or a larger per centum of crude fiber or ash than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture or who shall fail to properly state the per centum of such ingredients as corn cobs, corn bran, oat hulls, barley hulls, rice hulls, ground light rice, alfalfa meal or similar materials, when such constitute a portion of the package, lot or parcel, or the per centum of grit or mineral matter in poultry feeds shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than one hundred dollars for the first violation and not less than one hundred dollars for each subsequent violation. Any manufacturer, jobber, importer, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of livestock or poultry shall be deemed guilty of a violation of the provisions of this act, and in addition to the penalty provided in this section, the lot of feeding stuffs shall be subject to seizure, condemnation and sale as the court may direct. The court may in its discretion release the feeding stuffs so seized when the requirements of the provisions of this act have been complied with, and upon payment of all costs and expenses incurred by the state in any proceedings connected with such seizure. One-half of all fines, and the proceeds from condemned foodstuffs collected by any court or

ACT 1222.

An act to fix the salaries of the state forester, deputy forester and assistant forester.

[Approved March 22, 1909. Stats. 1909, p. 669.]

Amended 1917; Stats. 1917, p. 439.

The amendment of 1917 follows:

§ 1. Salaries of state forester and assistants. The salary of the state forester shall be three thousand dollars per annum. The state forester shall have authority to appoint a deputy forester at a salary of two thousand four hundred dollars per annum and an assistant forester at a salary of one thousand six hundred dollars per annum. The deputy forester shall exercise all the powers and duties of the state forester during the latter's absence. All the salaries mentioned herein are to be paid in the same manner as the salaries of other state officers are paid.

§ 2. Repealed. All acts and parts of acts inconsistent herewith are hereby repealed.

ACT 1223.

An act to provide for the reforestation, constructing and maintaining of fire lanes and fire trails on the Angeles national forest, and to make an appropriation therefor. [Approved May 22, 1919. Stats. 1919, p. 1240. In effect July 22, 1919.]

The act appropriated five thousand dollars for the purpose indicated.

Former act. See Stats. 1917, p. 532.

ACT 1224.

An act providing for the establishment and maintenance of a state nursery under the jurisdiction and management of the state forester for the growing of stock for reforestation and the planting of trees along highways and in public places, and making an appropriation therefor.

[Approved May 15, 1917. Stats. 1917, p. 563. In effect July 27, 1917.]

§ 1. State nursery established. There is hereby established a state nursery under the jurisdiction and management of the state forester for the growing of stock for reforestation of public lands, the planting of trees along public streets and highways and for the beautifying of parks and school grounds. The state nursery shall be located by the state forester upon lands now owned by the state or donated to the state for that purpose.

§ 2. Duty of state forester. The state forester shall construct and maintain such buildings, improvements and equipment, and shall employ and fix the compensation of such employees as may be necessary to carry out the provisions of this act. He may also purchase nursery stock and seed and distribute the same at cost for public planting or reforestation.

§ 3. Governor to receive deeds, etc. The governor, on behalf of the state, is hereby authorized to receive all such deeds, conveyances, assurances or donations of real or personal property as may be necessary in law to vest in the people of the state of California the title to any site

or sites for said nursery and any equipment and supplies therefor that may be donated to the state and accepted by the governor.

§ 4. Appropriation. Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of fourteen thousand dollars for the purposes of this act.

TITLE 200.

FRANCHISES.

ACT 1235.

An act providing for the resettlement of franchise rights of and the granting of a resettlement franchise to any person, firm or corporation actually engaged in operating a street, suburban or interurban railroad in cities or cities and counties having at the effective date of this act a freeholders' charter adopted under the provisions of section eight of article eleven of the constitution of the state of California, which charter provides for the resettlement of franchise rights of and the granting of resettlement franchises to any person, firm or corporation engaged in operating a public utility in such a municipality, and providing conditions for the granting of such franchises by legislative or other governing bodies of such city or city and county.

[Approved May 22, 1917. Stats. 1917, p. 820. In effect July 27, 1917.]

§ 1. Power of board of supervisors, etc., to provide for resettlement of franchise rights. The board of supervisors, the board of trustees or common council, or other governing or legislative body of any city or city and county having at the effective date of this act a freeholders' charter adopted under the provisions of section eight of article eleven of the constitution of the state of California, and which charter provides for the resettlement of and the granting of a resettlement franchise to any person, firm or corporation engaged in operating a public utility in such city or city and county, is hereby empowered to provide for a general resettlement of the franchise rights and to grant a resettlement franchise to any person, firm or corporation actually engaged in operating a street, suburban or interurban railroad in said city or city and county, upon written application therefor, and upon such terms and conditions as are in this act provided, and may, in such resettlement of any such franchise impose other and additional terms and conditions not in conflict herewith.

§ 2. Franchise submitted to vote of electors. Every such resettlement franchise which is granted shall be granted after such publication and upon such notice as the governing or legislative body shall by resolution determine, or failing such determination after such publication and upon such notice as is or shall be prescribed by law for the enactment of ordinances by such governing or legislative body. After the final passage of such franchise, the same shall be referred and submitted to the vote of the electors of the city or city and county at the general or special election next ensuing not less than twenty days after the final passage of such ordinance, or if no general or special election is to be held in the city or city and county within a period of not less than twenty days and not more than ninety days after such final passage, the

said governing or legislative body may call a special election for the purpose of submitting said ordinance to the electors as aforesaid, said special election to be held not less than thirty days and not more than sixty days after such final passage. No such resettlement franchise shall go into effect until it shall have been so submitted to the electors of the city or city and county and receive the approval of a majority of the electors voting thereon; and provided, further, that such resettlement franchise shall not be effective unless accepted in writing by the grantee of such resettlement franchise.

§ 3. Rights conferred by franchise. Every such resettlement franchise, permit or privilege shall confer upon the grantee thereof the right to occupy the roads, streets, highways, avenues, boulevards, lanes, alleys, courts, places and pathways of the city or city and county, particularly set out in the terms and conditions of such franchise, permit or privilege, for the purpose of conducting, operating and maintaining thereon a street, suburban or interurban railroad, subject always to the right of the city or city and county to acquire and possess the property of said grantee; provided, however, that said grantee shall pay to the city or city and county such a percentage of the net revenue annually collected from any and all sources under and by virtue of such franchise, permit or privilege, as shall be fixed in such franchise. What constitutes such annual net revenue shall be provided in such franchise.

§ 4. New franchise may be part of resettlement franchise. The legislative or governing body may in such resettlement franchise provide that any new franchise granted to the holder of such resettlement franchise shall be considered as part of such resettlement franchise.

§ 5. Extension of franchise to annexed territory. The legislative or governing body may in such resettlement franchise provide that in case of consolidation or annexation to the city or city and county of any territory not now included in said city or city and county at the date said resettlement franchise is granted, any franchise to operate such street, suburban or interurban railroad, or any part thereof, held or claimed by the holder of such resettlement franchise in or for any portion of such consolidated or annexed territory shall thereupon be surrendered to the city or city and county, and that the rights and obligations of such resettlement franchise shall thereupon automatically extend to such additional territory, and that a valuation for the purpose of public acquisition of the properties used and useful, or, in the discretion of the city or city and county, prospectively useful, in the operation of such street, suburban or interurban railroad in the area so consolidated or annexed, and not included in the capital valuation already fixed in such resettlement franchise shall be added to the capital account of such resettlement franchise grantee at a valuation for the purpose of public acquisition fixed by the railroad commission of the state of California, or its successors in interest, and otherwise determined as provided in this act.

§ 6. Grantee to surrender franchises owned. Every resettlement franchise shall provide that the grantee thereof shall surrender the franchises or rights, owned or claimed by the grantee, to occupy such portion of the roads, streets, highways, avenues, boulevards, lanes, alleys, courts, places and pathways as it is proposed such street, suburban or interurban railroad shall thereafter occupy under the provisions of such re-

settlement franchise, and that the grantee shall accept in lieu thereof the rights and privileges granted by such resettlement franchise as a franchise for the continued operation of such street, suburban or inter-urban railroad within the limits of the city or city and county or such portion thereof as had theretofore been operated under the franchise or franchises surrendered.

§ 7. Granted for indeterminate period. Purchase by city. Valuation by railroad commission. Every such resettlement franchise, permit or privilege shall be granted for an indeterminate period, subject always to the right of the city or city and county to acquire and possess the property of the grantee. Every resettlement franchise shall be granted upon the express condition that the city or city and county may, at a valuation for the purpose of public acquisition, fixed and determined as hereinafter provided, either assume ownership by purchase, take over and possess the property used and useful, or, in the discretion of the city or city and county prospectively useful, of the franchise grantee, his or its successors or assigns, upon giving said grantee written notice of its intention to purchase and take over said property, which written notice shall be given only when authorized by ordinance of the legislative or governing body of the city or city and county. The valuation for the purpose of public acquisition of such property used and useful, or, in the discretion of the city or city and county, prospectively useful, and owned by the grantee at the time application is made for such resettlement franchise, permit or privilege, shall be fixed by the railroad commission of the state of California, or its successors in interest. The valuation of such property, as fixed by the railroad commission of the state of California, may be set forth in said resettlement franchise, permit or privilege, in which case a readjustment from time to time of this valuation by the addition of the cost of extensions and betterments and by the deduction of the value of property sold or abandoned, and of the amount of depreciation sustained by the property used or useful, or prospectively useful, of the franchise grantee shall be made in such manner as may in said resettlement franchise be provided. All expenses of such valuation by the railroad commission of the state of California, or its successors in interest shall be paid by the city or city and county to the railroad commission of the state of California or its successors in interest.

§ 8. Value in excess of amount paid not to be claimed. Said resettlement franchise shall provide that the grantee thereof, its successors or assigns, shall never claim before any court or other public authority in any proceeding of any character any value for said resettlement franchise, permit or privilege in excess of the amount originally paid for the same by the grantee thereof to the public authority granting the same.

§ 9. Amendment. Any resettlement franchise may be amended from time to time by ordinance passed by the governing or legislative body of the city or city and county and ratified by the electors of the city or city and county in the manner herein prescribed for the passage of such resettlement franchise in the first instance, and not otherwise; provided, that no such amendment shall be effective unless accepted in writing by the grantee of such resettlement franchise.

§ 10. Exercise of police power. Right of city to acquire property by right of eminent domain. The legislature hereby declares that this act

is passed subject to the continued power of the state of California in the exercise of its police power or otherwise through the instrumentality of the railroad commission of the state of California or other agency to provide at any and all times for the supervision and regulation of public utilities notwithstanding any franchise, permit or privilege or any provision thereof granted under this act, or any part thereof.

Nothing herein contained, nor any provision of any franchise granted hereunder shall be deemed to prevent a city or city and county from acquiring at any time the property of any public utility through the exercise of the right of eminent domain under the then constitution and laws, and the legislature hereby declares it to be against the policy of the state for any city or county to contract away, either for a term or in perpetuity, the right to exercise the right of eminent domain in respect to any public utility.

§ 11. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

TITLE 202.

FREE LIBRARIES.

Act 1248a.

An act to provide for the establishment and maintenance of county free libraries in the state of California, and repealing "An act entitled 'An act to provide county library systems,' approved April 12, 1909, and all acts and parts of acts in conflict with this act."

[Approved February 25, 1911. Stats. 1911, p. 80.]

Amended 1917; Stats. 1917, p. 1610; 1919, pp. 19, 23, 62, 123.

The amendments of 1917 and 1919 follow:

§ 9ff. Counties of thirty-second class, salary of librarian. Kings. In counties of the thirty-second class the county librarian shall receive one thousand five hundred dollars per year. [Amendment approved April 21, 1919; Stats. 1919, p. 122.]

§ 9gg. Salary of county librarian. Counties of thirty-third class. Merced. In counties of the thirty-third class the salary of the county librarian shall be eighteen hundred dollars per annum. [Amendment approved June 1, 1917; Stats. 1917, p. 1610.]

§ 9ii. Counties of thirty-fifth class, salary of librarian. Yolo. In counties of the thirty-fifth class the salary of the county librarian shall be one thousand eight hundred dollars per annum. [Amendment approved April 21, 1919; Stats. 1919, p. 123.]

§ 9mm. Counties of thirty-ninth class, salary of librarian. Tuolumne. In counties of the thirty-ninth class the salary of the county librarian shall be one thousand five hundred dollars per annum. [New section added March 31, 1919; Stats. 1919, p. 19.]

§ 9pp. Counties of forty-second class, salary and expenses of librarian. Lassen. In counties of the forty-second class the county librarian shall receive one thousand eight hundred dollars per year, to be paid by such counties in equal monthly installments at the same time, in the same manner and out of the same fund as the salaries of other county officers are paid, and shall also be allowed the actual and necessary traveling expenses incurred on the business of the office. [Amendment approved April 9, 1919; Stats. 1919, p. 61.]

§ 9ccc. Counties of fifty-fifth class, salary of librarian. Trinity. In counties of the fifty-fifth class the salary of the county librarian shall be one thousand two hundred dollars per annum. [New section added April 4, 1919; Stats. 1919, p. 23.]

ACT 1250.

An act to authorize the deposit of certain newspaper files kept in recorders' offices in free public libraries. [Approved March 19, 1909; Stats. 1909, p. 436.]

Amended 1919, p. 278.

The amendment of 1919 follows:

§ 1. Deposit of newspapers in public libraries. The county boards of supervisors of the several counties may authorize the recorders of their several counties to deposit with any free public library maintained at the county seat, or with the California state library, such newspaper files, or portions thereof, as may be in the custody of such recorders by virtue of an act approved April 8, 1862, and entitled "An act for the purchase and preservation of public newspapers, printed and published in the several counties of this state," or by virtue of any other act. [Amendment approved May 2, 1919; Stats. 1919, p. 278.]

§ 2. Agreement required. Before making such deposit, the said board of supervisors shall obtain from the board of trustees or authorities in charge of such free public library, or the board of trustees of the California state library, an agreement that they will properly preserve and care for such newspaper files, and make them accessible to the public. [Amendment approved May 2, 1919; Stats. 1919, p. 278.]

§ 3. Files may be transferred to state library. The county boards of supervisors of the several counties may authorize the boards of trustees or other authorities in charge of any free public library with which newspaper files have been deposited in accordance with section one of this act to deposit such newspaper files with the California state library. [New section added May 2, 1919; Stats. 1919, p. 278.]

TITLE 204.

FRESNO COUNTY.

ACT 1264a.

An act to increase the number of judges of the superior court of the county of Fresno, and to provide for the appointment of an additional judge.

[Approved May 5, 1917. Stats. 1917, p. 283. In effect July 27, 1917.]

§ 1. Fresno county judges. The number of judges of the superior court Fresno county is hereby increased from two to three.

§ 2. Appointment of one additional judge. Election. Within ninety days after the taking effect of this act, the governor shall appoint one additional judge of the superior court of the county of Fresno, state of California, who shall hold office until the first Monday after the first day of January, A. D., one thousand, nine hundred nineteen. At the general election to be held in November, 1918, a judge of the superior court of said county shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

§ 3. Salary. The salary of said additional judge shall be the same in amount, and shall be paid at the same time and in the same manner as the salary of the other two judges of the superior court of said county now authorized by law.

TITLE 205.

FRUIT.

ACT 1275.

An act to establish a standard for the packing and marketing of apples, fixing penalties for the violation of its provisions, and providing for its enforcement and making an appropriation to carry into effect the provisions hereof. [Approved June 10, 1915. Stats. 1915, p. 1386.]

Repealed 1917; Stats. 1917, p. 285. See next Act.

ACT 1275a.

An act to establish standards for the packing and marketing of apples, forbidding the sale of certain infected and diseased apples, providing for its enforcement, fixing penalties for its violation, and making an appropriation to carry into effect the provisions thereof, and repealing an act entitled "An act to establish a standard for the packing and marketing of apples, fixing penalties for the violation of its provisions, and providing for its enforcement and making an appropriation to carry into effect the provisions hereof," approved June 10, 1915.

[Approved May 7, 1917. Stats. 1917, p. 285. In effect July 27, 1917.]

Amended 1919, p. 258.

§ 1. Title. This act shall be known, and for any and all purposes may be designated and referred to, as "The standard apple act of 1917."

§ 2. Standard grades established. The following standard grades and standard box are hereby established for apples, packed, shipped, delivered for shipment, offered for sale or sold, in the state of California:

(a) "**California fancy.**" The "California fancy" grade shall consist of apples of well-grown, properly matured specimens of one variety, hand picked, with stems retained therein, either in whole or in part, well colored and normally shaped for the variety and locality where produced, uniform in size, well packed, and shall be free from insect pests, diseases,

visible rot, visible dry rot, visible Baldwin spot, insect bites, bruises and other defects, except such bruises and defects as are necessarily caused in the operation of packing, and virtually free from dirt; provided, however, that a variation from the said standard, as to insect pests, diseases, dry rot, Baldwin spot, insect bites, bruises and other defects, shall be allowed, not to exceed ten per cent total of such defects in any one package, nor to exceed three per cent of any one such defect; and provided, further, that a variation in size of the apples shall be allowed, not to exceed three-eighths of one inch, when measured through widest portion of cross section thereof, and that no apples less than two and one-fourth inches when measured in like manner, shall be placed in "California fancy" grade except Lady and Winesap apples, when the smallest size shall be not less than two inches when measured in like manner.

(b) "**B grade.**" The "B grade" shall consist of apples of well-grown properly matured specimens of one variety, hand picked, uniform in size, well packed, free from insect pests, diseases, visible rot, visible dry rot, visible Baldwin spot, insect bites, sun scald and frost bite more than skin deep, and bruises resulting in the breaking of the skin, and virtually free from dirt; provided, however, that insect bites which have healed in the process of maturity of the apple, and which do not cause serious deformity, and slightly misshapen apples, shall be permitted in this grade, that a variation in size of the apples shall be allowed, not to exceed three-eighths of one inch when measured through widest portion of cross section thereof, and that a variation from the said standard, as to insect pests, diseases, dry rot, Baldwin spots, bruises and other defects, shall be allowed, not to exceed ten per cent total of such defects in any one package, nor to exceed three per cent of any one such defect.

(c) "**C grade.**" The "C grade" shall consist of apples of properly matured specimens of one variety, free from insect pests, visible rot, visible dry rot, visible Baldwin spots and diseases; provided, however, that a variation from said standard as to insect pests, dry rot, Baldwin spots and diseases, shall be allowed, not to exceed ten per cent total of such defects in any one package, nor to exceed three per cent of any one such defect.

(d) **Standard container.** The standard container shall be a box of the following dimensions, inside measurements, when measured without distention of parts: Depth of end ten and one-half inches; width of end eleven and one-half inches; length of box eighteen inches, and having a cubical content of as nearly as possible two thousand one hundred seventy-three and one-half cubic inches.

(e) **Use after July 1, 1920.** On and after July 1, 1920, all packed apples, when shipped, offered for sale or sold, shall be placed in the standard box herein described; provided, however, that other size containers may be used if conspicuously marked in letters not less than one-half inch high "irregular container." [Amendment approved April 30, 1919; Stats. 1919, p. 258.]

§ 3. Labeling of container. Every packed container of apples shipped, delivered for shipment, offered for sale or sold, in the state of California,

shall bear upon the outside thereof, and on the end, in plain words or figures and in the English language, the following: The grade of the apples therein contained, as herein defined, the designation of grade, when the stamps hereinafter provided for are not used, being stated in letters not smaller than thirty-six point type, that is, not less than one-half inch in height; the number of apples contained in the package, or the minimum net weight of the apples contained therein; the variety of the apples contained in the package, unless the variety be unknown to the packer, in which case the variety shall be stated as unknown; the name and business address of the person, firm, company, organization or corporation, who first packed or caused the same to be packed, and, if repacked, the name and business address of the person, firm, company, organization or corporation who repacked the same or caused same to be repacked; the date when such apples were first packed, or if repacked, the date of repacking; provided, however, that a variation of five apples, more or less than the number stated, shall be allowed.

(a) **Definitions.** The term "packed," whenever used in this act, shall mean the regular, compact arrangement of all or a part of the fruit in any container.

(b) **Definitions.** The terms "three and one-half tier," "four tier," and "four and one-half tier," whenever used as the designation of the size of apples sold or offered for sale, shall have the following meanings, respectively, to wit: The term "three and one-half tier" shall mean an apple larger in size than three and one-eighth inches, when measured through the widest cross section thereof; the term "four tier" shall mean an apple larger in size than two and five-eighth inches but not larger than three and one-eighth inches, when so measured; and the term "four and one-half tier" shall mean an apple not smaller in size than two and one-fourth inches nor larger than two and five-eighth inches, when so measured.

(c) **Definitions.** The term "cross-section," whenever used in this act, shall mean the section of an apple taken at a right angle to a straight line drawn from the stem end to the blossom end thereof. [Amendment approved April 30, 1919; Stats. 1919, p. 259.]

§ 4. Labeled apples must conform to standard. No person, firm, company, organization or corporation, shall sell or offer for sale, within the state of California, any apples labeled, designated, invoiced or represented to be, of "California Fancy" or "B" or "C" grade, whether contained in closed packages or otherwise, unless the same shall conform to the standard for such grade herein established; provided, however, that nothing herein contained shall prevent the grading of Gravenstein apples as "California Fancy," though the stems be not retained therein.

§ 5. Importation of infected apples forbidden. No person, firm, company, organization or corporation, shall import into this state, or sell, barter, offer for sale or have in his possession for sale, any apples infected with any insect pest or the pupae or larvae thereof or any disease; provided, however, that this section shall not be construed to prevent a grower of fruit so infected in the state of California from selling the same, as a part of his crop, in bulk, to a packer, or to prevent

a grower or packer from manufacturing the same into an apple by-product, or from selling the same to the operator of a by-product factory for the purpose of such manufacture; and, provided, further, that the provisions of this section shall be construed to be limited by the variations allowed by the terms of section two of this act.

§ 6. False statements, etc. No statement, figure, design or device, appearing upon any container in which apples are sold, bartered, or offered for sale, or in which apples are packed for sale or shipment, or upon the brand or lining of any such container, or upon the wrapper of any apple therein contained, or upon any sign or placard used in connection therewith and having reference to the apples contained, shall be false or misleading, in any particular. The word "Fancy" shall not be used with reference to any apples the grade of which does not conform to the standard for "California Fancy" as in this act defined.

§ 7. Powers of state commissioner of horticulture. The state commissioner of horticulture of California shall be charged with the enforcement of the provisions of this act, and for that purpose shall have power:

(a) To enter and to inspect every place within the state of California where apples are produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all apples and apple containers and equipment found in any such place.

(b) To design, and cause to be printed or lithographed, suitable uniform stamps to be used on packages containing apples of the various grades, standards for which are established by the terms of this act, to sell the same as hereinafter provided, and to prescribe the method of canceling the same.

(c) In accordance with the provisions of the civil service law of this state, to appoint, superintend, control and discharge such chief inspectors and subordinate inspectors as in his discretion may be deemed to be necessary, for the special purpose of enforcing the terms of this act, to prescribe their duties, and, in conjunction with the board of control, to fix their compensation, provided that no chief inspector shall be paid more than seven dollars per day and no subordinate inspector more than five dollars per day.

(d) Personally, or through any deputy or any such inspector, to seize and retain possession of, any apples or apple boxes packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act.

(e) In the name of the people of the state of California to cause to be instituted and to prosecute, in the superior court of any county or city and county of the state of California, in which apples packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act, may be found, an action or actions for the condemnation of apples as provided in section thirteen of this act.

§ 8. Sale of stamps. The stamps designed and provided by the state commissioner of horticulture of California, as provided by section seven of this act, by him shall be placed on sale and sold to any person who may apply therefor, at the price of one-half cent each. All moneys received by him from the sale of such stamps shall be paid over to the treasurer of the state of California, who shall deposit the same to the

credit of a fund to be used exclusively for the payment of the expenses of enforcing the provisions of this act, and to be paid out only upon claims approved by the state commissioner of horticulture of California and by the board of control.

§ 9. Qualifications of inspectors. Powers. Assignment of inspectors.

The inspectors appointed by the state commissioner of horticulture of California, as in section seven hereof provided, shall be citizens of the United States, and of the state of California, not less than twenty-one years of age, shall be skilled in the inspection of apples, and have a thorough knowledge of insect pests and diseases commonly preying upon such fruits; they shall have power to enter and to inspect every place within the state of California where apples are produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect all such places and apples and apple containers, found in any such place; and shall perform such other duties as may be prescribed by the state commissioner of horticulture of California, or by law.

The said commissioner shall assign such inspectors to such territory, within the state, as he may see fit; provided, that when the stamps purchased for any year by packers in any town, city or district, shall yield a sum of money sufficient to pay the expense thereof, such commissioner shall assign one inspector or more for special duty in such town, city or district, during the packing season of that year, or for a longer period, if deemed to be necessary; and provided, further, that in the discretion of said horticultural commissioner, he may refuse to permit inspection of fruit at the place where same is being packed if packed by any person, firm, company, organization or corporation who shall not make use of the stamps hereinabove provided for upon the packages of "California Fancy," "B" and "C" grade apples packed by him or it.

§ 9a. Powers and duties of inspectors. Every such inspector shall have power to enter and to inspect any place within this state where any apples are produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all such apples and the containers thereof and the equipment found in any such place. It shall be the duty of the inspectors to enforce the provisions of this act and to cause the prosecution of any person, company, firm, corporation or organization, whom he knows or has reason to believe to be guilty of the violation of any of its provisions. Every inspector, in the performance of his duties, shall have the same powers possessed by peace officers under the laws of the state of California. [New section added April 30, 1919; Stats. 1919, p. 260.]

§ 10. Repacking. No container to or on which is attached any such stamp or on which shall appear the designation of grade as "California Fancy," "B" grade or "C" grade, shall be used as the container of any apples, other than those originally packed therein, until such stamp or grade designation has been removed; provided, that when apples are repacked, without the addition of new stock, other than stock of the same grade and from the same lot of which the package or packages repacked is or are a part, the same containers may be used without removing the stamps or grade designations.

§ 11. Refusal to permit inspectors to enter. No person, firm, company, organization or corporation, shall refuse to permit the state com-

missioner of horticulture of California, or any of his duly appointed deputies, or any inspector duly appointed by said commissioner under the provisions of this act, to enter or to inspect any place within the state of California where apples are produced, packed, shipped, delivered for shipment, offered for sale or sold, or to inspect such places, or any apples or apple containers or any equipment found there.

§ 12. Penalty. Any person, firm, company, organization or corporation, who shall violate any of the provisions of this act shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

§ 13. Apples packed, shipped, etc., in violation of law, nuisance. Any apples packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act, and the containers in which they may be, shall be deemed to be a public nuisance, may be seized by said commissioner of horticulture, or his deputy, or by any inspector appointed under the provisions of this act, or by any county horticultural commissioner or his deputy, and by order of the superior court of the county or city and county within which the same may be found, shall be condemned and destroyed or released upon such conditions as the court in its discretion may impose to insure that they will not be packed, shipped, delivered for shipment, offered for sale or sold in violation of any of the provisions of this act.

§ 13a. Refusal to receive or ship. It shall be lawful for any person, firm, corporation or organization and for any common carrier to refuse to accept for shipment or transportation and to refuse to ship or transport any apples which upon inspection are found to be or to be packed in violation of any of the provisions of this act, and any such person, firm, corporation, organization or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment and to return to such consignor or to hold at the expense and risk of the latter all apples which upon inspection are found to be or to be packed in violation of any of the provisions of this act. [New section added April 30, 1919; Stats. 1919, p. 260.]

§ 14. Guaranty. Form of guaranty. No person, firm, company, organization or corporation, shall be convicted of a violation of any provision of this act, if he shall establish a guaranty, signed by the person, firm, company, organization, or corporation, residing or lawfully engaged in business in the state of California, by or for whom the apples in question were originally packed, or repacked, to the effect that the apples, container, brand and label in question comply in all respects with the provisions of this act, and in addition, shall establish that the same are in substantially the same condition, in every respect, as they were when they were delivered out of the possession of such packer, and that the accused was not aware that such apples, container, brand or label, were or was in any respect in violation of any provision of this act. The signature to such guaranty may be printed, when done by the authority of the signer. To afford protection, such guaranty, in form and substance, must be substantially as follows:

"The undersigned guarantees that (this box or other package of apples or the boxes or other packages of apples mentioned in this, or the

attached invoice, are all boxes or other packages of apples packed or repacked by the undersigned), comply, in all respects with the standard apple act of 1917. (Signature of the packer, with statement as to whether packer is firm, company, organization or corporation and business address.)"

Where the guaranty is used on each separate box, it may consist of the legend, "guaranteed by the packer, under the standard apple act of 1917," printed, stamped or written on the labeled or branded end of the package.

§ 15. Duty of district attorney. It shall be the duty of the district attorney of the county, or city and county, in which any violation of this act may occur, to prosecute the person, firm, company, organization or corporation accused of such violation, and also, at the request of the state commissioner of horticulture, or any one of his deputies, to institute and prosecute such actions for condemnation as may be authorized under the provisions of this act.

§ 16. Effect on foods and liquors act. No act which is made unlawful by any provision of an act of the legislature of the state of California, entitled, "An act for preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a state laboratory for foods, liquors and drugs and making an appropriation therefor," approved March 11, 1907, or any amendment thereto, shall be deemed lawful by reason of any provision of this act; nor shall this act be construed in any respect to limit the powers of the state board of health.

§ 17. Appropriation. The sum of five thousand dollars (\$5,000) is hereby appropriated out of any money in the state treasury, not otherwise appropriated for the payment of the cost of printing, lithographing, stationery, stamps, clerical assistance, traveling expenses and salaries of inspectors and office rentals, incurred by the state commissioner of horticulture in the enforcement of this act during the fiscal years commencing July 1, 1917, and July 1, 1918, respectively. The state controller is hereby authorized to draw his warrants for the sum herein appropriated in favor of said commissioner and the state treasurer is hereby directed to pay the same.

§ 18. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

This section was re-enacted in the same language in 1919. See Stats. 1919, p. 261, § 5.

§ 19. Stats. 1915, p. 1386, repealed. An act entitled "An act to establish a standard for the packing and marketing of apples, fixing penalties for the violation of its provisions, and providing for its enforcement and making an appropriation to carry into effect the provisions hereof," approved June 10, 1915, is hereby repealed.

ACT 1275b.

An act to promote the development of the California fresh fruit industry in state and interstate markets, and to protect the state's reputation in these markets by establishing a standard for the packing of certain fresh fruits specified therein, and to prevent deception in the packing, prescribing penalties for the violation of the provisions hereof, and repealing all acts inconsistent herewith.

[Approved May 24, 1917. Stats. 1917, p. 909. In effect July 27, 1917.]

§ 1. Standard for packing fresh fruits. To promote the development of the California fresh fruit industry and to prevent deception in packing for state or interstate shipment, there is hereby created and established a "standard" for the packing of fresh fruits of the kinds specified in this act.

§ 2. Application. Unless specifically excepted in this act, all of its provisions shall be applicable to all fresh fruits specified herein when packed, shipped, delivered for shipment, offered for sale or sold in any container or subcontainer.

§ 3. Free from diseases. All fresh fruits of the kinds specified in this act when packed shall be practically free from insects and fungous diseases.

§ 4. Fruits exempt. All fresh fruits of the kind specified in this act, except citrus fruits, which shall be sold in bulk or loose in the box or in any other manner, excepting in standardized packs as provided in this act (excepting grapes, which must conform to the sugar standards provided in section eight a hereof), shall be exempt from the provisions of this act.

§ 5. Words defined. When used in this act the words herein mentioned shall be defined as follows: "Pack, packing or packed," shall mean the regular compact arrangement of all or part of the fruit in any container or subcontainer used for the purpose of sale or transportation for sale. The words "in bulk or loose in the box without packing" shall mean the indiscriminate placing without any thought of regular arrangement of any of the kinds of fresh fruit mentioned in this act into a box, wagon or other receptacle used for the purpose of sale or transportation for sale.

The words "fresh fruit" shall mean the fresh product of any tree, vine or plant mentioned in this act.

The word "maturity" shall mean a degree of ripeness fit for shipment.

The word "county" includes a consolidated "city and county."

The word "container" shall mean any box, crate or other package used to hold or contain packed fresh fruit.

The word "subcontainer" shall mean any basket or other receptacle used within a container of packed fresh fruit.

§ 6. Cherries. All cherries packed in containers or subcontainers shall contain cherries well colored, of practically uniform size, quality, and maturity and one variety only, excepting that such containers may contain more than one variety if such fact be plainly stamped on the outside thereof with the words "mixed varieties" with letters not less

than one-half inch high. Each container or subcontainer shall be stamped on the outside with the minimum weight of contents and the container shall have the name of variety or varieties stamped thereon.

§ 7. Peaches, apricots, pears, etc. Peaches, apricots, pears, quinces, tomatoes, plums and prunes when packed shall be of practically uniform size, quality and maturity. When packed in containers made up of two or more subcontainers having sloping sides, for the purpose of ventilation of the fresh fruit therein, the contents shall not vary in size more than ten per cent in each layer, and not more than twenty per cent in the whole subcontainer, and no layer below the top shall contain a greater numerical count than the top layer. Each container or subcontainer shall be stamped upon the outside with the minimum weight of its contents. Each container shall bear in plain letters the name of the variety contained therein. When packed in a container having perpendicular sides and ends, each shall contain approximately the same numerical count in each layer; provided, that when peaches are packed in containers having perpendicular sides the container shall also be marked upon the outside of the end thereof in plain figures with the approximate number of peaches in the box, which shall be within four peaches of the true count.

When the fresh fruits mentioned in this section are packed in containers known to the trade as "lug" boxes, the provisions of this section appertaining to variety, numerical count and marking shall not apply.

§ 8a. Table grapes. Table grapes, when packed, shall be of practically uniform quality and shall be well matured and show a sugar content of not less than seventeen per cent Balling scale, except Emperor, Gros Coleman and Cornichon, which shall show not less than sixteen per cent Balling scale. Each crate or package except subcontainers shall be stamped in plain letters with the name of the variety of grapes therein. Each container, or subcontainer, shall be stamped in plain figures and letters upon one end with a minimum net weight, and no container or subcontainer shall contain less than the minimum stamped thereon. Irregular containers in addition thereto, shall be plainly marked "irregular" and have the actual gross weight stamped thereon.

§ 8b. Standard containers for table grapes. "Irregular containers." The standard containers for table grapes when packed shall be:

1. Standard crate, which after packing when measured at the end, shall not exceed five inches between the top and bottom and when measured in the center shall not exceed five and three-fourths inches between the top and bottom and containing a minimum net weight of not less than twenty-four pounds.

2. Double crates containing a minimum net weight of not less than forty-eight pounds.

3. One-half crates containing a minimum net weight of not less than twelve pounds.

4. Thirty pound lugs containing a minimum net weight of not less than twenty pounds.

5. Forty pound lugs containing a minimum net weight of not less than thirty-two pounds.

6. Fifty pound lugs containing a minimum net weight of not less than forty-two pounds.

7. Williams lugs containing a minimum net weight of not less than twenty-four pounds.

8. Kegs or drums packed with sawdust or other preserving material, containing a minimum net weight of not less than twenty-nine pounds and a maximum net weight of not more than thirty-five pounds.

9. All other containers of table grapes shall be "irregular" containers.

§ 9. Standard container for berries. The standard container for berries shall be: Dry quart containing an interior capacity of sixty-seven and two-tenths cubic inches, or dry pint containing an interior capacity of thirty-three and six-tenths cubic inches, or dry one-half pint containing an interior capacity of sixteen and eight-tenths cubic inches, or baskets four and one-half by four and one-half by two and one-fourth in depth, or baskets four and one-half by four and one-half by two in depth, or baskets four and one-half by four and one-half by one and three-eighths in depth; all measurements are in inches or fractions thereof. All other sizes shall be marked "irregular." When packed, the berries in any container or subcontainer shall be practically uniform throughout the container, or subcontainer, in quality, color and maturity. Irregular containers shall be marked "irregular."

§ 10. Cantaloupes. Cantaloupes packed in containers as follows shall be known as standard packed:

Standard crates twelve by twelve by twenty-two and one-half inches containing forty-five or thirty-six cantaloupes;

Pony crates eleven by eleven by twenty-two and one-half inches containing forty-five or fifty-four cantaloupes;

Jumbo crates thirteen by thirteen by twenty-two and one-half inches containing thirty-six or forty-five cantaloupes;

Standard flats four by twelve by twenty-two and one-half inches containing twelve or fifteen cantaloupes;

Jumbo flats four and one-half by thirteen and one-half by twenty-two and one-half inches containing twelve or fifteen cantaloupes.

All measurements herein to be inside measurements without distention.

All other sizes of containers when packed shall be marked "irregular." All standard packs shall be marked "standard." All containers when packed shall have the number of cantaloupes contained therein stamped in plain figures on the label end of the crates with figures not less than one-half inch high. All cantaloupes when packed shall be fully netted of uniform size, firm and mature, free from bruises and practically free from aphis honey dew and other defects.

§ 11a. Sale of immature or frozen citrus fruits. It shall be unlawful for anyone to sell, offer for sale, ship or deliver for shipment any citrus fruits, which are immature or frozen to the extent of injuring the reputation of the citrus industry of the state of California if shipped, and for anyone to receive any such citrus fruits under a contract of sale, or for the purpose of sale, or for shipment, or for delivery for shipment; provided, however, that nothing in this section contained shall be construed to prevent the sale or shipment for sale of frozen or otherwise defective fruit to a by-product factory, or the manufacture thereof into citrus by-products; nor shall this section apply to the sale, or contract

for sale, of citrus fruits on the trees, nor shall it apply to common carriers or their agents who are not interested in such fruits and are merely receiving the same for transportation.

§ 11b. Matured oranges. An orange shall be deemed properly matured for sale, or to be offered for sale, for shipment or to be offered for shipment, under the provisions of this act, either when the juice contains soluble solids equal to, or in excess of, eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, or when the orange is substantially colored on the tree. The foregoing provisions shall not apply to shipments of oranges to foreign countries other than the Dominion of Canada, during any season, provided such shipments are made after the first day of November.

§ 12. Name marked on containers. All containers of fruit of a kind specified in this act, except subcontainers, when packed and offered for sale, shall bear upon them in plain sight and in plain letters on the outside thereof, the name of the orchard where the same was produced, with the postoffice address thereof, or the name and postoffice address of the person, firm, company or corporation, or organization who shall have first packed or authorized the packing of the same, or the name under which such packer shall be engaged in business, together with the postoffice address of such packer.

§ 13. Office of "inspector of fresh fruits" created. "Inspectors in chief of fresh fruits." The office of "inspector of fresh fruits" is hereby created for each and every county in the state. The horticultural commissioner of each county, and all deputy horticultural commissioners shall be ex-officio inspectors of fresh fruits thereof, and the district inspectors under each county horticultural commissioner are ex-officio "deputy inspectors of fresh fruits" in their respective districts. The board of supervisors shall appoint as many deputy "inspectors of fresh fruits" as are necessary to carry out the provisions of this act. Their term of office shall be for such time as is deemed necessary by said board of supervisors. For the purpose of creating and securing unity in inspection, the offices of "inspectors in chief of fresh fruits" are hereby created, and the state commissioner of horticulture and his chief deputy, for the purposes of this act, are hereby made ex-officio such inspectors in chief and shall, where there is a dispute or difference between the inspectors of fresh fruits of two or more counties, or where the interpretation of inspection standards between two or more counties differs materially, have the power and authority to settle the dispute between the inspectors of fresh fruit of such counties and to fix reasonable standards between such counties where they materially differ.

§ 14. Appointment when no commissioner of horticulture. If in any county or city and county of this state, there is no commissioner of horticulture, it shall be the duty of the board of supervisors thereof to appoint an inspector of fresh fruits and such deputy inspectors of fresh fruits as the said board of supervisors shall deem necessary. Such inspectors and deputy inspectors of fresh fruits shall be appointed to serve for such time during each year as fresh fruits are being packed or shipped in said county or city and county. The salary of an inspector

of fresh fruits shall be five dollars per day and necessary traveling expenses. The salary of a deputy inspector of fresh fruits shall be three dollars and fifty cents per day and necessary traveling expenses.

§ 15. Deputy state commissioner of horticulture assigned, when. In case the board of supervisors of any county, or city and county, shall fail or neglect, for thirty days after receipt of a written request from the state commissioner of horticulture, to appoint an inspector of fresh fruits, or necessary deputy inspectors of fresh fruits for such county, or city and county, then the said state commissioner of horticulture shall forthwith assign to said county, or city and county, one or more deputy state commissioners of horticulture, as he shall deem necessary, and such deputy or deputies shall perform all of the duties, within the said county or city and county to which assigned, as is provided in this act to be performed by an inspector of fresh fruits. The actual cost of services rendered by an inspector or deputy inspector, as the case may be, of fresh fruits, assigned to any county in pursuance hereof, together with his necessary traveling expenses shall be a county charge and shall be paid in the same manner in which other claims against the county are paid.

§ 16. Removal. Vacancy. The board of supervisors shall remove any inspector of fresh fruits and the inspector of fresh fruits shall remove any deputy upon proper showing of neglect of duty, malfeasance in office, or general unfitness for office. Whenever a vacancy in the office of inspector of fresh fruits or deputy inspector of fresh fruits occurs, the vacancy shall immediately be filled by the appointing power.

§ 17a. Power of inspector. Every inspector of fresh fruits and every deputy inspector of fresh fruits shall have power to enter and to inspect every place within the county for which he has been appointed where any fruit mentioned in this act is produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all such fruits and the containers thereof and the equipment found in any such places.

§ 17b. Duty of inspector. It shall be the duty of the inspectors or deputy inspectors of fresh fruit in their respective districts to enforce the provisions of this act and to cause the prosecution of any person, firm, corporation or organization, whom they know or have reason to believe is guilty of the violation of its provisions.

§ 17c. Inspectors have powers of peace officers. An inspector or deputy inspector of fresh fruits in the performance of their duties shall have the same powers as are possessed by peace officers of the city, county or state and shall have the right while exercising such police powers to seize and hold as evidence such amount of any pack, load, consignment or shipment of fresh fruit packed in violation of this act, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating this act.

§ 17d. Duty of district attorney. It shall be the duty of the district attorney of each and every county in the state to prosecute all persons charged with any violation of this act.

§ 18. Lawful to refuse shipments in violation of act. It shall be lawful for any fresh fruit forwarding person, firm, corporation or organization and for any common carrier to decline to accept for shipment or transportation and to decline to ship or transport any fresh fruits which upon inspection are found to be packed in violation of the provisions of this act, and any such fruit forwarder or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor, thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter, all fresh fruits which upon inspection are found to be packed in violation of the provisions of this act.

§ 19. Penalty for violation. No person, firm, corporation, company or organization shall pack or cause to be packed for sale, or shipment, or shall ship or sell or offer for sale fruit which, or the container or sub-container in which, the same shall be contained, shall in any respect fail to comply with the requirements of this act.

Any person, firm, corporation, company or organization who shall violate the provisions of this act shall be deemed to be guilty of a misdemeanor.

§ 20. Conflicting laws. All laws in conflict with this act or any part thereof are hereby repealed only in so far as they may conflict with any of the provisions of this act.

§ 21. Constitutionality. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

ACT 1275c.

An act to prevent the sale and use of sulphur containing material quantities of arsenic for the purpose of sulphuring fruits or other foods; to provide a standard for sulphur for sulphuring fruits or other foods, and to provide penalties for the violation of the provisions hereof.

[Approved May 2, 1919. Stats. 1919, p. 282. In effect July 22, 1919.]

§ 1. Amount of arsenic permitted in sulphur. No person, firm, company or corporation shall sell, offer for sale, or keep for sale sulphur containing more than ten parts per million of arsenic oxide (As_2O_3) for the purpose of sulphuring fruits or other foods.

§ 2. Definition. For the purposes of this act the term "sulphur for sulphuring fruits or other foods" shall be construed to mean sulphur which contains not more than ten parts per million of arsenic oxide (As_2O_3).

§ 3. Sale. No person, dealer, jobber, firm, company or corporation shall sell, keep for sale, or offer for sale sulphur for sulphuring fruits or other foods which contains more than ten parts per million of arsenic oxide (As_2O_3). Every package, parcel, bag or container of sulphur for

sulphuring fruits or other foods shall be labeled or tagged, and said label or tag shall contain the words in bold faced type, not less than one-fourth inch in height, "Sulphur for sulphuring fruits or other foods." Said label or tag shall also contain the name and address of the person, firm, company or corporation which manufactures, prepares or packs the sulphur.

§ 4. Use. No person, firm, company or corporation shall use sulphur containing more than ten parts per million of arsenic oxide (As_2O_3) for the purpose of sulphuring fruits or other foods.

§ 5. Penalty. Any person, firm, company or corporation which violates any provision of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars, nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

§ 6. Enforcement by state board of health. The state board of health is hereby empowered to enforce the provisions of this act and to prescribe the form of tags, or labels to be used, and to prescribe and enforce such rules and regulations as it may deem necessary to carry into effect the full intent and meaning of this act.

ACT 1275d.

An act providing for the protection of the vineyards of the state against Phylloxera by regulating the transportation within the state of grapevines or parts thereof for use as fuel.

[Approved May 11, 1919. Stats. 1919, p. 460. In effect July 22, 1919.]

§ 1. Transportation of grapevines regulated. Any person, firm or organization desiring or planning to transport, move or cause to be moved any grapevines or parts thereof from premises or localities within the state of California known to contain grape Phylloxera (*Phylloxera vastatrix*) shall notify the county horticultural commissioner of the county wherein such premises or localities are situated of such intention at least ten days in advance. Such county horticultural commissioner shall within ten days of the receipt of such notice make an inspection of such premises or grapevines to determine whether the grape Phylloxera exists thereon. If, after such inspection, it is found by the county horticultural commissioner that such premises or grapevines are infested with the grape Phylloxera, or if in his judgment such premises or grapevines are liable to be so infested and that there is danger of the said grape Phylloxera being disseminated to other premises or localities by the movement of such grapevines, the said county horticultural commissioner shall prescribe such treatment as he shall deem necessary to destroy such grape Phylloxera so infesting said grapevines. It shall be unlawful to transport, move or cause to be moved any such grapevines or parts thereof from the premises whereon the same are growing until said county horticultural commissioner shall certify in writing after inspection that such grapevines have been thoroughly disinfected under his direction and to his satisfaction; provided, however, that nothing in this act shall be construed to apply to grapevines or roots which are for planting or propagation.

§ 2. Expenses. Any expenses incurred by such disinfection as may be prescribed by the county horticultural commissioner under section one hereof, shall be at the expense of the owner or owners, or agent or agents, or person having charge or possession of such grapevines or the premises whereon the same are growing.

§ 3. Penalty. Any person, firm or organization who shall knowingly violate any of the provisions of this act shall be guilty of a misdemeanor.

ACT 1275e.

An act to promote the development of the California fruit and vegetable industry in state and interstate markets, and to protect the state's reputation in these markets by establishing standards and standard packages for certain fruits and vegetables specified therein, and to prevent deception in fruit packages, prescribing penalties for violation of the provisions hereof and making an appropriation for the enforcement of all provisions hereof, and repealing all acts inconsistent herewith.

[Approved May 27, 1919. Stats. 1919, p. 1221.]

§ 1. Standard packages for fruits, etc., established. To promote the development of the California fresh fruit, nut and vegetable industry and to prevent deception in fruit or vegetable packages for state or interstate shipment, there are hereby created and established certain standards and standard packages for apricots, almonds, walnuts, berries, cantaloupes, cherries, grapes, oranges, peaches, pears, plums, prunes, quinces, tomatoes, onions, sweet potatoes and potatoes.

§ 2. All fresh fruits, nuts and vegetables of the kind specified in section one of this act, except oranges which shall be governed by the provisions of section nine, and except such fruits and vegetables for which special grades shall be established under section three of this act, when being packed, or after packing, or when shipped, delivered for shipment, offered for sale or sold, in any container or subcontainer, shall be mature but not overripe, well colored for the variety and locality, virtually uniform in quality, virtually free from insect and fungous pests, rots, bruises, frost injury, sunburn and other serious defects, and, except in the case of unpacked fruit or vegetables, shall be virtually uniform in size. When packed in layers there shall be approximately the same numerical count in each layer throughout a container or subcontainer having straight sides. In the case of sloping side containers no layer below the top layer shall contain a greater numerical count than the top layer.

§ 3. Enforcement by commissioner of horticulture. The state commissioner of horticulture is hereby empowered, through his deputies and the inspectors of fresh fruit and vegetables of each county in the state, to enforce all the provisions of this act, and to establish and enforce such grades and grading rules as may be deemed necessary after a thorough investigation has been made of the needs of the particular fruit or vegetable for which grades are contemplated. Such grades and grading rules must, before they become effective, be approved in one or more

public meetings attended or represented by at least fifty per cent of the growers and shippers of that locality interested in the industry affected. Such meetings shall be widely advertised in a newspaper published in that locality for at least two weeks prior to the meetings; said meetings shall be presided over by the state commissioner of horticulture, or any of his deputies, and shall, in so far as possible and practicable, be conducted at places that can be conveniently reached by representatives of the affected industry. In like manner the state commissioner of horticulture may provide for standard packages other than those provided for in section six of this act. Grades and grading rules established in accordance with the provisions of this section shall not be modified, nor shall standard packages which have been established be changed during the current shipping season of the fruits or vegetables for which such grades or standard packages were established.

§ 4. Exemptions. All fresh fruits or vegetables of the kind specified in this act for use in the manufacture of by-products, shall be exempt from the provisions of this act, and any inspector or deputy inspector of fresh fruits and vegetables may require from the owner or shipper of such fruits or vegetables such proof as he may deem necessary that they will be used in the manufacture of by-products, and shall hold same until satisfactory proof is given.

§ 5. Definitions. When used in this act the words herein mentioned shall be defined as follows: "Packages" shall mean any box, basket, barrel, drum, or crate used as a container or subcontainer for fruits or vegetables. "Pack, packing or packed," shall mean the regular compact arrangement of all or part of the fruit or vegetables in any container or subcontainer used for the purposes of sale or transportation for sale. "Deceptive pack" shall mean any package of fruits or vegetables, which has in the outer layer or the exposed surface fruit or vegetables which are so superior in quality or condition to those in the interior of the package, or the unexposed portion, as to materially misrepresent the entire contents. "Fresh fruit (except oranges) or fresh vegetables" shall mean the fresh product of any tree, vine or plant mentioned in this act. "Mature" shall mean a degree of ripeness fit for shipment. "Virtually uniform in size" shall mean in the case of packed fruits a difference in size of the various fruits as follows: Pears, peaches and quinces, a variation of not more than one quarter of an inch when measured through widest portion of cross section; apricots, plums, prunes, cherries and berries, a variation of not more than one-eighth of an inch when measured through widest portion of cross section. "Virtually free" from insect and fungous pests, rots, bruises, frost injury, sunburn and other serious defects, shall mean that the total defects shall not exceed ten per cent in any one package of fruits or vegetables, and excepting grapes that there shall not be more than three per cent of any one defect. "By-product" shall mean any product manufactured from fresh fruits, fresh vegetables, or their juices. "County" shall include in its meaning a consolidated city and county. "Container" shall mean any box, crate or other package utilized in handling fresh fruit or vegetables. "Subcontainer" shall mean any basket or other receptacle used within a container. "Substantially colored" shall mean at least seventy per cent color.

§ 6. Specifications for standard containers. Standard containers are hereby established as follows:

(1) Standard apricot, plum and grape basket, approximately eight inches square on top, six and one-half inches on bottom and four inches deep, inside measurements.

(2) Standard berry baskets, dry pint containing an interior capacity of approximately thirty-three and six-tenths cubic inches and dry one-half pint containing interior capacity of approximately sixteen and eight-tenths cubic inches.

	Depth inside.	Width inside.	Length outside.
(3)			
Standard pear box.....	8½"	11½"	19½"
Half pear box.....	4½"	11½"	19½"
Standard peach box.....	4½"	11½"	19½"
Standard peach box.....	4½"	11½"	19½"
Standard peach box.....	4½"	11½"	19½"
Standard crates.....	4½"	16 "	17½"
Standard crates.....	4½"	16 "	17½"
Standard crates.....	4½"	16 "	17½"
(4) Standard grape crates.....	4½"	16 "	17½"
with heavy cleat 11/16" by 11/16"			
(5) Standard grape drum.....	14 "	15½"	....
containing 2923 cubic inches			
(6) Standard grape keg.....		....	....
containing 2923 cubic inches			
(7) Standard lug box.....	5½"	14 "	17½"
(8) Standard cherry lug.....	4½"	11½"	19½"
(8½) Standard cherry lug.....	4½"	9 "	19½"
(9) Standard cherry box.....	2½"	9 "	19½"

(10) Standard cantaloupe crates, twelve inches by twelve inches by twenty-two and one-half inches, to be packed with thirty-six or forty-five cantaloupes; four inches by twelve inches by twenty-two and one-half inches, to be packed with twelve or fifteen cantaloupes; eleven inches by eleven inches by twenty-two and one-half inches, to be packed with forty-five or fifty-four cantaloupes; thirteen inches by thirteen inches by twenty-two and one-half inches, to be packed with thirty-six or forty-five cantaloupes; four and one-half by thirteen and one-half by twenty-two and one-half inches, containing twelve or fifteen cantaloupes.

§ 7. Labels for fruit containers. Subcontainers exempt. All containers of fruit of a kind specified in this act, except subcontainers, when packed and offered for sale, shall bear upon them in plain sight and in plain letters on the outside thereof the following: Name of the orchard where the same was produced, with the postoffice address thereof, or the name and postoffice address of the person, firm, company or corporation, or organization who shall have first packed or authorized the packing of the same, or the name under which such packer shall be engaged in business, together with the postoffice address of such packer; name of variety if known, and when not known the words "unknown variety"; minimum net weight or approximate number of fruits in the container or subcontainer, which number shall be within

four of the true count, and no container or subcontainer shall have less than the minimum stamped thereon. When two or more varieties are packed or placed in a container, they shall be labeled "mixed varieties"; provided, that pears and peaches, when packed, shall have the correct number within four placed on the container.

Standard or other containers when used as subcontainers are exempt from the provisions regarding marking, when the container in which they are placed is marked in compliance with the terms of this section. No containers or subcontainers of fresh fruits or vegetables shall bear grade or other designations that are in any way false or misleading.

§ 8. Standard containers. "Irregular container." After January 1, 1920, all fresh fruits of the kinds specified in this act, except such as shall be used in the manufacture of by-products, when prepared or offered for sale or sold, shall be packed or placed in standard containers, which are hereby established, and shall conform to all provisions of this act; provided, that other sized containers may be used if conspicuously marked in letters not less than one-quarter inch high, "irregular container."

§ 9. Standard for table grapes. Standard for oranges. In addition to the standards prescribed in section two of this act, table grapes shall show a sugar content of not less than seventeen per cent Balling scale, except Emperor, Gros Coleman and Cornichon, which shall show not less than sixteen per cent Balling scale. Oranges shall be deemed properly matured for shipment or sale under the provisions of this act when the juice contains soluble solids equal to or in excess of eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization; provided, that the oranges have attained at least twenty-five per cent yellow or orange color before picking, and oranges which are substantially or at least seventy per cent colored at the time of picking shall be deemed properly matured for shipment or sale, irrespective of analysis of the juice. When packed, shipped, delivered for shipment, offered for sale or sold, oranges shall be virtually free from insect and fungous diseases and other serious defects. Oranges shall be considered unfit for shipment when frosted to the extent of endangering the reputation of the citrus industry, if shipped. The foregoing provisions shall not apply to shipments of oranges to foreign countries other than the dominion of Canada, during any season, provided such shipments are made after the first day of November.

§ 10. Inspectors of fresh fruit and vegetables. The office of "inspector of fresh fruit and vegetables" is hereby created for each and every county in the state. The horticultural commissioner of each county, and all deputy horticultural commissioners shall be ex-officio inspectors of fresh fruits and vegetables thereof, and the inspectors under each county horticultural commissioner are ex-officio "deputy inspectors of fresh fruits and vegetables" in their respective counties. The county horticultural commissioner shall appoint as many deputy "inspectors of fresh fruits" as are necessary to carry out the provisions of this act. Their term of office shall be for such time as is deemed necessary by said board of supervisors. The offices of "inspectors in

chief of fresh fruits and vegetables" are hereby created, and the state commissioner of horticulture and his chief deputy, for the purposes of this act, are hereby made ex-officio such inspectors in chief. It shall be the duty of the "ex-officio inspectors in chief of fresh fruits and vegetables" to secure strict and uniform enforcement of the provisions of this act throughout the state, and for that purpose, immediately after this act becomes a law, the state commissioner of horticulture shall appoint two state inspectors of fresh fruits and vegetables, each of whom shall receive a salary of two thousand four hundred dollars per annum and necessary traveling expenses when engaged in the duties of enforcing this act.

§ 11. Appointed by supervisors. Compensation. If in any county, or city and county, of this state there is no commissioner of horticulture, it shall be the duty of the board of supervisors thereof to appoint an inspector of fresh fruits and vegetables and such deputy inspectors of fresh fruits and vegetables as shall be deemed necessary. Such inspectors and deputy inspectors of fresh fruits and vegetables shall be appointed to serve for such time during each year as fresh fruits and vegetables are being packed or shipped in said county, or city and county. Inspectors of fresh fruits and vegetables thus appointed shall receive six dollars per day and necessary traveling expenses. The salary of a deputy inspector of fresh fruits and vegetables shall be five dollars per day and necessary traveling expenses. In case the board of supervisors of any county, or city and county, shall fail or neglect, for thirty days after receipt of a written request from the state commissioner of horticulture, to appoint an inspector of fresh fruits and vegetables, or necessary deputy inspectors of fresh fruits and vegetables for such county, or city and county, then the said state commissioner of horticulture shall forthwith assign to said county, or city and county, one or more deputy state commissioners of horticulture, as he shall deem necessary, and such deputy or deputies shall perform all of the duties within the said county, or city and county, to which assigned, as are provided in this act to be performed by an inspector of fresh fruits and vegetables. The actual cost of services rendered by an inspector or deputy inspector, as the case may be, of fresh fruits and vegetables, assigned to any county in pursuance hereof, together with his necessary traveling expenses, shall be a county charge and shall be paid in the same manner in which other claims against the county are paid.

§ 12. Powers and duties of inspector. Every inspector of fresh fruits and vegetables and every deputy inspector of fresh fruits and vegetables shall have power to enter and to inspect every place within the county for which he has been appointed where any fruit or vegetables mentioned in this act are produced, stored, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all such fruits and vegetables and the containers thereof and the equipment found in any such places. It shall be the duty of the inspectors or deputy inspectors of fresh fruit or vegetables in their respective districts to enforce the provisions of this act and to cause the prosecution of any person, firm, corporation or organization; whom they know or have reason to believe to be guilty of the violation of any of its provisions. Any inspector or deputy inspector of fresh fruits and vegetables in the performance of his duties shall have

the same powers possessed by peace officers of the city, county, or state, and shall have the right while exercising such police powers to seize and hold as evidence part or all of any pack, load, consignment or shipment of fresh fruits or vegetables packed in violation of this act, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating any of the provisions of this act. He may start proceedings in any court of the county, or city and county, within his jurisdiction to secure the conviction of the party or parties who have violated any of the provisions of the act. It shall be the duty of the district attorney of said county, or city and county, in which any violation of this act may occur, to prosecute the person, firm, company, organization or corporation accused of such violation and also, at the request of the state commissioner of horticulture, or any one of his deputies, to institute and prosecute such action for condemnation as may be authorized under the provisions of this act.

§ 13. Refusal to ship. It shall be lawful for any fresh fruit or vegetables forwarding person, firm, corporation or organization and for any common carrier to decline to ship or transport any fresh fruits or vegetables which upon inspection are found to be packed in violation of the provisions of this act, and any such fruit or vegetables forwarder or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter all fresh fruits or vegetables which upon inspection are found to be packed in violation of the provisions of this act.

§ 14. Penalty for violation. It shall be unlawful for any person, firm, company, organization or corporation, to pack or cause to be packed for sale or shipment, import, sell, offer for sale, or deliver for shipment any of the fresh fruits or vegetables specified in this act that do not conform to the standards herein provided. It shall also be unlawful to prepare, sell or offer for sale, a deceptive pack of fresh fruits, fresh vegetables or dried fruits or dried vegetables or to mislabel any package of any such fruits or vegetables. Any person, firm, corporation, company or organization who shall violate any of the provisions of this act shall be deemed to be guilty of a misdemeanor.

§ 15. Repealed. All laws in conflict with this act are hereby repealed.

§ 16. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 17. Appropriation. The sum of seven thousand five hundred dollars per annum is hereby appropriated out of any money in the state treasury not otherwise appropriated to be used in the enforcement of the provisions of this act.

TITLE 209.

GAME LAWS.

ACT 1295b.

An act to divide the state of California into fish and game districts and to repeal an act entitled "An act to divide the state of California into six fish and game districts," approved March 21, 1911, and all acts or parts of acts inconsistent herewith. [Approved May 19, 1915. Stats. 1915, p. 589.]

Repealed 1917; Stats. 1917, p. 1047.

See post, Act 1295d.

ACT 1295d.

An act to divide the state of California into fish and game districts and to repeal an act entitled "An act to divide the state of California into fish and game districts and to repeal an act entitled 'An act to divide the state of California into six fish and game districts,' approved March 21, 1911, and all acts or parts of acts inconsistent herewith," approved May 19, 1915.

[Approved May 28, 1917. In effect July 27, 1917.]

Amended 1919; Stats. 1919, p. 427.

§ 1. **State divided into fish and game districts.** The state of California is hereby divided into fish and game districts to be known and designated as: Fish and game district one, fish and game district one and one-half, fish and game district one "A," fish and game district one "B," fish and game district one "C," fish and game district one "D," fish and game district one "E," fish and game district one "F," fish and game district one "G," fish and game district one "H," fish and game district one "I," fish and game district one "J," fish and game district one "K," fish and game district one "L," fish and game district one "M," fish and game district two, fish and game district two "A," fish and game district three, fish and game district three "A," fish and game district three "B," fish and game district three "C," fish and game district three "D," fish and game district three "E," fish and game district four, fish and game district four and one-half, fish and game district four "A," fish and game district four "B," fish and game district four "C," fish and game district four "D," fish and game district four "E," fish and game district four "F," fish and game district five, fish and game district six, fish and game district seven, fish and game district seven "A," fish and game district eight, fish and game district nine, fish and game district ten, fish and game district eleven, fish and game district twelve, fish and game district twelve "A," fish and game district twelve "B," fish and game district thirteen, fish and game district fourteen, fish and game district fifteen, fish and game district sixteen, fish and game district seventeen, fish and game district eighteen, fish and game district nineteen, fish and game district twenty, fish and game district twenty "A," fish and game district twenty-one, fish and game district twenty-two, fish and game district twenty-three, fish and game district twenty-four, fish and game district twenty-five and fish and game district twenty-six. [Amendment approved May 13, 1919; Stats. 1919, p. 428.]

§ 2. One. Fish and game district one shall consist of and include the following counties: Yuba, Calaveras, Tuolumne, Mariposa, Madera and Kings, and those portions of Modoc county not included in fish and game districts one "B" and one "C"; those portions of Trinity county not included in fish and game district one "D"; those portions of Shasta county not included in fish and game district one "E"; those portions of Lassen county not included in fish and game districts one "F" and twenty-five; those portions of Tehama county not included in fish and game districts one "G" and twelve "A"; those portions of Plumas county not included in fish and game districts one "H" and twenty-five; those portions of Butte county not included in fish and game districts twelve "A" and twelve "B"; those portions of Sutter county not included in fish and game district twelve "B"; those portions of Sierra and Nevada counties not included in fish and game district twenty-three; those portions of Placer county not included in fish and game district twenty-three; those portions of El Dorado county not included in fish and game districts one "I" and twenty-three; those portions of Sacramento county not included in fish and game district twelve "B"; those portions of Amador county not included in fish and game districts one "J" and twenty-four; those portions of Alpine county not included in fish and game districts one "J" and twenty-four; those portions of San Joaquin county lying east and north of the east or right-hand bank of San Joaquin river and not included in fish and game districts three and twelve "B"; those portions of Stanislaus county lying east of the west bank of the San Joaquin river; those portions of Merced county lying east of the west bank of the San Joaquin river; those portions of Fresno county lying east of the west bank of Fresno slough, Fish slough and Summit lake not included in fish and game districts one "K" and twenty-six; those portions of Kern county lying east of the west bank of Bull slough and the west and south banks of Buena Vista lake to the southeast corner of said lake and lying north of a line extended from this point directly east and intersecting the Tejon state highway and lying east of the said state highway from the above-mentioned point of intersection to where the said state highway crosses the northern boundary line of Los Angeles county, not included in fish and game districts one "L" and one "M" and those portions of Tulare county not included in fish and game district one "L." [Amendment approved May 13, 1919; Stats. 1919, p. 428.]

§ 24. One and one-half. Fish and game district one and one-half shall consist of and include those portions of Del Norte county not included in fish and game districts five and six; those portions of Siskiyou county not included in fish and game district one "A"; those portions of Humboldt county not included in fish and game districts six, seven, seven "A," eight, and nine. [New section approved May 13, 1919; Stats. 1919, p. 432.]

§ 3. One "A." Fish and game district one "A" shall consist of and include all of sections thirteen to thirty-six, inclusive, township forty-seven north, range nine west; all of sections one to six, inclusive, township forty-six north, range nine west; all those portions of sections seven to thirteen, inclusive, township forty-six north, range nine west; lying

north of and including the waters of the Klamath river in the said sections, all lying within the county of Siskiyou.

§ 4. One "B." Fish and game district one "B" shall consist of and include all lands within the county of Modoc lying within the following boundaries: Starting at a point where Boles creek crosses the national forest boundary in section twenty-nine, township forty-six north, range nine east; thence along said Boles creek to a point where the creek crosses the section line between sections nine and ten, township forty-five north, range nine east; thence due south to where the Deer hill and Canby wagon road crosses the section line between sections thirty-three and thirty-four, township forty-three north, range nine east; thence in a northwesterly direction along said wagon road to where it crosses the national forest boundary; thence along said boundary to place of beginning.

§ 5. One "C." Fish and game district one "C" shall consist of and include all lands within the county of Modoc within the following boundaries: Beginning at the northwest corner of section three, township forty-one north, range fourteen east; thence in a southeasterly direction along the summit of the main ridge between Shield's creek and Pine creek to the summit of the Warner mountains to the north of Warner peak (Buck Mt.) in section eleven, township forty-one north, range fifteen east; thence in a southerly direction along the summit of the Warner mountains to the first peak south of Pine creek basin, near the quarter-section corner between sections thirty-five and thirty-six, township forty-one north, range fifteen east; thence in a westerly direction along the main ridge south of the north fork of Fitzhugh creek to the national forest boundary in section thirty-three, township forty-one north, range fourteen east; thence along said boundary to place of beginning.

§ 6. One "D." Fish and game district one "D" shall consist of and include that certain territory embraced in the Trinity national forest, more particularly described as follows, to wit:

(a) Sections nineteen, thirty, thirty-one and thirty-two of township thirty-four north, range eleven west; sections five, six, seven, eight, seventeen, eighteen, nineteen, twenty, thirty, and thirty-one of township thirty-three north, range eleven west; sections one, two, three, four, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, thirty-three, thirty-four, thirty-five, thirty-six of township thirty-four north, range twelve west; sections one, two, three, four, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six of township thirty-three north, range twelve west; sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-nine and thirty of township thirty-two north, range twelve west; all in Mount Diablo base and meridian in the state of California; and

(b) Sections twenty-eight, thirty-one, thirty-two, thirty-three of township four north, range eight east; and sections four, five, six, seven, eight,

nine, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-two, thirty-three, township three north, range eight east; all in Humboldt base and meridian in the state of California.

§ 7. One "E." Fish and game district one "E" shall consist of and include all lands lying within the county of Shasta within the following boundaries: Beginning at a point on the McCloud river where the township line between townships thirty-six and thirty-seven north, range three west, crosses the McCloud river; thence in a southerly direction following the east bank of said river to the point where the ridge north of Mathless creek meets the McCloud river; thence in an easterly direction along the summit of said ridge and along the summit of the ridge dividing the Salt creek drainage area from the Nasoni creek drainage area; thence along the summit of the ridge dividing the Salt creek drainage area and the north fork of Squaw creek to Squaw creek; thence northerly along the west bank of said creek to the point where the township line between townships thirty-six and thirty-seven north, range two west, crosses the said creek; thence due west along the said township line and along the township line between townships thirty-six and thirty-seven north, range three west, to the point of beginning.

§ 8. One "F." Fish and game district one "F" shall consist of and include all lands within the county of Lassen within the following boundaries: Comprising an area including all of townships thirty-two and thirty-three north, range ten east, and all of that portion of township thirty-two north, range eleven east, falling on the west side of Eagle lake.

§ 9. One "G." Fish and game district one "G" shall consist of and include all lands within the county of Tehama within the following boundaries: Commencing at a point in section eighteen, township twenty-five north, range two east, where Deer creek intersects the range line between ranges one and two east and running thence north along the range line between ranges one and two east, allowing for proper offsets and corrections, to the northeast corner of section thirty-six, township twenty-seven north, range one east; thence west to a point where Mill creek intersects the national forest boundary; thence in a northeasterly direction along the main channel of Mill creek to a point where the said creek crosses the range line between ranges two and three east; thence south along the range line between ranges two and three east, to the southeast corner of section twenty-five, township twenty-seven north, range two east, thence west to the southwest corner of said section twenty-five; thence south to the southeast corner of section thirty-five, township twenty-seven north, range two east; thence east along township line to a point where Deer creek intersects the township line between township twenty-six north and township twenty-seven north, thence in a southwesterly direction along the main channel of Deer creek to the point of beginning. [Amendment approved May 13, 1919; Stats. 1919, p. 429.]

§ 10. One "H." Fish and game district one "H" shall consist of and include all lands within the county of Plumas within the following boundaries: Beginning at the confluence of Willow creek with the Feather

river below Hartman bar; thence northerly along Willow creek to where the Claremont stock driveway crosses the head of this stream; thence in an easterly direction along the Claremont stock driveway to Claremont peak; thence south along the summit of the ridge to the middle fork of the Feather river; thence southwesterly along the Feather river to the point of beginning.

§ 11. One "I." Fish and game district one "I" shall consist of and include all lands within the county of Placer, within the following boundaries: Commencing at the junction of the north fork of the middle fork of the American river and the middle fork of the American river; thence northeasterly up the north fork of the middle fork to Grouse creek; thence northeasterly up main Grouse creek to its intersection with the township line between townships fifteen north and fourteen north, range thirteen east; thence easterly along said township line to the township corner of township fifteen north, ranges thirteen and fourteen east; thence south along range line between township fourteen north, ranges thirteen and fourteen east to the corner of sections twelve and thirteen, township fourteen north, range thirteen east, and sections seven and eighteen, township fourteen north, range fourteen east; thence easterly along section line between sections seven and eighteen, sections eight and seventeen to the Big Meadow trail; thence southerly along said Big Meadow trail to the line between sections twenty and twenty-nine, township fourteen north, range fourteen east; thence east along said section line to the Rubicon river; thence southwesterly down the Rubicon river to intersection of the line between sections six and seven, township thirteen north, range fourteen east; thence west along said section line to range line between township thirteen north, ranges thirteen east and fourteen east; thence west along section line between sections one and twelve, township thirteen north, range thirteen east, to Wallace canyon creek; thence southwesterly down Wallace canyon creek to its confluence with Long canyon; thence westerly down Long canyon to its confluence with the Rubicon river; thence westerly down said river to its confluence with the middle fork of the American river; thence down said river to place of beginning. [Amendment approved May 13, 1919; Stats. 1919, p. 430.]

§ 12. One "J." Fish and game district one "J" shall consist of and include all lands within the counties of Amador and Alpine within the following boundaries: Commencing at a point between sections thirteen and eighteen, township eight north, range fourteen and fifteen east, where the Alpine state highway enters section eighteen, township eight north, range fifteen east; thence northeasterly along the south side of said Alpine highway right of way to the corner of townships eight and nine north, ranges fifteen and sixteen east; thence east along line between townships eight and nine north, range sixteen east; thence east along line between townships eight and nine north, range seventeen east, to the intersection of Cedar Camp trail; thence southerly along Cedar Camp trail to intersection of said Cedar Camp trail with the Mokelumne river; thence down the north bank of the Mokelumne river in a southwesterly direction to the intersection of range line between township seven north, ranges fourteen and fifteen east; thence north along range line between township eight north, ranges fourteen and fifteen east to the intersection of Alpine state highway to the place of beginning.

§ 13. One "K." Fish and game district one "K" shall consist of and include all lands in the county of Fresno within the following boundaries: Beginning at the confluence of the north fork of Kings river; and the middle fork of Kings river; thence easterly along the summit of the divide separating the drainage area of the north fork of Kings river from the drainage area of the middle fork of Kings river to Spanish mountain; thence southeasterly along the summit of Tombstone ridge, which separates the drainage area of Crown creek from that of Tombstone creek, to the middle fork of Kings river; thence westerly along the north bank of the middle fork of Kings river to the point of beginning.

§ 14. One "L." Fish and game district one "L" shall consist of and include the area composing the watershed of Chimney creek north of the Sequoia national forest boundary and all of the watershed of Long valley; all lying within the counties of Tulare and Kern.

§ 14½. One "M." Fish and game district one "M" shall consist of and include all of that certain territory within the county of Kern, bounded and described as follows: Beginning at the San Joaquin Power Company's plant located on the bank of the Kern river, in section six, township twenty-nine south, range thirty east, Mount Diablo base and meridian, thence running in a northeasterly direction following the south bank of the Kern river to the mouth of Clear creek, thence following Clear creek in a southerly direction to the intersection of the Caliente-Kernville highway, thence following said highway in a southerly direction to the intersection of Basin creek; thence following the northerly bank of Basin creek in a southwesterly direction to the intersection of the national forest boundary line as established January 1, 1919, thence following said national forest boundary north and west to the San Joaquin Power Company's plant at the place of beginning. [New section approved May 13, 1919; Stats. 1919, p. 432.]

§ 15. Two. Fish and game district two shall consist of and include all those portions of Mendocino county not included in fish and game districts ten and two "A"; all those portions of Glenn county not included in fish and game districts two "A" and twelve "A"; all those portions of Lake county not included in fish and game district two "A"; all those portions of Colusa county not included in fish and game districts twelve "A" and twelve "B"; all those portions of Yolo county not included in fish and game district twelve "B"; all those portions of Solano county not included in fish and game districts twelve and twelve "B"; all those portions of Napa county not included in fish and game district twelve; all those portions of Sonoma county not included in fish and game districts ten and twelve; all those portions of Marin county not included in fish and game districts ten, eleven and twelve.

§ 16. Two "A." Fish and game district two "A" shall consist of and include all lands lying within the following boundaries, located in counties of Mendocino, Lake and Glenn: Beginning at the summit of Hull mountain in Mendocino county, in the southwest corner of section two, township nineteen north, range ten west; thence in a northeasterly direction down Hull creek (sometimes known as Red Rock creek) to its junction with Sand creek, thence southeasterly down Sand creek to its

junction with Corbin creek, thence in an easterly direction up Corbin creek to section thirty-six, township twenty north, range eight west, thence in a southerly direction up a ravine to the Sheetiron-Elk Creek road on the summit of the Coast Range mountains in section twelve, township nineteen north, range eight west, thence southwesterly along the road and summit over Sheetiron mountain to Low gap, where the Bloody Rock trail crosses the summit in section twenty-seven, township nineteen north, range eight west, thence in a westerly direction down the Bloody Rock trail and Cold creek to South Eel river in section twenty-six, township nineteen north, range nine west, thence down the river to the mouth of a ravine in the southeast quarter of section twenty-seven, township nineteen north, range nine west, thence in a northwesterly direction up the ravine through sections twenty-seven and twenty-eight to the summit of Boardman ridge thence in a northwesterly direction up Boardman ridge to the summit of Hull mountain.

§ 17. Three. Fish and game district three shall consist of and include those portions of Contra Costa county not included in fish and game districts twelve and twelve "B"; those portions of San Joaquin county not included in fish and game districts one and twelve "B"; those portions of Alameda county not included in fish and game districts twelve and thirteen; those portions of San Francisco county not included in fish and game districts ten, eleven, twelve and thirteen; those portions of San Mateo county not included in fish and game districts ten and thirteen; those portions of Santa Clara county not included in fish and game district thirteen; those portions of Santa Cruz county not included in fish and game districts three "A," ten, fourteen, fifteen and seventeen; those portions of San Benito county not included in fish and game district three "B"; those portions of Monterey county not included in fish and game districts sixteen, seventeen and eighteen; those portions of San Luis Obispo county not included in fish and game district eighteen; those portions of Santa Barbara county not included in fish and game districts three "C" and nineteen; those portions of Ventura county not included in fish and game districts three "D" and nineteen; those portions of Stanislaus county not included in fish and game district one; those portions of Merced county not included in fish and game district one; those portions of Fresno county not included in fish and game districts one, one "K" and twenty-six; those portions of Kern county not included in fish and game districts one and one "L."

§ 18. Three "A." Fish and game district three "A" shall consist of and include that certain territory embraced in California Redwood Park, Santa Cruz county, commonly known as the "Big Basin," and more particularly described as follows, to wit:

The east half and the east half of the west half of section one, the north half of the northeast quarter and the northeast quarter of the northwest quarter of section twelve, all in township nine south, range four west; the west half of section four, all of sections five and six, the north half of the northwest quarter, the northeast quarter, the east half of the southeast quarter of section seven, the north half, the southwest quarter, the north half of the southeast quarter and the southwest quarter of the southeast quarter of section eight, the north half of the northwest quarter, the southwest quarter of the northwest quarter and the north-

west quarter of the southwest quarter of section nine, all in township nine south, range three west; all that portion of the southwest quarter of section twenty-eight lying south and west of the road known as the "China grade," all that portion of the east half of section twenty-nine lying south and west of said "China grade," the east half of section thirty-two, the southwest quarter and that portion of the northwest quarter of section thirty-three lying south of said "China grade," all in township eight south, range three west; all townships and ranges mentioned herein being referred to Mount Diablo base line and meridian.

§ 19. Three "B." Fish and game district three "B" shall consist of and include those certain lands within the counties of San Benito and Monterey embraced within the Pinnacles National Monument, and more particularly described as follows, to wit: All of sections twenty to twenty-nine, inclusive, all of sections thirty-three, thirty-four and thirty-five and the west half of section thirty-six of township sixteen south, range seven east; the west half of section one, all of sections two and three, the east half of section four, the east half of section nine, all of sections ten and eleven, the west half of section twelve, the west half of section thirteen and all of sections fourteen and fifteen of township seventeen south, range seven east. All townships and ranges mentioned herein being referred to Mount Diablo base and meridian.

§ 20. Three "C." Fish and game district three "C" shall consist of and include all lands within the county of Santa Barbara within the following boundaries: Beginning at the summit of Mission Pine mountain, running thence northwest to the head of Mazana creek; thence along the north bank of said creek to its junction with the Sisquoc river; thence in an easterly direction along the south bank of the Sisquoc river to the junction of the south fork of the Sisquoc; thence along the west bank of the south fork of Sisquoc river to the point of beginning.

§ 21. Three "D." Fish and game district three "D" shall consist of and include all lands lying within the county of Ventura within the following boundaries:

Beginning at the northwest corner of township six north, range twenty-one west, San Bernardino base and meridian; thence south along the west line of said township to the southwest corner thereof; thence east along the south line of said township six north, range twenty-one west, to the northwest corner of township five north, range twenty-one west; thence south along the west line of said township five north, range twenty-one west, to the southwest corner of section nineteen, said township and range; thence easterly along the section lines and the section lines produced to a point in the east line of township five north, range eighteen west, one hundred sixty chains north of the southeast corner thereof; thence north along the east line of said township five north, range eighteen west, to the northeast corner thereof; thence west along the north line of township five north, range eighteen west, and township five north, range nineteen west, to the southeast corner of township six north, range nineteen west; thence north along the east line of said township six north, range nineteen west, to the northeast corner thereof; thence west along the north line of township six north, ranges nineteen, twenty and twenty-one west, to the northwest corner of township six north, range twenty-one west, being the point of beginning, all in San

Bernardino base and meridian. [Amendment approved May 13, 1919; Stats. 1919, p. 440.]

§ 214. Three "E." Fish and game district three "E" shall consist of and include all those portions of township seven south, range three east, Mount Diablo base and meridian, more particularly described as follows: All of sections three, four and nine; the southwest quarter of the southwest quarter of section two; the southeast quarter of section five; the northeast quarter of the northeast quarter of section eight; all of those portions of sections sixteen and seventeen and of the southern three-quarters of section eight lying east of the northeast boundary line of the Rancho Canada del Pala; and all of those portions of sections ten, fifteen and sixteen, and of the west quarter of section eleven, lying to the north of Sulphur creek. [New section approved May 13, 1919; Stats. 1919, p. 432.]

§ 22. Four. Fish and game district four shall consist of and include all those portions of Los Angeles county not included in fish and game districts four "B," four "F," nineteen, twenty and twenty "A"; all those portions of San Bernardino county not included in fish and game districts four "A," four "B" and twenty-two; all those portions of Orange county not included in fish and game districts four "C" and nineteen; all those portions of Riverside county not included in fish and game districts four "C," four "D" and twenty-two; all those portions of San Diego county not included in fish and game districts four "E," nineteen and twenty-one; all those portions of Imperial county not included in fish and game district twenty-two. [Amendment approved May 13, 1919; Stats. 1919, p. 430.]

§ 224. Four and one-half. Fish and game district four and one-half shall consist of and include the counties of Mono and Inyo. [New section approved May 13, 1919; Stats. 1919, p. 432.]

§ 23. Four "A." Fish and game district four "A" shall consist of and include a portion of the Angeles National Forest lying within the county of San Bernardino and more particularly described as follows, to wit: All that tract of land situate, lying and being within the following boundary:

Beginning at a point in the Angeles forest reserve in San Bernardino county where the ravine of the Mohave river crosses the north line of township two north, range four west, thence due east along the township lines to a point where the ravine of Deep creek crosses such township line; thence easterly following the ravine of said Deep creek to a point marking the confluence of the ravines of Deep creek and Holcomb creek; thence east and north following the ravine of Holcomb creek to Holcomb valley; thence easterly along the public road to the junction thereof with a public road leading southeasterly to the Rose mine; thence following the aforesaid road to Rose mine in a southeasterly direction to a point where it crosses the east line of township two north range two east; thence south along the easterly lines of township two north range two east, township one north range two east and township one south range two east to the southeast quarter of township one south range two east; thence due west along the township line to the southwest corner of township one south range one east; thence due north along the west line of

township one south range one east to the ravine of Mill creek; thence west along the ravine of Mill creek to a point where Mill creek crosses the west line township one south range one west; thence north along the west line of township one south range one west and township one north range one west to the southeast corner of section twenty-four, township one north range two west; thence due west along the southerly line of sections twenty-four, twenty-three, twenty-two, twenty-one, twenty and nineteen of township one north range two west and the southerly line of sections twenty-four, twenty-three, twenty-two and twenty-one, township one north range three west to the line of the Angeles forest reserve; thence in a general northwesterly direction to a point where the ravine of Devil's canyon crosses the said Angeles forest reserve line; thence northerly along the ravines of Devil's canyon and Sawpit canyon to the place of beginning, all of said described area being within the boundaries of the Angeles forest reserve.

§ 24. Four "B." Fish and game district four "B" shall consist of and include a part of the westerly portion of the Angeles National Forest lying within the counties of San Bernardino and Los Angeles and more particularly described as follows, to wit: Sections six to ten, inclusive, sections fifteen to twenty-two, inclusive, and sections twenty-seven to thirty-two, inclusive, of township two north, range seven west; sections seven, eighteen, nineteen, thirty and thirty-one of township three north, range seven west; sections one to twenty-two, inclusive, and those portions of sections twenty-three and twenty-four within the Angeles National Forest, all in township one north, range eight west; all of township two north, range eight west; sections seven to thirty-six, inclusive, of township three north, range eight west; sections one to twenty-four, inclusive, the west half of section twenty-five and all of sections twenty-six, twenty-seven, and twenty-eight in township one north, range nine west; all of township two north, range nine west; sections seven to thirty-six, inclusive, in township three north, range nine west; sections one to eighteen, inclusive, those portions of sections nineteen, twenty, twenty-one and twenty-two within the Angeles National Forest and all of sections twenty-three and twenty-four of township one north, range ten west; all of township two north, range ten west; sections seven to thirty-six, inclusive, of township three north, range ten west; all of sections one to fourteen, inclusive, and those portions of sections fifteen, sixteen, seventeen, eighteen, twenty-two, twenty-three and twenty-four within the Angeles National Forest in township one north, range eleven west; all of township two north, range eleven west; that portion of section two lying south and west of a line drawn from the northwest corner to the southeast corner of said section, all of sections three to thirty-six, inclusive, in township three north, range eleven west; all of sections one and two and those portions of sections three, four, five, six, eleven, twelve and thirteen within the Angeles National Forest in township one north, range twelve west; all of township two north, range twelve west; all of sections one to five, inclusive, those portions of sections six and seven lying south and east of a line drawn from the northeast corner of section six to the southwest corner of section seven and all of sections eight to thirty-six, inclusive, in township three north, range twelve west; all of sections one to seventeen, inclusive, those portions of sections eighteen, twenty, twenty-one and twenty-two within

the Angeles National Forest, all of sections twenty-three to twenty-six, inclusive, and those portions of sections twenty-seven, thirty-five and thirty-six within the Angeles National Forest in township two north, range thirteen west; all of sections thirteen to thirty-six, inclusive, in township three north, range thirteen west; sections one, two and three and those portions of sections ten, eleven, twelve and thirteen within the Angeles National Forest in township two north, range fourteen west. All townships and ranges mentioned herein being referred to San Bernardino base line and meridian.

§ 25. Four "C." Fish and game district four "C" shall consist of and include that certain territory embraced within the Cleveland National Forest, more particularly described as follows, to wit: The east half of township five south, range seven west; all of township five south, range six west, except sections one, two, three, ten, eleven and twelve; all of township six south, range six west; the west half of township six south, range five west; all of township seven south, range six west; the west one-half of township seven south, range five west; all in San Bernardino base and meridian, in the state of California.

§ 26. Four "D." Fish and game district four "D" shall consist of and include all of townships six south, range five east; township six south, range six east; and township seven south, range six east, all lying within the county of Riverside.

§ 27. Four "E." Fish and game district four "E" shall consist of and include all of sections twenty-seven to thirty-four, inclusive, township fifteen south, range five east; all of township fourteen south, range five east; all of sections thirteen, twenty-four, twenty-five, thirty-six, township fifteen south, range four east; all of sections five, six, seven, eight, township sixteen south, range six east; all of sections one to twelve, inclusive, township sixteen south, range five east; all of sections one, two, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-one, twenty-three, twenty-four and the east half of sections three, seventeen, and twenty and the northeast quarter of section twenty-nine, the north half of sections twenty-five, twenty-six, and twenty-eight and the north half of section twenty-two, township sixteen south, range four east. The west half of sections eighteen, nineteen and the northwest quarter of section thirty, township sixteen south, range five east, all located within the county of San Diego. [Amendment approved May 13, 1919; Stats. 1919, p. 431.]

§ 28. Four "F." Fish and game district four "F" shall consist of and include all of townships eight and nine north, range fourteen west, lying within the counties of Los Angeles and Kern. [Amendment approved May 13, 1919; Stats. 1919, p. 431.]

§ 29. Five. Fish and game district five shall consist of and include the ocean water and the tide-lands of the state to high-water mark lying between the northern boundary of the state and a line extending west from the extreme westerly point of Point St. George in Del Norte county, and shall exclude all sloughs, streams and lagoons in said county, except Smith river from its mouth to Bailey's riffle.

§ 30. Six. Fish and game district six shall consist of and include the ocean waters and the tide-lands of the state to high-water mark lying

between a line extending west from the extreme westerly point of Point St. George, in Del Norte county, and a line extending due west from the extreme westerly point of Mussel point, in Humboldt county, and shall exclude all sloughs, streams and lagoons in said counties, except the Klamath river from its mouth to the mouth of McGarvey creek.

§ 31. **Seven.** Fish and game district seven shall consist of and include the ocean waters and the tide-lands of the state to high-water mark lying between a line extending due west from the extreme point of Mussel point, in Humboldt county, and the southern boundary of Humboldt county, and shall exclude the ocean waters between the north and the south jetties at the entrance to Humboldt bay from the westerly end of each of said jetties in the Pacific Ocean to their respective aprons on the shores of Humboldt bay, and shall also exclude all sloughs, streams and lagoons.

§ 32. **Seven "A."** Fish and game district seven "A" shall consist of and include the waters of Eel river from its mouth to the east boundary line of township three north, range two west, Humboldt base and meridian, and the waters of Salt river, a tributary of Eel river, as far up as the high-tide line. [Amendment approved May 13, 1919; Stats. 1919, p. 431.]

§ 33. **Eight.** Fish and game district eight shall consist of and include the waters and tide-lands to high-water mark of Humboldt bay lying north of a straight line running east from the center of apron at the approach of the south jetty at the entrance of Humboldt bay to the east shore line of said bay and shall include the entrance of Humboldt bay not included in fish and game district seven and shall be exclusive of all rivers, streams and sloughs emptying into said bay.

§ 34. **Nine.** Fish and game district nine shall consist of and include the waters and tide-lands to high-water mark of Humboldt bay lying south of a straight line running east from the center of apron at the approach to the south jetty at the entrance of Humboldt bay to the east shore line of said bay, and shall be exclusive of all rivers, streams and sloughs emptying into said bay.

§ 35. **Ten.** Fish and game district ten shall consist of and include the ocean waters and the tide-lands of the state to high-water mark lying between the south boundary of Humboldt county and a line extending southwest from the extreme westerly point of Point Santa Cruz, in Santa Cruz county; and shall include the waters of Tomales bay, and shall be exclusive of all that portion of Bolinas bay lying inside of Bolinas bar, and of San Francisco bay lying east of a line drawn from Point Bonita to Point Lobos, and of all rivers, streams and lagoons.

§ 36. **Eleven.** Fish and game district eleven shall consist of and include the waters and tide-lands of San Francisco and Richardson bays to high-water mark bounded as follows: Beginning at the extreme westerly point of Point Bonita, thence in a direct line to the extreme westerly point of Point Lobos, thence around the shore line of San Francisco bay to the extreme northerly point of Black point in San Francisco county, thence in a direct line to the extreme southerly point of Peninsula point in Marin county, thence westerly around the shore line of Richardson and San Francisco bays to the point of beginning.

§ 37. **Twelve.** Fish and game district twelve shall consist of and include all waters and tide-lands of San Francisco bay to high-water mark not included in fish and game districts eleven and thirteen, the waters and tide-lands to high-water mark of San Leandro bay, Oakland creek or estuary, San Antonio creek in Alameda county, Raccoon straits and San Pablo bay to a line drawn due south from the light-house station at the end of the jetty at the south entrance of Mare Island straits and all lands and waters included within the exterior boundaries of said fish and game district and excluding all tributary sloughs, creeks, bays, rivers and overflowed areas not specifically described herein. For the purposes of this act that portion of San Pablo bay lying northerly of a line drawn from the south side of the mouth of Novato creek to Midshipment point, the extreme southwesterly point of Tubbs island, shall be included in fish and game district number two; and that portion of San Pablo bay lying north of a line drawn due east from a point situated on the bay shore of Tubbs island, one and one-half miles measured southwesterly along the levee from the electric power-line tower situated on the west bank of Sonoma creek, shall be included in fish and game district number two.

§ 38. **Twelve "A."** Fish and game district twelve "A" shall consist of and include all the waters of the Sacramento river flowing within the main channel between the bridge across said river at Colusa and the Vina ferry near the town of Vina, in Tehama county.

§ 39. **Twelve "B."** Fish and game district twelve "B" shall consist of and include all waters and tide-lands to high-water mark of the Mare Island straits from Carquinez straits to the boundary line between Napa and Solano counties, the Carquinez straits not included within fish and game district twelve, the waters and tide-lands to high-water mark of Suisun bay, all waters of the Sacramento river flowing within the main channel between the mouth thereof and the bridge across said river at Colusa; the waters in the main channel of Steamboat slough and Sutter Slough; the waters of New York slough and Broad slough; all waters of the San Joaquin river flowing within the main channel thereof to the south boundary of San Joaquin county; all lands and waters lying between the main channel of San Joaquin river from the place of confluence with Old river and the place of diversion of Middle river and the west and south banks of Old and Middle rivers and all lands and waters lying within the boundaries of said fish and game district and excluding all tributary sloughs, creeks, bays, rivers and overflowed areas not specifically described herein.

§ 40. **Thirteen.** Fish and game district thirteen shall consist of and include the waters and tide-lands to high-water mark of San Francisco bay lying to the south of a line drawn between the ferry building at the foot of Market street in San Francisco and the mouth of the Oakland creek or estuary in Alameda county, exclusive of all streams, sloughs and lagoons. [Amendment approved May 13, 1919; Stats. 1919, p. 431.]

§ 41. **Fourteen.** Fish and game district fourteen shall consist of and include the waters of Scotts creek, in Santa Cruz county, between its mouth and the mouth of Mill creek.

§ 42. Fifteen. Fish and game district fifteen shall consist of and include the waters and tide-lands to high-water mark of that portion of Monterey bay lying to the north of a line drawn from the extreme westerly point of Point Santa Cruz to the extreme westerly point of Soquel point; and shall consist of and include the waters of the San Lorenzo river and its tributaries.

§ 43. Sixteen. Fish and game district sixteen shall consist of and include the waters and tide-lands to high-water mark of that portion of Monterey bay lying to the south of a line drawn from the extreme northerly point of Point Pinos in a straight line easterly to the eastern shore of Monterey bay to a point north of the town of Seaside, said point being marked by a permanent monument placed by the United States government surveyors, and designated as "Monterey N. O. T. C. and G. S. Sta."

§ 44. Seventeen. Fish and game district seventeen shall consist of and include the waters and tide-lands to high-water mark of Monterey bay and the Pacific Ocean, lying between a line extending southwest from the extreme westerly point of Point Santa Cruz and a line extending due west from the mouth of Carmel river, in Monterey county, and exclusive of the areas included in fish and game districts fifteen and sixteen, and exclusive of all rivers, creeks, sloughs and lagoons, emptying into the Pacific Ocean and Monterey bay within the boundaries of this district.

§ 45. Eighteen. Fish and game district eighteen shall consist of and include the ocean waters and tide-lands to high-water mark of the state lying between a line extending due west from the mouth of Carmel river and the south boundary of San Luis Obispo county, and shall exclude all rivers, streams, sloughs and lagoons.

§ 46. Nineteen. Fish and game district nineteen shall consist of and include the ocean waters and tide-lands to high-water mark of the state lying between the north boundary of Santa Barbara county and the southern boundary of San Diego county, and shall include all islands and adjacent waters belonging to the state of California and lying off the coast of southern California, south of a line extending due west into the Pacific Ocean from the north boundary of Santa Barbara county, exclusive of Santa Catalina island and state waters adjacent thereto; exclusive of all rivers, streams, lagoons and bays. [Amendment approved May 13, 1919; Stats. 1919, p. 431.]

§ 47. Twenty. Fish and game district twenty shall consist of and include Catalina island and that portion of the state waters lying between a line extending south from the southeasterly shore in line with the intersecting South East rock; thence around the east end to the north side of a line extending west from the extreme west end of said island.

§ 48. Twenty "A." Fish and game district twenty "A" shall consist of and include that portion of the state waters around Catalina islands not included in fish and game district twenty.

§ 49. **Twenty-one.** Fish and game district twenty-one shall consist of and include those waters and tide-lands to high-water mark of San Diego bay lying inside of a straight line drawn from Point Loma to the offshore end of the San Diego breakwater.

§ 50. **Twenty-two.** Fish and game district twenty-two shall consist of and include the waters of Salton sea and the waters of the Colorado river.

§ 51. **Twenty-three.** Fish and game district twenty-three shall consist of and include the waters of Lake Tahoe and the Truckee river, and all streams flowing into said lake and river, and all lands within the drainage basin of said lake and river, lying within the state of California.

§ 52. **Twenty-four.** Fish and game district twenty-four shall consist of and include the waters of Silver lake, Twin lakes, Blue lakes, Meadow lake and Wood lake and all streams flowing into said lakes and all lands lying within the drainage basin of said lakes and streams, all being within the counties of Alpine and Amador.

§ 53. **Twenty-five.** Fish and game district twenty-five shall consist of and include the waters of Lake Almanor and all streams flowing into said lake and all lands lying within the drainage basin of said streams and lake, all being within the counties of Plumas and Lassen.

§ 54. **Twenty-six.** Fish and game district twenty-six shall consist of and include all waters in that portion of Rae lakes lying south of Fin Dome and all waters flowing into said portion of Rae lakes and all lands lying within the drainage basin of the said portion of Rae lakes; all waters in all lakes lying within the Sixty Lake basin; all waters flowing into said lakes; all waters flowing from the said lakes to the south fork of Woods creek and all lands lying within the Sixty Lake basin, all lying in the county of Fresno.

§ 55. **Stats. 1915, p. 589, repealed.** An act entitled "An act to divide the state of California into fish and game districts and to repeal an act entitled 'An act to divide the state of California into six fish and game districts,' approved March 21, 1911, and all acts or parts of acts inconsistent herewith," approved May 19, 1915, and all acts or parts of acts inconsistent herewith are hereby repealed.

ACT 1295e.

An act to further divide the state into fish and game districts by establishing a district specially suited for propagation of game, and to provide for the management and protection thereof.

[Approved May 26, 1917. Stats. 1917, p. 1166. In effect July 27, 1917.]

Amended 1919; Stats. 1919, p. 521.

§ 1. **"Mount Tamalpais game refuge," created. Boundaries.** For the protection, conservation and propagation of game animals, except fish, there is hereby set apart and established a district to be known as "Mount Tamalpais game refuge," the boundaries of which are hereby determined to be as follows, to wit: All that certain territory within the county of Marin, bounded and described as follows, to wit:

Beginning at the intersection of the easterly shore of inner Bolinas bay with the northwesterly boundary line, extended, of the Stinson ranch conveyed to A. H. Stinson et al., by decree of distribution dated the twenty-eighth day of July, 1911, and recorded in the office of the county recorder of Marin county in book one hundred thirty-seven of deeds at page one hundred two; thence northeasterly along the said northwesterly boundary line to the southwesterly boundary line of the lands of the Marin municipal water district on the top of Bolinas ridge, thence along the exterior boundary of the lands of said district in such a way as to include the same, to a point in the abandoned portion of the Fairfax and Bolinas county road; thence northerly along the said road and along the Fairfax and Bolinas county road, to a point in the southwesterly line of the right of way of the Northwestern Pacific railroad company near Fairfax station; thence along the said last mentioned line in a southerly direction past the railroad stations at San Anselmo, Kentfield and Corte Madera, to its intersection with Humboldt street on the westerly boundary of the lands of the Sausalito land and ferry company, as said street is laid down and delineated on the official map of said lands filed in the office of the county recorder of Marin county in rack number one, pull number nine; thence southerly along the westerly line of said Humboldt street and the westerly line of Tennessee avenue of the same tract, to the corner common to ranches E, F, and A as said ranches are delineated on the Tamalpais land and water company's map number three, filed in said recorder's office in map book number one, page one hundred four; thence southwesterly along the southeasterly boundary lines of ranches E, L, and K, as shown on said last mentioned map, to the shore of the Pacific Ocean; thence northwesterly along the shore of the Pacific Ocean and across the easterly end of the Bolinas sandspit, and along the easterly shore of inner Bolinas bay, to the point of beginning, excepting from the area of said Mount Tamalpais game refuge all lands lying within the exterior boundaries of any incorporated town.

§ 2. No open season. The provisions of law for the protection of fish in the second fish and game district of this state shall be enforced within said Mount Tamalpais game refuge and there shall be no open season therein for any game animals except fish.

§ 3. Unlawful to kill game birds or animals. Firearms, etc. Game animals defined. It shall be unlawful within said territory at any time:

(a) To hunt, pursue, take, kill or destroy any game birds or animals, except to capture the same to be set at liberty elsewhere, as hereinafter specially provided;

(b) To hunt, pursue, take, kill, or destroy any other wild birds or animals except as hereinafter provided;

(c) For any person to have in his possession any firearms, trap or other contrivance designed to be used to kill, destroy or capture game animals except fish, without first having obtained a permit so to do from the fish and game commission of this state; provided, that nothing in this act contained shall prohibit the lawful occupant of any privately owned lands within said district, or his employees at the direction of said occupant, from killing ground squirrels, gophers, owls, hawks, blue jays, skunks and other destructive animals which are not game animals

as hereinafter defined that may be on the land of said occupant; and provided, further, that nothing in this subdivision "c" contained shall apply to persons traveling upon any public highways within said territory, nor to members of the organized militia while on the state rifle range, nor to members of any high school militia while on the grounds of the high school at which time they may be enrolled. The term game animals used herein is intended to include all birds and animals which are protected or fostered by any of the laws of this state.

§ 4. Power of fish and game commission. The fish and game commission of the state of California shall have power:

(a) To exercise control over all game animals on all lands within the boundaries of said game refuge.

(b) To accept, on behalf of the state, donations of ownership or leasehold interest of any lands within the boundaries of said game refuge, to be used for the furtherance of the objects of protecting, feeding, or propagating game.

(c) To accept, on behalf of the state, donations of game birds and animals, and of money given or appropriated for protection, feeding, or propagation of game in said district, and to use the same for the said purposes, and as nearly as may be, for any particular purpose indicated by the donor.

(d) To make additional rules and regulations, not in conflict with this act or other statutes of the state, for the protection and propagation of game in said district.

(e) To issue in their discretion, and under such restrictions as they may deem best, permits for carrying, using, or having in possession within said district, firearms, traps, or other instruments or means for killing or taking birds or animals; but no such permits shall allow any person to hunt, kill, destroy or take any game birds or animals; and, no hunting, killing or destruction of wild birds or animals, other than game birds or animals, within said Mount Tamalpais game refuge shall be allowed, by game wardens or by persons holding special permits for the purpose; and persons holding such special permits shall be allowed so to hunt, kill, or destroy only when accompanied by a member of the fish and game commission, or by an authorized deputy thereof, or by the sheriff or a deputy sheriff of Marin county, except the lawful occupants of said lands and their employees shall not be required to obtain permits for the purpose of killing ground squirrels, gophers, owls, hawks, blue jays, skunks or other destructive animals which are not game animals as in this act defined.

§ 5. Penalty. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one hundred fifty days, or by both such fine and imprisonment. [Amendment approved May 13, 1919; Stats. 1919, p. 521.]

§ 6. Duty of officers. It shall be the duty of the fish and game commission of the state of California and of its deputies, and also of the district attorney, and of the sheriff, and of all other peace officers of Marin county to enforce all the provisions of this act, and to institute and-assist in prosecutions for violations thereof.

§ 7. County appropriation. Any county may, in the discretion of its board of supervisors, appropriate and pay to the fish and game commission of the state of California, funds to be used by them, as provided in subdivision "c" of section 4 hereof.

ACT 1295f.

An act to authorize the state board of fish and game commissioners to prepare and maintain free camping grounds on land in Placer county belonging to the state of California and to adopt and enforce regulations pertaining thereto.

[Approved May 13, 1919. Stats. 1919, p. 522. In effect July 22, 1919.]

§ 1. Free camping grounds in Placer county. Rules and regulations. Removal of hatchery. The state board of fish and game commissioners is hereby authorized and directed to prepare as a free camping ground for the people of the state of California that certain property situated in the county of Placer, state of California, and bounded and described as follows, to wit:

Lot seven of Bittencourt tract, as per plat of said tract recorded in book "A" of field-notes or town plats, pages eighty-four and eighty-five, Placer county records.

The said commission is directed to prepare such portion of said land for camping purposes for the summer season of the year nineteen hundred nineteen, as shall be suitable for such purposes, and as shall not interfere with the state fish hatchery now on said land or the pollution of waters used to supply said hatchery.

The commission is hereby authorized to establish rules and regulations for the government of such camping ground, to the end that the greatest number of people can avail themselves of the privileges of the ground, and may regulate the time when and for which any person may have the use of any portion of such ground for camping purposes. All expense in maintaining said camping ground shall be paid from the state fish and game preservation fund, and for the purposes of enforcing the rules and regulations by said commission, pursuant to this act, the state fish and game commissioners, their deputies and employees, are hereby vested with the power and authority of peace officers.

As soon as practicable, the fish and game commission shall remove the hatchery now on the above-described land to another site, and thereafter such additional portion of such land as is available and suitable for camping purposes, shall be placed in condition for camping purposes.

ACT 1297.

An act to regulate and license the hunting of wild birds and animals, and to provide revenue therefrom, for game and fish preservation and restoration.

[Approved March 22, 1909. Stats. 1909, p. 663.]

Amended 1917; Stats. 1917, p. 650; 1919, p. 119.

The amendments of 1917 and 1919 follow:

§ 3. Fees for hunting licenses. The licenses herein provided for shall be issued as follows:

First—To any citizen of the United States who is a bona fide resident of the state of California, upon the payment of one dollar.

Second—To any citizen of the United States, not a bona fide resident of the state of California, upon the payment of ten dollars.

Third—To any person not a citizen of the United States who shall have declared his intention to become such citizen according to the law made and provided for such purpose, who is a bona fide resident of the state of California, upon the payment of ten dollars; provided, that after he has declared his intention to become a citizen, he must complete his naturalization at the earliest period allowed by law; provided, further, that said applicant shall make and subscribe an oath before the person issuing such license that he has not claimed his citizenship in a foreign country as a basis for avoiding service in the armed forces of the United States and the person issuing such license is hereby empowered to administer said oath.

Fourth—To any person not a citizen of the United States, upon the payment of twenty-five dollars, except as provided in the third subdivision of this section. [Amendment approved April 21, 1919; Stats. 1919, p. 119.]

This section was also amended in 1917. See Stats. 1917, p. 650.

ACT 1297a.

An act to regulate the issuance of licenses for resale to hunters and anglers.

[Approved May 20, 1915. Stats. 1915, p. 685.]

Amended 1917; Stats. 1917, pp. 40, 663.

The amendments of 1917 follow:

§ 1. Who may issue hunting and fishing licenses. Licenses granting the privilege to take, catch, hunt or kill fishes, wild mammals or wild birds shall be issued and delivered, upon application in writing, by the county clerk of any of the counties of the state, or by the state board of fish and game commissioners, or by the persons duly appointed and authorized by any such county clerk or the board of fish and game commissioners. [Amendment approved May 18, 1917; Stats. 1917, p. 663.]

§ 2. Compensation for sale of licenses. For each license sold, registered and accounted for by any person, except by a fish and game commissioner or a deputy or assistant fish and game commissioner paid a salary in full for his services to the state, he shall be allowed as compensation, for his own use, out of the fish and game preservation fund, ten per cent of the amount or amounts accounted for by him. [Amendment approved May 18, 1917; Stats. 1917, p. 663.]

§ 3. Bond. Every person authorized to issue and sell licenses under the provisions of this act shall, when required by said board of fish and game commissioners, execute to the fish and game commission a good and sufficient bond in a sum equal to the value of such licenses so delivered to such person to be sold as herein provided, to secure the faithful accounting and payment to the fish and game commission of the funds collected from the sale of such licenses and the faithful performance of the duties imposed upon him by this act, and said board of fish and

game commissioners is hereby authorized and empowered to pay the premium on such bond out of the fish and game preservation fund. [Amendment approved May 18, 1917; Stats. 1917, p. 663.]

The act of 1915 relating to issuance of licenses for resale to hunters and licenses was also amended in 1917 as follows:

§ 1. Who may issue hunting and fishing licenses. Licenses granting the privilege to take, catch, hunt or kill fishes, wild mammals, or wild birds shall be issued and delivered, upon application in writing, by the county clerk of any of the counties of the state, or by the state board of fish and game commissioners, or by the persons duly appointed and authorized by the said county clerks or the board of fish and game commissioners. [Amendment approved April 5, 1917; Stats. 1917, p. 40.]

§ 2. Compensation for sale of licenses. For each hunting or angler's license sold, registered and accounted for by any person, except by a fish and game commissioner or a deputy or assistant fish and game commissioner paid a salary in full for his services to the state, he shall be allowed as compensation, for his own use, out of the fish and game preservation fund, ten per cent of the amount or amounts accounted for by him, and for each market fisherman's license hereunder fifty cents. [Amendment approved April 5, 1917; Stats. 1917, p. 40.]

ACT 1298.

An act to regulate the vocation of fishing, and to provide therefrom revenue for the propagation, restoration and preservation of fish in the waters of the state of California.

[Approved March 13, 1909. Stats. 1909, p. 302.]

Amended 1913, p. 985; 1917, p. 686.

Entirely amended in 1917 to read as follows:

§ 1. License required. Every person who uses or operates or assists in using or operating, any boat, net, trap, line or other appliance in the state for the purpose of catching or taking fish, mollusks or crustaceans for profit, and every person using or operating, or assisting in using or operating any boat, net, trap, line or other appliance for taking or catching fish, mollusks or crustaceans, or who brings or causes said fish, mollusks or crustaceans to be brought ashore at any point in the state for the purpose of selling the same as fresh fish, without first procuring a commercial fishing license, is guilty of a misdemeanor.

§ 2. Licenses prepared by controller. Duty of president of commission. The controller of state shall prepare suitable licenses, of the classes designated by the fish and game commissioners, which shall license the holder of such license to catch or take fish, mollusks or crustaceans or to assist in catching or taking fish, mollusks or crustaceans, as provided in section one of this act, for the term of one year from the first day of April of one year to the first day of April of the year following. The licenses shall be numbered consecutively, beginning with number one, and contain blanks for the insertion of the name of the holder, his resident address, and his description, by age, height, nationality and color of eyes and hair, which description shall be furnished by the applicant to the board of fish and game commissioners. The controller shall

sign all licenses and deliver the same to the fish and game commissioners, on demand, who shall be charged for the same by the controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the board of fish and game commissioners, and the president of the board of fish and game commissioners shall execute a bond to the people of the state of California, in the sum of two thousand dollars, for the faithful performance of the duties imposed upon him by this act.

§ 3. Fee. Forfeiture of license. Licenses shall be issued and delivered upon application to the state board of fish and game commissioners, or their deputies. The license fee shall be ten dollars for each person. Not more than one license shall be issued to any one person for the same year, except upon affidavit by the applicant that the one issued has been lost or destroyed, and no license issued as herein provided shall be transferable or used by any other person than the one to whom it was issued. Every person having a license as provided herein, who refuses to exhibit such license upon demand of any officer authorized to enforce the fish and game laws of this state, or any peace officer of this state, or who transfers or disposes of the same to another person to be used as a fisherman's license, or who fails to have his license with him where it may be readily examined by any officer authorized to enforce the fish and game laws, at the time he is using or operating or assisting in using or operating any net, trap, line or other appliance, or who uses or assists in using any net, trap, line or other appliance by modes or methods in violation of any law, for the preservation of fish and game shall forfeit this license.

§ 4. Fees paid to whom. The said license fees must be paid to the fish and game commissioners, or to someone designated by them for that purpose.

§ 5. Credited to preservation fund. The money collected from such licenses shall be paid by the commissioners into the state treasury, to the credit of the fish and game preservation fund.

§ 6. Penalty. The violation of any provisions of this act is hereby declared a misdemeanor, and every person violating any of its provisions, shall, upon conviction thereof, be fined in a sum not less than ten nor more than one hundred dollars, or by imprisonment in the county jail for a term of not less than ten nor more than one hundred days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund.

ACT 1298a.

An act to regulate and license the taking and catching of game fishes and to define game fish and to provide revenue therefrom, for fish preservation and restoration.

[Approved June 16, 1913. Stats. 1913, p. 986.]

Amended 1917; Stats. 1917, p. 37.

The amendment of 1917 follows:

§ 3. Fees for game fish licenses. Licenses as herein provided for shall be issued as follows:

First—To any citizen of the United States, over the age of eighteen years, who is a bona fide resident of the state of California, upon the payment of one dollar; provided, that licenses shall be issued to veterans of the Civil War free of charge.

Second—To any citizen of the United States, over the age of eighteen years, not a bona fide resident of the state of California, upon the payment of three dollars.

Third—To any person, not a citizen of the United States and over the age of eighteen years, upon the payment of three dollars.

ACT 1340g.

An act to authorize and regulate the possession, use, transportation and sale of trout or other fish, by persons engaged in the business of propagating and rearing such fish, and by persons who transport such fish, and by persons who purchase fish so reared.

[Approved March 17, 1911. Stats 1911, p. 378.]

Amended 1917; Stats. 1917, p. 940.

The amendment of 1917 follows:

§ 2. Application for license. Every citizen desiring to propagate and raise domesticated trout or other domesticated fish in any artificial body of water or private hatchery shall file with the fish and game commission a written application for a license so to do. Said application shall state the name, residence and place of business of the applicant and shall set forth the exact description of the land upon which said artificial body of water or private hatchery is to be located and the applicant's title to said land and the kind and number of fish desired to be kept therein. Said application shall be accompanied by a fee of five dollars, which, if such application be granted, shall be paid into the state treasury by the state fish and game commission to the credit of the fish and game preservation fund. [Amendment approved May 26, 1917; Stats. 1917, p. 941.]

§ 3. No outlet or inlet. All artificial bodies of water or private hatcheries in which domesticated trout or other domesticated fish may be propagated and raised under the provisions of this act shall be entirely within the exterior boundaries of the land owned or leased by the applicant for said license and there shall be no natural inlet or outlet for the waters contained therein. All artificial inlets and outlets of said artificial bodies of water or private hatcheries must be screened to prevent the ingress or egress of fish to or from any natural body of water. [Amendment approved May 26, 1917; Stats. 1917, p. 941.]

§ 4. Granting of license. Permit to import domesticated fish. Upon the receipt of said application the state board of fish and game commissioners shall make an examination of the land and waters described in the said application. All the expenses of the said examination shall be borne by the applicant. If it shall appear that the aforesaid artificial body of water or private hatchery has been constructed and screened ac-

ording to the provisions of this act and the application is in other respects proper and reasonable, the said fish and game commission shall grant to such applicant a license to propagate and raise domesticated trout or other domesticated fish mentioned in the application and to possess said domesticated trout or other domesticated fish during the entire calendar year. The license shall be posted or displayed in a conspicuous place on the land described in the application and shall expire on the last day of December in each year at midnight.

Upon obtaining a permit from the fish and game commission domesticated trout or other domesticated fish raised in a regularly licensed hatchery under the laws of any other state may be imported into this state, transported, sold or offered for sale during the entire calendar year upon the payment of a fee of five dollars per year; provided, that such imported domesticated trout or other domesticated fish shall be duly tagged in accordance with the rules and regulations to be prescribed by the fish and game commission. The permit issued under the provisions of this act shall be posted in a conspicuous place in the principal place of business of the person importing such fish and shall expire on the last day of December in each year at midnight. [Amendment approved May 26, 1917; Stats. 1917, p. 941.]

§ 5. Domesticated fish may be sold during year. Domesticated trout or other domesticated fish propagated and raised in this state under the license granted in accordance with the provisions of this act may be transported, sold or offered for sale during the entire calendar year when duly tagged according to the rules and regulations to be prescribed by the fish and game commission. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 6. Tags. The fish and game commission will furnish to each person to whom a license or a permit has been issued under the provisions of this act metallic tags inscribed with the letters "C. F. & G. C." Each applicant shall pay to the fish and game commission for such tags the actual cost of said tags. One of each of said tags shall be affixed to each domesticated trout or other domesticated fish raised under the provisions of this act and transported, sold or offered for sale and said tag shall remain so affixed until said domesticated trout or other domesticated fish has been prepared for consumption. The possession of any domesticated trout or other domesticated fish without such tag affixed thereto shall be a violation of this act. Only tags so furnished shall be used; no tag shall be used more than once. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 7. Live trout transported. Live trout, for propagation purposes only, may be transported when accompanied by a permit issued by the fish and game commission, and not otherwise. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 8. Marking of package. Before any domesticated trout, or other domesticated fish named in the aforesaid license or permit, are shipped or transported, the package in which the same are contained must have affixed thereto a tag on which shall be plainly marked the number of pounds and kind of fish contained therein, together with the name and address of the consignee and the consignor, the initial point of billing

and the point of destination. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 9. Sale of domesticated fish. Any person may buy, sell or have in possession for sale for use as food at any season of the year any trout, or other domesticated fish, artificially propagated and kept; and provided, also, that the same is tagged as hereinbefore provided. The tag shall be removed only by the consumer, and when removed shall be destroyed. [Amendment approved May 26, 1917; Stats. 1917, p. 942.]

§ 10. Report to fish and game commission. Every person receiving a license, as aforesaid, to propagate and raise trout, or other domesticated fish, shall make a written report to the fish and game commission on or before December thirty-first of each year, stating the number and variety of trout, or other fish named in the permit, sold or exchanged, or given away, for use as food, or for propagation or exhibition during the preceding year.

§ 11. Public nuisance. Any lake, pond, or any body of water maintained in violation of this act shall be deemed a continuing public nuisance, and may be abated as provided by law for the abatement of public nuisances, and each day the same is maintained in violation thereof shall be deemed a separate offense. [Amendment approved May 26, 1917; Stats. 1917, p. 943.]

§ 12. Penalty for violation. License revoked. The violation of any of the provisions of this act is hereby declared a misdemeanor and every person violating any of its provisions shall, upon conviction thereof, be fined in a sum not less than twenty-five dollars, or by imprisonment in the county jail for a term of not less than twenty days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund.

If any person to whom such license or permit shall have been issued, under the provisions of this act, shall be convicted of a violation of any of the fish and game laws of this state, the state board of fish and game commissioners may revoke the license or permit of such person and thereafter no similar license or permit shall be issued to such person. [Amendment approved May 26, 1917; Stats. 1917, p. 943.]

ACT 1340j.

An act to provide for the protection of fur-bearing mammals, defining fur-bearing mammals, providing for a license for hunting or trapping such fur-bearing mammals and requiring reports to be filed with the fish and game commission.

[Approved May 18, 1917. Stats. 1917, p. 653. In effect July 27, 1917.]

Amended 1919; Stats. 1919, p. 388.

§ 1. Killing fur-bearing mammal. Every person who, between the last day of February and the fifteenth day of October of any year, traps, hunts, takes or kills any fur-bearing mammal is guilty of a misdemeanor. [Amendment approved May 13, 1919; Stats. 1919, p. 389.]

§ 2. Killing other than by trap or gun. Every person who at any time takes, hunts or kills any fur-bearing mammal in any manner other

than by trap or gun, or who shall at any time take or kill any skunk by digging or driving them from dens or by use of chemicals is guilty of a misdemeanor.

§ 3. Unlawful to use poison. It shall be unlawful for any person to use poison of any kind in the taking or killing of any fur-bearing mammal; provided, however, that the fish and game commission may in its discretion issue to any person a permit to use poison in the taking or killing of any such mammal upon an application therefor, which application shall contain detailed information concerning the kind of poison desired to be used and when and where it is desired to use the same; provided, further, that such fur-bearing mammals injuring any property may be taken or killed at any time in any manner.

§ 4. Trapping without license. Every person in the state of California over the age of eighteen who traps for profit any fur-bearing mammals without first procuring a license therefor as provided by this act is guilty of a misdemeanor. [Amendment approved May 13, 1919; Stats. 1919, p. 389.]

§ 5. Licenses to trap for profit. Licenses granting the privilege to trap for profit any fur-bearing mammals shall be issued by the state board of fish and game commissioners, who shall prepare suitable licenses of convenient size and form and have printed thereon the words, "trapping license No. —, state of California. Expires June 30, 19—," with registration number and appropriate year printed or stamped thereon, which said license shall be prepared by the state board of fish and game commissioners, which board shall account for same to the controller of the state.

§ 6. Fees. Licenses herein provided for shall be issued as follows: (1) To any citizen of the United States upon payment of one dollar; (2) to any person not a citizen of the United States upon payment of two dollars; provided, however, that any veteran of the civil war by applying to the state board of fish and game commissioners may obtain a license without the payment of any fee. [Amendment approved May 13, 1919; Stats. 1919, p. 389.]

§ 7. Name, address, etc. furnished. Every person applying for and procuring a license as herein provided shall furnish to the state board of fish and game commissioners his name and resident address. Such applicant shall also furnish to the board of fish and game commissioners a written description of himself by age, height, nationality, color of eyes and hair and shall also give information relative to the sections of the state in which he intends to trap.

§ 8. Term. All licenses issued as herein provided shall be valid and shall authorize the person to whom issued to trap fur-bearing mammals for profit on and from the first day of July of the year in which said license is issued until the date of expiration written or stamped thereon, but no license shall continue in force for a longer period than one year.

§ 9. Statement of mammals taken. Every person to whom a license is issued, under the provisions of this act, must, before the first day of July following the date issued, send to the fish and game commission a sworn statement showing the number of each kind of fur-bearing mam-

mals taken together with the name and address of the firm or person to whom they were shipped or sold. A new license cannot be granted unless this provision is complied with; provided, however, that the provisions of this section shall not apply to persons eighteen years of age or under.

§ 10. What are fur-bearing mammals. For the purpose of this act, the following shall be considered fur-bearing mammals: Black and brown bear, ring-tailed cat, coon, pine martin, fisher, wolverine, mink, skunk, river otter, grey, cross, silver and red fox.

§ 11. Moneys credited to game preservation fund. All moneys collected from licenses as provided herein and all fines collected for violations of the provisions hereof shall be paid into the state treasury and credited to the game preservation fund.

§ 12. No more than one license. Not more than one license shall be issued to any one person for the same fiscal year, except upon an affidavit by the applicant that the one issued has been lost or destroyed and no license issued as herein provided shall be transferable or used by any other person than the one to whom it was issued.

§ 13. Disturbing traps. Every person who shall disturb or remove the traps of any licensed trapper while trapping on the public domain or on lands where he has permission to trap is guilty of a misdemeanor.

§ 14. Refusal to exhibit license. Every person having a license as provided herein who refuses to exhibit such license or any furs that may be in his possession or control upon the demand of any officer authorized to enforce the game and fish laws of this state or any peace officer of the state shall be guilty of a misdemeanor, and every person lawfully having such license who transfers or disposes of same to another person to be used as a trapping license or who violates any of the laws for the protection of game shall forfeit the same.

§ 15. Penalty. Every person violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than ten dollars or more than one hundred dollars or by imprisonment in the county jail for a term of not less than ten or more than one hundred days, or by both such fine and imprisonment.

§ 16. Propagation in confinement. Nothing in this act shall prohibit the propagation of fur-bearing mammals in confinement in accordance with any rules and regulations that may be specified by the fish and game commission. [New section added May 13, 1919; Stats. 1919, p. 389.]

In the title of the amendatory act of 1919 it says that section 2 of the act was amended. No such amendment, however, appears in the body of the act.

ACT 1340k.

An act empowering the state board of health to examine sources from which shellfish are taken; making it unlawful to take shellfish from contaminated sources if determined by said board to be a menace

to health; making violations of this act misdemeanors and providing for the punishment of same.

[Approved April 5, 1917. Stats. 1917, p. 42. In effect July 27, 1917.]

§ 1. Taking of oysters, etc., unlawful, when. It shall be unlawful to take oysters, clams, quahaugs, mussels or other shellfish used or intended to be used for human consumption from any tidal waters, flats, areas or sources from which the taking of such shellfish shall be determined to be a menace to health as hereinafter provided.

§ 2. Examination of tidal waters, etc., by state board of health. Posting of notices. The state board of health may and is hereby empowered to examine any tide waters, flats, areas or sources from which oysters, clams, quahaugs, mussels or other shellfish may be taken, and to determine whether such waters, flats, areas or sources are subject to sewage contamination, and to determine whether the taking of such shellfish from such waters, flats, areas or sources does or may constitute a menace to the lives and health of human beings. Upon the determination by said state board of health that such waters, flats, areas or sources are or may be subject to sewage contamination and that the taking of shellfish therefrom does or may constitute a menace to the lives and health of human beings, said board shall ascertain as accurately as may be the bounds of such contamination, and shall cause the posting of notices prohibiting the taking of shellfish from such sources and describing the bounds of the tidal flats, waters, areas or sources from which the taking of shellfish shall be unlawful. The fact of the posting of such notices shall be published once a week for four successive weeks in some newspaper of general circulation, published in the county in which such waters, flats, areas or sources are situated, if there be one, and if there be none, then in a newspaper published in an adjoining county.

§ 3. Enforcement. It shall be the duty of the state board of health to enforce the provisions of this act and its inspectors and employees are hereby empowered to enter upon public or private property upon which shellfish may be located at all times for the purposes of this act.

§ 4. Penalty. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or by imprisonment for a term of not more than six months, or by both such fine and imprisonment, but such penalties shall not be incurred until the fact of such prohibition shall have been published for four successive weeks, as above provided. Each day's violation shall constitute a separate and distinct offense.

ACT 13401.

An act to license canners, curers, preservers and packers of fish and handlers of crustaceans and mollusks, and providing a revenue therefrom for the conservation, propagation and restoration of fish in the state of California, and providing for a record of fish caught or received, and providing penalties for the violations of the provisions thereof, and repealing all acts and parts of acts in conflict therewith.

[Approved May 28, 1917. Stats. 1917, p. 1275. In effect July 27, 1917.]

§ 1. Unlawful to can, etc., fish without license. Any person in this state, who engages in the business of canning, curing, preserving or packing fish, which are taken in the waters of this state or are brought into this state in a fresh condition; or of manufacturing fish scrap, fish meal, fish oil, chicken feed or fertilizer from fish or fish offal; or of dealing in mollusks or crustaceans by wholesale, without first procuring a license for each plant or place of business is guilty of a misdemeanor.

§ 2. Licenses prepared by controller. The controller of state shall prepare suitable licenses, of the classes designated by the fish and game commissioners, which shall license the holder of such license to can, cure, preserve or pack fish, to manufacture fish meal, fish oil and other products from fish, and to deal in mollusks and crustaceans by wholesale in this state, (subject to the restrictions provided by law) as provided in section 1 of this act, for the term of one year from the first day of July of one year to the thirtieth day of June of the year following. All licenses shall be numbered consecutively, beginning with number one and contain blanks for the insertion of the name of the holder, his residence, and place of business, which information shall be furnished by the applicant to the board of fish and game commissioners. The controller shall sign all licenses and deliver the same to the fish and game commissioners, on demand, who shall be charged for the same by the controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the board of fish and game commissioners and the president of the board of fish and game commissioners shall execute a bond to the people of the state of California in the sum of two thousand dollars for the faithful performance of the duties imposed upon him by this act.

§ 3. Issued to whom. Licenses shall be issued and delivered upon application to the state board of fish and game commissioners or their deputies. The licenses herein provided for shall be issued as follows: To any citizen of the United States and to any person who has duly made his declaration of intention to become a citizen of the United States as provided by law, upon the payment of five dollars; to any person not a citizen of the United States, upon the payment of twenty dollars. In case a license is lost or destroyed, a duplicate may be issued to any licensee by the fish and game commission, upon an affidavit by him that the one issued has been lost or destroyed. Every person having a license as provided herein, who refuses to exhibit such license upon demand of any officer authorized to enforce the fish and game laws of this state, or any peace officer of this state, or who transfers or disposes of the same to another person to be used as a license, shall forfeit this license.

§ 4. Payment of fees. The said license fees must be paid to the fish and game commissioners or to some one designated by them for that purpose.

§ 5. Record of fish purchased. Monthly statement to fish and game commission. Every person operating under a license as provided in section one of this act, and every person dealing in fresh fish shall keep a book or books in which shall be entered a full and correct record,

in the English language, of all fresh fish purchased or received by them from fishermen or taken by themselves, giving the names of the different species, and the number of pounds so received or caught of each different species, and the name and address of the person or persons from whom such fish were received. Said book or books are to be open at all times for the inspection of members of the fish and game commission or persons duly authorized by them. They shall also render to the fish and game commission, on or before the tenth day of each month on blanks to be furnished by the said fish and game commission, a true and correct statement showing the amount of each species of fresh fish, stated separately, so purchased, received or caught during the previous month, together with the name and address of the person or persons from whom such fish were received or purchased. Said monthly statements are to be accompanied by an affidavit to the effect that the said report is a true and correct statement of all the fish received from fishermen or caught by themselves during the time covered by the report.

§ 6. Receipts to fishermen. Every person operating under a license as provided in section 1 of this act, and every person dealing in fish who receives fish from fishermen shall issue receipts to the fishermen from whom fish are received and shall give in such receipt the date of issuance, the name of the fisherman or fishermen to whom issued, the weight in pounds of each variety of fish received, the price per pound paid to the fishermen, and the signature of the dealer who issued the receipt. A duplicate manifold copy of this receipt shall be kept on file by the dealer issuing the same, for a period of six months and the said duplicate copy shall be available for inspection at any time within six months, upon demand of the fish and game commissioner, or any duly authorized assistant thereof.

§ 7. Privilege tax. Quarterly report of fresh fish purchased. Affidavit. Forfeiture of license. Every person operating under a license, as provided in section one of this act, shall, in addition to the license fee, pay a privilege tax of two and one-half cents for each one hundred pounds, or fraction thereof, of fish purchased or received by them, or fish caught or taken by themselves, with their own equipment; provided, that any fish, excepting mollusks and crustaceans, so taken or received, which are utilized for human consumption in its fresh state, shall not be subject to such tax; and provided, further, that herring and buck shad shall also be exempt from the tax provided herein; and such person shall, in addition to making a monthly report as provided in section five of this act, make a quarterly report to the fish and game commission, showing the total amount of fresh fish, in pounds, purchased, caught or received by them (for purposes other than human consumption in its fresh state), and of mollusks and crustaceans purchased or received by them from fishermen, or caught by themselves, whether they be used fresh or otherwise, during the three months next preceding March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Blanks for this report shall be furnished by the fish and game commission, and such report shall be rendered to the fish and game commission, not later than the fifteenth day of the month following the months of March, June, September and December of each year.

Said reports shall be accompanied by an affidavit by the person or firm purchasing, taking, catching or receiving such fish, to the effect that said report is a true and correct record of all fish caught or received by them (for purposes other than human consumption in its fresh state); and of all mollusks and crustaceans purchased or received from fishermen, or caught by themselves, during the quarterly period covered by the report. Upon the failure of any person operating under a license, as provided in section one of this act, to pay the privilege tax provided herein, said person shall forfeit his license for a period of one year. Said privilege tax shall be paid to the fish and game commission, or some one authorized by them, within thirty days after the close of each quarterly period.

§ 8. Moneys used for conservation work. All moneys collected from the sale of licenses and from the privilege tax on fish, as herein provided, shall be paid to the fish and game commissioners, or some one designated by them for that purpose and all money so collected shall be paid by the fish and game commissioners into the state treasury, to the credit of the fish and game preservation fund, and shall be expended on conservation work for the benefit of the commercial fishing industries within the districts from which the revenues are derived.

§ 9. Penalty for violation. The violation of any of the provisions of this act is hereby declared a misdemeanor, and every person violating any of its provisions, shall, upon conviction thereof, be fined in a sum not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for a term of not less than twenty-five nor more than one hundred fifty days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this section shall be paid into the state treasury, to the credit of the fish and game preservation fund.

§ 10. Repealed. All acts and parts of acts in conflict herewith are hereby repealed.

ACT 1340m.

An act to provide for the protection of fish and to prevent the introduction into this state of parasitized, infected or diseased fish, shellfish, mollusks, crustaceans, amphibians, aquatic plants or aquatic animal life, and declaring the same to be a public nuisance and authorizing the summary destruction of same; providing for a quarantine for the enforcement of this act, and making a violation of the terms of this act a misdemeanor and providing for a penalty therefor.

[Approved April 9, 1919. Stats. 1919, p. 59. In effect July 22, 1919.]

§ 1. Importation and transportation of diseased fish, etc. Notice to commission. Penalty. Any person, firm or corporation, who, for the purpose of propagation, receives, brings in, or causes to be brought into the state of California, any fish, shellfish, crustacean, amphibian, mollusk, or the ova of any fish, shellfish, crustacean, amphibian or mollusk, or any aquatic plant, or the seeds of any aquatic plant, from any state, district or foreign country, wherein any infected, diseased or para-

sitized fish, shellfish, crustaceans, amphibians, mollusks or aquatic plants are known to exist, or who carries or causes to be carried from one point in this state which has been posted according to the provisions of this act to any other point in this state any infected, diseased or parasitized fish, shellfish, crustacean, amphibian or mollusk, or the ova of any such infected, diseased or parasitized fish, shellfish, crustacean, amphibian or mollusk, aquatic plant or seeds of such aquatic plant; any person, firm or corporation who receives, brings or causes to be brought into the state of California for the purpose of propagation any fish, shellfish, crustacean, amphibian, mollusk, aquatic plant or the seeds of any aquatic plant or the ova of any fish, shellfish, crustacean, amphibian or mollusk before notifying the board of fish and game commissioners of the probable date of arrival of such fish, shellfish, crustacean, amphibian, mollusk, aquatic plant or the seeds of any aquatic plant, or who places or causes or suffers to be placed any fish, shellfish, crustacean, amphibian, mollusk, aquatic plant or the seeds of any aquatic plant or the ova of any fish, shellfish, crustacean, amphibian or mollusk, in or into any private or public waters of this state before inspection by the state fish and game commission, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, or be imprisoned in the county jail of the county in which the conviction shall be had, not less than fifty days, or by both such fine and imprisonment.

All fines and forfeitures imposed and collected for any violation of any of the provisions of this act shall be paid into the state treasury, to the credit of the fish and game preservation fund.

§ 2. Inspection by commission. The board of fish and game commissioners, or any deputy fish and game commissioner, is hereby authorized to enter at any time any car, warehouse, depot or upon any ship, within the boundaries of the state of California, whether in the stream, or at the dock, wharf, depot, mole, or any other place, where such fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants, or the seeds of any such aquatic plants, or ova of such fish, shellfish, mollusks, amphibians or crustaceans are held or stored, for the purpose of making an investigation or examination to ascertain whether such fish, shellfish, mollusks, amphibians or crustaceans, aquatic plants or the seeds of any aquatic plants, or ova of such fish, shellfish, mollusks, or amphibians are infected, diseased or parasitized.

§ 3. Destruction of diseased fish, etc. If, after such examination or inspection of any of said fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants or the seeds of any aquatic plant, or ova of such fish, shellfish, mollusks, amphibians or crustaceans, the same are found to be infected, diseased or parasitized as aforesaid, then the same are hereby declared to be a public nuisance, and it shall be the duty of the state fish and game commissioners to summarily destroy said infected, diseased or parasitized fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants or the seeds of any aquatic plants, or ova of such fish, shellfish, mollusks, amphibians or crustaceans.

§ 4. Reshipment of diseased fish, etc. If, after such examination or inspection of any of said fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants or the seeds of any aquatic plant, or ova of such

fish, shellfish, mollusks, amphibians or crustaceans, such fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants, or the seeds of any aquatic plant, or ova of such fish, shellfish, mollusks, amphibians or crustaceans, shall be deemed to be deleterious to any fish, aquatic plant or aquatic animal life of this state, it shall be the duty of the owner, person, firm or corporation having charge or possession thereof to reship said fish, shellfish, mollusk, amphibian, crustacean, aquatic plant or seeds of any aquatic plant, or ova of such fish, shellfish, mollusks, amphibians or crustaceans, within the time ordered by the fish and game commission, or said fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants or seeds of any aquatic plant, or ova of such fish, shellfish, mollusks, amphibians or crustaceans, shall be destroyed by said fish and game commission.

§ 5. Notice of diseased areas to be posted and published. Expenses of inspection. Tag on package containing fish, etc. If upon examination by the fish and game commission, infected, diseased or parasitized fish, shellfish, mollusks, amphibians, crustaceans, or aquatic plants, are found growing within this state, the said fish and game commission shall post notices describing as nearly as possible, the boundaries of such areas within which said infected, diseased or parasitized fish, shellfish, mollusks, amphibians, crustaceans, or aquatic plants are found, and shall state the period during which the taking, carrying and transportation of said infected, diseased or parasitized fish, shellfish, mollusks, amphibians, crustaceans, or aquatic plants, from said area shall be unlawful. The fact of posting of said notices shall be published, once a week for four successive weeks in some newspaper of general circulation in the county in which said infected area is situated, and, if there be no such newspaper in said county, then in a newspaper of general circulation published in an adjoining county.

The expense of any inspection or examination made necessary by the provisions of this act, shall be borne by the owner or owners of said fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants or the seeds of any aquatic plant, or ova of such fish, shellfish, mollusks, amphibians, and crustaceans, or the person or persons importing same into this state.

Each package containing such fish, shellfish, mollusks, amphibians, crustaceans, aquatic plants or the seeds of any aquatic plants, or ova of such fish, shellfish, mollusks, amphibians and crustaceans, must bear in a conspicuous place a tag containing the name and residence of the consignor and the name and residence of the consignee, and the exact contents of each package.

§ 6. Repealed. All acts or parts of acts inconsistent with any of the provisions of this act are hereby repealed.

§ 7. Oysters exempt. None of the provisions of this act shall apply to oysters.

ACT 1340n.

An act to conserve the fish supply in California by empowering the fish and game commission to regulate and control the handling of fish or other fishery products for the purpose of preventing deterioration or waste; to establish grades to which the fish or other

fishery products offered for delivery to canners or preservers or to the fresh fish market must conform; to make regulations to insure the proper handling and delivery of fish or fishery products to canners, preservers or fresh fish dealers; to regulate and control the use of fish or other fishery products for reduction purposes, and to provide penalties for any violation of any of the provisions of this act.

[Approved May 25, 1919. Stats. 1919, p. 1203. In effect July 25, 1919.]

§ 1. Jurisdiction over fish industries. The fish and game commission is hereby vested with jurisdiction to regulate and control fishing boats, barges, lighters or tenders, commercial fishermen, fish canners, packers or preservers, fish reduction plants, dealers in fish, mollusks or crustaceans or other fishery products, in so far as it may be necessary to insure the taking, catching and delivery of the fish or other fishery products in a wholesome and sanitary condition to canning, packing and preserving plants or to any fresh fish dealer, and to prevent deterioration and waste of fish or other fishery products. Any fish and game commissioner or duly appointed assistant or employee of the fish and game commission shall have the authority to enter any canning, packing, preserving or reduction plant, or place of business where fish or other fishery products are packed or preserved, bought or sold, or to board any fishing boat, barge, lighter or tender for the purpose of carrying out the provisions of this act.

§ 2. Establishment of grades. The fish and game commission may establish grades for different varieties of fish or other fishery products, which said grades must be reached and conformed to by the commercial fishermen who deliver fish or other fishery products to canners, packers or preservers of fish or to fresh fish dealers, or to reduction plants, and every canner, packer or preserver of fish or fish dealer or owner of reduction plant must conform to such grade.

§ 3. Enforcement. The fish and game commission is hereby vested with full power, authority and jurisdiction to make and enforce such regulations as may be necessary or convenient for carrying out any power, authority or jurisdiction conferred under this act.

§ 4. Disposal of waste. No person, firm or corporation engaged in the business of catching, buying, selling, canning, packing or preserving fish, shall suffer or permit, or cause any preventable deterioration, or willfully do any act that might cause deterioration or waste of any fish caught or taken within or without the waters of this state and brought into this state, and no person, firm or corporation engaged in the business of catching, buying, selling, canning, packing or preserving fish or other fishery products shall sell or offer for sale or delivery, or deliver any fish or other fishery products, to any reduction plant or divert fish or other fishery products for reduction purposes without first having written permission from the fish and game commission, and no reduction plant shall accept or receive any fish, other than fish offal, from any person, firm or corporation without such written permission.

§ 5. Canneries, etc., may not take more fish than can be handled. No person, firm or corporation engaged in the business of taking or

catching fish or other fishery products shall take, catch or kill more fish or other fishery products than the boat or boats operated by said person, firm or corporation can handle without preventable deterioration, waste or spoilage, and no person preserving fish or other fishery products shall accept or receive or agree to accept or receive more fish or other fishery products than the canning, packing or preserving plant or plants of such person, firm or corporation can handle without preventable deterioration, waste or spoilage, and no person dealing in fish shall take, catch or kill, accept or receive, or agree to accept or receive, more fish or other fishery products than such person, firm or corporation is able to handle without preventable deterioration, waste or spoilage.

§ 6. Complaint of violation of act. Hearing. Superior court may compel attendance of witnesses. Order directing witness to appear. Taking of depositions of witnesses. Complaint may be made by any officer charged with the enforcement of the fish and game laws, or any person having knowledge of a violation, against any person, firm or corporation violating any of the provisions of this act or violating any of the rules or regulations made by the fish and game commission under the provisions of this act. Said complaints shall be in writing, setting forth the particular offense charged to have been committed, a copy of which shall be filed with the board of fish and game commissioners and a copy served on said offender, together with a notice setting forth the time and place of hearing, which hearing must be held in the county in which said violation is alleged to have been committed. The person, firm or corporation charged must appear and answer either in person or by attorney, and either orally or in writing, within five days after notice having been served. If the person charged fails to appear or appears and denies the charge, the board of fish and game commissioners or any deputy or employee appointed by said board of fish and game commissioners to take testimony, shall proceed to hear the testimony offered and if the person, firm or corporation so charged is found guilty of the offense charged, the board of fish and game commissioners may suspend for a period not to exceed ninety days, any license issued by any state board or officer to such person, firm or corporation, to take, catch, kill, buy, sell, can or preserve fish or fishery products, and no license shall be issued during such period of suspension.

Each member of the board of fish and game commissioners or any of the deputies or employees designated to take testimony at the hearing provided herein shall have power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearing.

The superior court in and for the county, or city and county in which any proceeding may be held under the authority of this section, shall have power to compel the attendance of witnesses, the giving of testimony, and the production of papers, as required by any subpoena issued under authority of this section. The fish and game commission, or representative of the commission before whom the testimony is to be given or produced may in the case of refusal of any witness to attend or testify or produce any papers required by such subpoena, report to the superior court in which the proceeding is pending by petition set-

ting forth that due notice has been given of the time and place of the attendance of said witness or the production of said papers and that the witness has been summoned in the manner prescribed in this act and that the witness has failed and refused to attend or produce the papers required by the subpoena before the commission or its representatives, in the case or proceeding named in the notice of time and place of hearing and subpoena, or has refused to answer questions propounded to him in the course of said proceeding, and ask an order of said court to compel the witness to attend and testify or produce said papers before the commission or its representatives.

The court, upon the petition of the commission or its representatives, shall enter an order directing the witness to appear before the court at any time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission or its representatives. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representatives the court shall thereupon enter an order that said witness shall appear before the commission or its representatives at the time and place entered in said order, and testify or produce the required papers, and upon failure to obey said witness shall be dealt with as for contempt of court.

The commission or its representatives, or any party designated by the fish and game commission, may in any investigation or hearing before the commission, or its representatives, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production of documents and papers.

ACT 1340o.

An act empowering the state fish and game commission to collect statistical data of the commercial fisheries and to make investigations for the purpose of gaining knowledge for the conservation of the fisheries; providing a system for obtaining an accurate record of each variety of fish caught; providing for the registration of fishing boats and their fishing equipment, and providing penalties for violations of this act.

[Approved May 25, 1919. Stats. 1919, p. 1201. In effect July 25, 1919.]

§ 1. **Data of commercial fisheries to be gathered.** It shall be the duty of the fish and game commission to gather data of the commercial fisheries and to prepare the data so as to show the real abundance of the most important commercial fishes; to make such investigations of the biology of the various species of fish as will guide in the collection and preparation of the statistical information necessary to determine evidence of overfishing; to make such investigations as will bring to light as soon as possible those evidences of overfishing as are shown by changes in the age groups of any variety of fish; to determine what measures may be advisable to conserve any fishery, or to enlarge and assist any fishery where that may be done without danger to the supply.

§ 2. Record of fish, etc., received from fishermen. When fish dealer, etc., catches own fish. Every person, firm or corporation engaged in the business of buying, canning, curing or preserving fish, or manufacturing fish meal, fish oil or fish fertilizer, or dealing in fish, mollusks or crustaceans, shall make a legible record in the form of a receipt, said record to be in triplicate carbon copies and on forms to be furnished by the fish and game commission, which shall show the name of the fisherman and boat or the dealer from which the fish, mollusks or crustaceans were received, together with the date received, the weight of the fish, mollusks or crustaceans by species, the price received by the fishermen and the name of the person receiving same.

It shall be stated in the record for what use the fish are intended, whether to be sold fresh or whether they are to be canned, cured, made into fish meal or fertilizer, or any other disposition is to be made of them, or if a commercial distinction is made between different sizes or qualities of any species or variety, it must be so stated on said record or receipt, and the record shall also state if the fish were taken in foreign waters, or in the high seas off another state or foreign country. The names used in the record for designating the variety or species of fish handled must be the name which is in common usage, and the fish and game commission shall have the power to decide what is the common usage name of any variety.

The original copy of this record shall be delivered to the fisherman at the time of the purchase or receipt of the fish, the duplicate copy shall be kept by the dealer or person receiving the fish and the triplicate copy shall be delivered to the fish and game commission or any duly authorized assistant thereof.

Where a fish dealer, canner or preserver catches his own fish he shall fill out the above record as required when he purchases the fish from fisherman or dealer or if it so desires the fish and game commission may furnish a separate form for such cases. It shall be the duty of the fish and game commission to preserve all such records of the fisheries as are obtained by it in places adequately safeguarded from fire or other destructive agencies and such records are to be kept in such manner as to render them accessible for reference or research, the intention being to guard against the destruction or such neglect of the records as will detract from their future value.

§ 3. Record of fish caught. Any master of any otter or beam trawl, paranzella net or similar gear taking fish in the public waters of this state, or taking fish by such nets without the state and bringing the same within the state, shall keep a record in a book, to be furnished by said fish and game commission, stating the time and place of each haul made on each trip, the duration of the haul and approximate catch according to species or variety made in each haul, the time of the voyage and the total catch by species as weighed out when landed; provided, further, that where the owner of the vessel or boat is the dealer selling such fish, the information must be kept by the dealer in a form approved by the fish and game commission.

§ 4. Annual statement of fish canneries. Every person, firm or corporation engaged in the business of canning, curing or preserving fish or manufacturing fishery products from fish or fish offal, shall render on or before the fifteenth day after the last day of each calendar year

for the preceding year, a statement on forms to be furnished by the board of fish and game commissioners, showing name of person, firm or corporation, location of plant, kind of business, capital invested, number of persons employed, number of months operating, the amount and kind of fishery products canned, preserved or manufactured.

§ 5. Annual statement of fishing boat owners. Every person, firm or corporation owning or operating any boat engaged in the business of fishing for profit in the public waters of this state or who catch fish without the state and bring them into the state, shall on or before April first of each calendar year, file with the board of fish and game commissioners on a form to be provided by the fish and game commission, a statement giving the dimensions of the fishing boat or boats operated by said person, firm or corporation, together with the motive power, number in crew, equipment and description of fishing gear.

§ 6. Right to enter premises. Penalty. The board of fish and game commissioners or their duly appointed agent shall have the right to board any fishing boat, or enter any place of business where fish are sold fresh, or canned, or cured, or any reduction works, or place of business where fish meal is made, and to examine any and all books and records containing any account of fish caught, bought or sold.

Every person violating any of the provisions of this act, or who fails to permit an inspection as provided in section six of this act, or refuses to produce any books or records containing any record of fish bought or sold shall be guilty of a misdemeanor and punished by a fine not less than one hundred dollars, nor more than five hundred dollars, or imprisoned in the county jail in the county in which the conviction shall be had, not less than fifty days, nor more than six months, or by both such fine and imprisonment. All fines and forfeitures imposed and collected under this act shall be paid into the state treasury to the credit of the fish and game preservation fund.

ACT 1340p.

An act to restrict fishing within seven hundred fifty feet of any pier, wharf, jetty or breakwater in fish and game district number nineteen of the state of California.

[Approved May 13, 1919. Stats. 1919, p. 463.]

§ 1. Protection of fish near pier, wharf, etc. Smelt excepted. Every person who, in fish and game district number nineteen, takes, catches, or kills any fish, except with hook and line in the manner known as angling and except anchovies, squids and sardines with a hand-net conforming to the following measurements and description: A dip or bait net constructed with a metal ring or hoop, or a square frame not to exceed ten feet in diameter around which a fine mesh net, sack or bag is hung, to this hoop or frame, from which the net bag is hung, three or four lines are attached and form a bridle, which is made fast to a hand line, which is used for lowering the net from the pier or bank, within seven hundred fifty feet of the end or sides of any pier, wharf, jetty or breakwater, is guilty of a misdemeanor; provided, that this act shall not apply to the taking or catching of smelt only.

§ 2. Penalty. Every person found guilty of a violation of the provisions of this act shall be fined not more than five hundred dollars, or

be imprisoned not more than one hundred fifty days; and all fines or forfeitures imposed and collected for any violation of any of the provisions of this act must be paid into the state treasury to the credit of the fish and game preservation fund.

§ 3. For scientific purposes. Nothing in this act shall prohibit the United States fish and game commission and the fish and game commission of this state from taking, at all times, such fish in such manner as they may deem necessary for the purposes of propagation or for scientific purposes.

TITLE 225.

HARBOR COMMISSIONERS.

ACT 1439b.

An act to authorize the board of state harbor commissioners of San Francisco harbor to pay the claim of the Fidelity and Deposit Company of Maryland. [Approved May 31, 1917. Stats. 1917, p. 1514. In effect July 30, 1917.]

This act authorized the harbor commissioners to pay the claim of the Fidelity and Deposit Company of Maryland for the sum of \$1,218.92.

TITLE 226a.

HAY.

ACT 1440a.

An act relating to baling of hay; defining hay-baler; providing regulations governing the baling of hay; providing for the sale of hay by net weight; providing penalties for any violation of the provisions of this act.

[Approved May 18, 1919. Stats. 1919, p. 750.]

§ 1. "Baler" and "presser" defined. The term "baler" or "presser" as referred to in this act shall mean the person, firm, association, or corporation owning or having possession of or operating a hay press.

§ 2. Scales to be tested and sealed. Any person baling hay for compensation shall employ scales that have been tested and sealed by the sealer of weights and measures and any record of weight forming the basis in settlement for baling hay shall be the true net weight of the baled hay; and any record of weight forming the basis of settlement in the sale or purchase of baled hay shall be the true net weight of such baled hay.

§ 3. Falsely increasing weight. No baler or presser of hay shall put or conceal in any such bale of hay anything whatever for the purpose of increasing the weight of such bale with intent to defraud.

§ 4. Standard weight. Hay when sold, offered, or exposed for sale shall be sold by avoirdupois weight and a ton shall consist of two thousand pounds net weight; providing, however, that hay may be sold by the bale in which case the net weight of the bale shall be indicated on a tag securely fastened to the bale.

§ 5. Broken bales. When any hay is shipped by a common carrier in bales and where such bales become broken, the approximate weight of such broken bales shall be included in the total weight of the hay shipped.

§ 6. Penalty. Any person, firm or corporation, violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars, or more than one hundred dollars.

TITLE 228a.

HERMOSA BEACH.

ACT 1446a.

An act granting to the city of Hermosa Beach the tide-lands and submerged lands of the state of California within the boundaries of the said city.

[Approved May 25, 1919. Stats. 1919, p. 941.]

§ 1. Tide-lands granted to Hermosa Beach. There is hereby granted to the city of Hermosa Beach, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to all the tide-lands and submerged lands, whether within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

(a) **Use of lands.** Said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon, for a period not exceeding forty years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof for a period not exceeding forty years, for purposes consistent with the trusts upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor.

(b) **Improvement of harbor.** Said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California, shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **Rates, tolls, etc.** In the management, conduct or operation of said harbor, or of any of the utilities or appliances mentioned in para-

graph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors. The absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose, is hereby reserved to the people of the state of California.

TITLE 229.**HIGHWAYS.****ACT 1447.**

An act authorizing any county to permit the construction and maintenance of a highway or boulevard over highways within its limits connecting with main public highways of an adjoining county by the board of supervisors or highway commissioners of such adjoining county, permitting boards of supervisors of such adjoining counties to construct and maintain such bridge or bridges on such highways or boulevards as they may deem necessary, permitting such boards of supervisors to macadamize or pave or gutter such highways or boulevards, providing the manner in which the cost and expense thereof shall be paid, and prescribing the procedure whereby the use, control, maintenance and jurisdiction of any highway or boulevard constructed under the provisions of this act may be retransferred to the county originally granting the use thereof. [Approved April 6, 1917. Stats. 1917, p. 88. In effect July 27, 1917.]

Repealed 1919; Stats. 1919, p. 323.

ACT 1447a.

An act making an appropriation to pay any assessment that may be imposed against the state of California under the provisions of an act entitled "An act providing for the creation, organization and government of joint highway districts composed of two or more counties of the state of California," approved April 5, 1917; to pay the share of the state of California under any agreement or agreements with the United States government for co-operative work in the construction, improvement or maintenance of highways useful for military purposes and authorizing the state department of engineering to enter into any such agreements; and to pay the cost of making surveys and preparing plans and estimates for the following highways: An extension of the Trinity-Humboldt state road, from its westerly end, in a westerly direction, and to the town of Bridgeville, in Humboldt county; a highway beginning at or near Oxnard in Ventura county, California, and extending to a point near San Juan in Orange county, California; a highway from Jackson's ranch near Pescadero in San Mateo county, California, to Governor's Camp in the California Redwood Park, Santa Cruz county, California; a highway beginning at Carmel in Monterey county, California, and running thence in a southerly direction to San Simeon in San Luis Obispo county, California, and a lateral highway from a point most feasible thereon to a point at or near Jolon in said Monterey county; a bridge to span San Francisco bay at

or near Dumbarton Point; and a highway from the western boundary line of Kern county, California, to the state highway near the city of Santa Maria, Santa Barbara county, California. [Approved June 1, 1917. Stats. 1917, p. 1519. In effect July 31, 1917.]

The act appropriated \$250,000 for the purpose indicated.

ACT 1448.

An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing, and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor.

[Approved March 19, 1907. Stats. 1907, p. 666.]

Amended 1909, p. 151; 1911, pp. 505, 589; 1911 (Ex Sess.), p. 65; 1913, p. 324; 1917, p. 154.

The amendment of 1917 follows:

§ 10. Improvements must be durable. Highway shall not be used by railroad. Use of highway by railroad in incorporated city. All improvements constructed under this act shall be of a durable and lasting character; provided, that said commission shall have the power to determine how said highways shall be improved and constructed, and the character of the materials to be used in the improvement and construction thereof. If said commission shall determine that said highways, or any of them, shall be macadamized or paved, then the macadamized or paved portion of the roadbed constructed or any highway portion thereof improved under this act, shall not exceed eighteen feet in width, unless donations are made to the highway commission for that purpose, in which case such donations may be used to defray the increased cost of constructing such macadamized or paved roadbed more than eighteen feet wide on any part of such highway specified by the donors; but no part of the proceeds of any bond issue shall be expended for such purpose. No railroad, electric road, or street railroad shall be constructed along or upon any highway, or any portion thereof, improved under the provision of this act, except for crossings duly authorized by the board of supervisors, nor shall any board of supervisors have power to grant any franchise for the construction of any railroad, electric road, or street railroad along or upon any such highway or portion thereof, except for crossings; provided, that when any such highway or portion thereof shall, after the improvement of the same under the provisions of this act, be included within the boundaries of any incorporated city, city and county or town the foregoing provisions of this section shall not prohibit the granting of any such franchise by the proper municipal authorities along, upon or across any such highway, or portion thereof so included within the boundaries of any such incorporated city, city and county, or town. Any such franchise shall be granted only upon the express condition that the grantee thereof

will pay to the county for the benefit of the general fund thereof an amount equal to the cost of the improvement or construction of such portion of the roadbed or highway constructed or improved under the provisions of this act as shall be occupied by the track or tracks of such railroad, electric road or street railroad. [Amendment approved April 20, 1917; Stats. 1917, p. 154.]

ACT 1448a.

An act to legalize the organization of permanent road divisions and validate all proceedings for the issuance of bonds of said divisions where authority for issuance of said bonds has already been given by a vote of at least two-thirds of the electors of any permanent road division.

[Approved April 19, 1917. Stats. 1917, p. 141. In effect July 27, 1917.]

§ 1. Organization of permanent road divisions validated. Time for instituting suit. In all cases where the board of supervisors of any county of this state, purporting to act under and by virtue of the proceedings of the Political Code applicable thereto, has organized a permanent road division, all proceedings for the organization of any such road division and the organization thereof are hereby validated and declared legal and no proceedings to test the validity of any such road division shall be maintained unless instituted within ninety days from the effective date of this act. Whenever the board of supervisors of any county has ordered the issuance of bonds of any such road division, after an election of the qualified electors thereof has been held to determine whether such indebtedness shall be incurred, at which election not less than two-thirds of all the qualified electors voting at such election have voted in favor of incurring such indebtedness, all the proceedings preceding and including the issuance and the proposed issuance of such bonds are hereby validated, ratified and confirmed; and all such bonds sold or to be sold for not less than par and accrued interest are hereby declared to be valid and legal obligations of such road divisions in accordance with their terms, and no suit shall be maintained to prevent the issuance, sale or delivery of any such bonds or to prevent the payment of principal or of the interest accruing thereon when such principal and interest, respectively, become due in accordance with the terms of such bonds, unless such suit is instituted within ninety days from the effective date of this act.

ACT 1449a.

An act to provide for the formation and establishment of boulevard districts; the construction, acquisition, maintenance, control and use of boulevards; defining the term boulevard; providing for the voting, issuing and selling of bonds, and the levying of taxes to pay for the acquisition, construction, maintenance and repair of such boulevard; providing for a boulevard commission to have charge of the affairs of boulevard districts, and the construction, maintenance and repair of boulevards, within such districts; providing for the election of such commission, their terms of office, and of elections to be held in such districts; and repealing an act entitled "An act

to provide for the formation of boulevard districts, and the construction, maintenance, and use of boulevards, and defining the term boulevard," approved March 22, 1905, and the act amendatory thereof, approved April 15, 1909.

[Approved May 1, 1911. Stats. 1911, p. 1425.]

Amended Ex. Sess. 1911, p. 223; 1913, p. 394; 1917, p. 1299; 1919 p. 351.

The amendments of 1917 and 1919 follow:

§ 1. Boulevard district formed. Any portion of a county not contained in a boulevard district under the provisions of this act, may be formed into a boulevard district, and when so formed shall be known and designated by the name and style of — boulevard district (using the name of the district) of — county (using the name of the county in which said district is located), and shall have the rights herein enumerated, and such as may hereafter be conferred by law. [Amendment approved May 29, 1917; Stats. 1917, p. 1300.]

§ 2. Petition to board of supervisors. Bond filed. A petition for the formation of such boulevard district (naming it) may be presented to the board of supervisors of the county wherein the district is proposed to be formed, which said petition shall be signed by not less than ten freeholders, owning land within the proposed district and shall contain:

(1) The boundaries of the proposed district and an estimate of the number of inhabitants residing therein;

(2) An estimate of the number of acres contained therein and the assessed value thereof and of the improvements thereon;

(3) A request that an election be called within said district for the purpose of determining the question of the formation of said boulevard district, for the construction and maintenance of a boulevard or boulevards therein under the provisions of this act.

There shall be filed with said board of supervisors at the time of the filing of the petition for the organization of said boulevard district with said board, a bond in the sum of not more than three hundred dollars, with two sufficient sureties, to be approved by said board, who shall each qualify in double the amount of said bond, conditioned that they will pay the expense and cost of said election in an amount not exceeding the amount mentioned in said bond, in case the proposition to organize said district shall be defeated at said election. [Amendment approved May 29, 1917; Stats. 1917, p. 1300.]

§ 3. Hearing on petition. Such petition must be presented at a regular meeting of said board of supervisors and they shall thereupon fix a time for hearing said petition, not less than twenty, nor more than sixty days after the date of presentation thereof, and shall publish a notice of the fact that such petition has been filed (referring to the same on file with the clerk of the board of supervisors for further particulars) and giving the time and place at which said petition will be heard, and directing all parties interested to appear at said time and place, and show cause, if any they have, why said petition should not be granted, which said notice shall be published at least once a week for two consecutive weeks in some newspaper published and circulated

in said proposed district; provided, that if no newspaper be so published in said district, then said notice shall be so published in some newspaper published and circulated at the county seat of the county in which said proposed district is located. [Amendment approved May 29, 1919; Stats. 1919, p. 1301.]

§ 4. Land excluded. Lands included. Upon the day named for the hearing of said petition, the board of supervisors shall hear the same and any objections thereto and may adjourn such hearing from time to time, not more than sixty days in all. If the board find that lands have been improperly included, it may in fixing the final boundaries exclude from such district any lands which may have been so included, or the board may, as it deems for the best interests of such district, include any adjacent lands outside the boundaries described in said petition, either on petition of the owners of such lands, or upon notice of its intention to include such adjacent lands by publication once a week for two successive weeks in a newspaper of general circulation published either in said district or at the county seat, which notice shall refer to the petition for the formation of the district on file with the board of supervisors, shall describe the adjacent territory intended to be included within the proposed boundaries of said proposed district and shall direct all persons interested therein to appear at a specified time and place and show cause if any there be why said adjacent lands should not be so included. Upon the petition and evidence produced at such hearings the board shall determine and fix the boundaries of such district and must thereupon, by order, define and establish such boundaries. [Amendment approved May 29, 1919; Stats. 1919, p. 1301.]

§ 5. Election. Notice. The board of supervisors thereupon, and not later than thirty days after the establishment of said boundaries, as hereinbefore provided, shall by order, call an election to be held in such proposed boulevard district for the purpose of determining whether such district shall be formed. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election one member of the boulevard commission will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signing and presentation of such petition, a freeholder owning land within the proposed district and that all other steps and actions requisite to and pertaining to the making of said order, including the hearing of said petition and establishment of the boundaries of said district, have been properly taken; notice of such election shall be given by posting a copy of such order for three successive weeks prior to the election, in three public places within the proposed district, and by publication of a copy of such order at least once a week for three successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper published at the county seat. [Amendment approved May 29, 1917; Stats. 1917, p. 1302.]

§ 6. Polling places. Election officers. Ballots. Election of member of boulevard commission. Canvass of returns. The board of super-

visors, at least fifteen days prior to the election, shall select one, and may select two, or more polling places within the proposed district, and make all suitable arrangements for the holding of such election. They must select and appoint, from among the qualified electors of the proposed boulevard district, one inspector and two judges of election in each polling place, who shall constitute the officers of said election and the election board; if none are so appointed or if any officer appointed does not attend at the opening of the polls on the morning of election, the electors present may appoint substitutes to fill the election board. The ballot shall contain the words "boulevard district—yes," and "boulevard district—no," and shall also make provision for voting for one member of the boulevard commission of said district. At such election there shall be elected one member of the boulevard commission, whose term of office shall be for four years and until the election, or appointment, and qualification of his successor. Such election, and all subsequent, or other, elections in said district shall, except as herein otherwise expressly provided, be conducted as nearly as practicable in accordance with the general election laws of the state, except that the provisions of said laws as to the form of ballots and the making of nominations and the selection or appointment of officers of election, shall not apply, and that no irregularity or informality in conducting any election under this act, not substantially affecting adversely the legal rights of any elector, as herein defined, shall invalidate or affect such election. At each election pursuant to this act, every qualified elector, resident within the district as proposed or established, and who would be entitled on the date of the respective election to vote in said district at a general election, shall be entitled to vote at such election. The said officers of election must make return of the election to the board of supervisors of said county, which shall canvass said returns as by law provided, and if a majority of the votes cast at such election shall be in favor of a boulevard district the board of supervisors shall make and cause to be entered in the minutes of said board an order that the boulevard district of the name, and with the boundaries theretofore established by said board (setting forth such boundaries), has been duly established, and shall declare the person receiving the highest number of votes for member of the boulevard commission, duly elected as such commissioner; and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the boulevard district. If a majority of the votes cast shall be against a boulevard district, the board shall by order entered in its minutes so declare, and no other proceeding shall be taken in relation thereto until the expiration of one year from the date of the presentation of the petition to said board. [Amendment approved May 7, 1919; Stats. 1919, p. 352.]

This section was also amended in 1917. See Stats. 1917, p. 1302.

§ 7. Officers. Vacancy. Appointment of member by state highway commission. Term. Bond. No compensation. The officers of the district shall be three members of the boulevard commission, who shall be designated as commissioners, and shall be, except as hereinafter provided, the chairman of the board of supervisors and the county surveyor, or the county engineer, as the case may be, of the county in which the district

is situated, who shall be ex-officio commissioners, and a third commissioner elected as herein provided who must have been a bona fide resident and freeholder within the boundaries of the district for at least one year prior to his election. Any vacancy in the office of commissioner shall, except as hereinafter provided, be filled by appointment for the unexpired term by the board of supervisors from among the bona fide resident freeholders within said district who shall have been such resident freeholders for at least one year prior to such appointment, but no member of the said board of supervisors, except the chairman thereof, shall be eligible to hold office on said commission or to hold any position in connection therewith. At any time, upon petition in writing signed by at least twenty-five per cent in number of the number of qualified electors, residing within the district and named upon the great register of the county in which the district is situated, and presented to the state highway commission, the said state highway commission shall, and it is hereby empowered to, declare the office of boulevard commissioner theretofore held by the said county surveyor, or county engineer, as the case may be, vacant, and nominate and appoint as commissioner to fill such vacancy a person who shall be a civil engineer, qualified in the opinion of the state highway commission to act as such commissioner. The commissioner so appointed shall hold office for the term of four years from and after his appointment, and until the appointment and qualification of his successor, and all appointments to fill any vacancy in the office of such commissioner either during or at the expiration of his term of office shall be made by the state highway commission upon the receipt of written notice from the boulevard commission of such vacancy or expiration, but no petition shall be necessary therefor. Each commissioner shall give a bond to the boulevard district for the faithful performance of his duties in the sum of five thousand dollars, to be approved by a judge of the superior court of the county in which the district is located. The commissioners shall receive no compensation whatever either for general or special services. [New section added May 29, 1917; Stats. 1917, p. 1304.]

Original section 7 was repealed in 1917. Stats. 1917, p. 1299.

§ 8. Election every fourth year. Notice of election. Polling places and election officers. Canvass of returns. An election shall be held in each boulevard district on the first Monday after the first Tuesday in March in the fourth year after the formation of the district, and in every fourth year thereafter, at which shall be elected a commissioner in place of the elected commissioner whose term shall expire during such year. Not less than twenty days before the day of each such election the boulevard commission must give notice of said election by posting notice thereof in three public places in the boulevard district, which notice must specify the time and place of election, the hours during which the polls will be kept open, and the officer to be elected. They shall select one, and may select two or more, polling places within the district; shall appoint one inspector and two judges of election in each polling place, and make all necessary and proper arrangements for holding the election. Said election officers shall constitute the election board. If no election officers are so appointed, or if any of those appointed are not present at the time of the opening of the polls, the electors present may appoint all, or any, of them so absent or not

appointed and they shall conduct the election as if so appointed by said commission and present. The officers of the election must publicly canvass the votes immediately after the closing of the polls, and must make return of the election within twenty-four hours after the closing of the polls to the board of supervisors. Said board of supervisors at its first meeting after receiving said returns shall canvass the same and shall make, sign and deliver a certificate of election to the person elected. [Amendment approved May 7, 1919; Stats. 1919, p. 353.]

This section was added May 29, 1917. See Stats. 1917, p. 1304. The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 9. President and secretary. The boulevard commission shall be the governing body of the district, and shall exercise all the powers thereof. At its first meeting or as soon thereafter as may be practicable, the commission shall choose one of its members as president, and another of its members as secretary. All contracts, deeds, warrants, releases, receipts and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The commission may hold such meetings, either in the day or in the evening, as may be convenient, all such meetings of the commission must be held in the district at an appointed place. In case of the absence or inability to act of the president or secretary, the commission shall, by order entered upon its minutes, choose from its members a president pro tempore, or secretary pro tempore, as the case may be. A majority of the members of the commission is a sufficient number to form a commission for the transaction of business, and every decision of a majority of the members forming such commission made when duly assembled, is valid as an act of said commission. [New section added May 29, 1917; Stats. 1917, p. 1305.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 10. Powers of district. Every boulevard district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the boulevard commission; to sue and be sued by its name; to lay out, establish, construct, acquire and maintain one or more boulevards within the district, and for this purpose to acquire by purchase, gift, devise, condemnation proceedings or otherwise real and personal property and rights of way within the district, and to pay for and hold the same; provided, however, that if any boulevard or boulevards are constructed with moneys raised by taxation and not from the sale of bonds as herein provided, such boulevard or boulevards shall be constructed only after an election to be had in the manner herein provided for elections in said district, for the purpose of determining whether such boulevard or boulevards shall be constructed and at which election a majority of the votes cast are in favor of the construction of such boulevard or boulevards; to make and accept any and all contracts, deeds, releases and documents of any kind which shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to provide for the payment of the same and the interest thereon; and to cause to be levied taxes sufficient when directed by a vote of the people of the district for the construction, maintenance or repair of said boulevard, or boulevards, and

all indebtedness of such district, and the running expenses of the district; to employ all necessary engineers, surveyors, agents and workmen to do the work on or in connection with the boulevard or boulevards in said district; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers or the purposes for which it was formed. [New section added May 29, 1917; Stats. 1917, p. 1305.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 11. "Boulevard." By the term "boulevard" as used herein is meant a highway not less than thirty and not more than one hundred feet in width, and upon, along, and over the portion or portions of which where the same is less than sixty feet in width no railroad, electric road, or street railroad shall, except upon a permit granted therefor by the board or body in control of such boulevard evidence by an order entered in its minutes, be constructed or operated; and any easements granted or condemned for the building of said boulevard shall be so granted or condemned; provided, that nothing herein shall be deemed to apply to or as preventing or limiting the use of vehicles across said boulevard. Any boulevard constructed under this act may be constructed, in whole or in part, over, along, or upon any county road or public highway, or any part thereof, and the moneys belonging to such boulevard district may be expended in the improvement of such road or highway to conform to the width and general character of the balance of the boulevard, and for the purposes of this act the boulevard district is hereby expressly authorized and empowered to take over, control, operate, and use in whole or in part any such county road or public highway. [New section added May 29, 1917; Stats. 1917, p. 1306.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 12. Survey, etc., of proposed boulevards. The boulevard commission shall, before the construction of any boulevard and before the calling of any election for the issuance of bonds, employ an engineer or engineers who shall make all necessary surveys, prepare a map or maps showing the location of the said proposed boulevard or boulevards, also showing a cross-section and profile of said proposed boulevard or boulevards, together with specifications for the construction thereof and estimates of the cost of acquiring rights of way therefor and of the cost of the construction thereof, which said surveys, maps, specifications and estimates, shall, upon the approval of the same by said commission, by order entered upon its minutes, be formally adopted by said commission and filed with its secretary and constitute the plan of said district for such proposed boulevard or boulevards; provided, that the said boulevard commission may, at its option, and it is hereby empowered to, direct the county surveyor, or county engineer, as the case may be, to do any or all of said work herein provided to be done by an engineer or engineers.

The expense of making such preliminary survey or surveys may be allowed by the board of supervisors out of the general fund or the general county road fund upon claims regularly presented and allowed in the manner provided by law. [Amendment approved May 7, 1919; Stats. 1919, p. 353.]

This section was added May 29, 1917; Stats. 1917, p. 1307. The original section was repealed in 1917. See Stats. 1917, p. 1299.

§ 12a. Bids for construction of boulevards. Conditions of contract.

The boulevard commission shall, pursuant to an order entered in its minutes, advertise for bids for the construction of such boulevard or boulevards, either as a whole or in such sections as it may see fit, in accordance with the plan theretofore adopted and filed, as hereinabove provided, by said commission, by publishing a notice calling for such bids, at least once a week for two successive weeks in a weekly newspaper published within the boulevard district if such newspaper is published therein, otherwise in a newspaper published at the county seat of the county in which such district is located. Such notice shall refer to said order and said plan for further particulars. If the commission shall elect to receive separate bids for the construction of sections of said boulevard or boulevards, the said order shall describe the separate sections for which such separate bids are desired. The commission may also in its discretion advertise at the same time and in the same notice both for bids for the construction of such boulevard or boulevards as a whole and for bids for the construction of separate sections thereof. Every contract for doing any part of said work shall be let, after advertisement as herein provided, to the lowest responsible bidder, who shall, before the making of said contract, give a bond to the boulevard district for the faithful performance of his contract, with sureties satisfactory to said commission in an amount equal to at least fifty per cent of the amount of the contract price.

Said contract shall be executed on behalf of the boulevard district by the boulevard commission, subject to approval or rejection by the electors of the district, expressed at an election called for the purpose of issuing bonds for the payment of such contract. If the electors at such election fail to approve such bond issue, the contract shall be void and the boulevard commission shall immediately return to the contractor his bond given for the faithful performance of the contract; provided, however, that the commission may make contracts, without advertisement, for any construction work on said boulevard the cost of which does not exceed one thousand dollars; and provided, further, that the commission may reject any or all bids and may thereupon readvertise for bids for doing any part or the whole of said work; or may do said work without letting any contract therefor when the amount of the work is less than one thousand dollars. Said commission may hire all necessary engineers, inspectors and superintendents to supervise the performance of contracts entered into by said commission, or to have charge of the doing of all work done without contract. [New section added May 7, 1919; Stats. 1919, p. 354.]

§ 13. Bond election. Notice of election. At any time, and from time to time, after the adoption of a plan for a boulevard or boulevards, or the letting of a contract for the construction of the whole or any portion of any boulevard, the boulevard commission may, by order entered in its minutes, call an election for the purpose of determining whether bonds shall be issued for the acquisition of rights of way for, and the construction of, such boulevard or boulevards, or for the payment of such contract. Such order shall fix the day of the election and shall specify the amount of such bond issue, and shall state in general terms the purposes for which the money to be raised from the sale of such bonds shall be used, which purposes shall be confined to the

acquisition of rights of way for, and the construction of, a boulevard or boulevards in said district; provided, that if such election is called for a payment of a contract already entered into by the boulevard commission, such order shall state the terms of such contract in such manner as will advise the electors of the contents thereof; provided, however, that any moneys so raised which shall remain on hand after such acquisition of rights of way and construction have been completed, may and shall be expended in the betterment and maintenance of such boulevard or boulevards. Notice of such election shall be given by posting a copy of such order for three successive weeks prior to the election in at least three public places within the district, and by publication of a copy thereof for at least once a week for three successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published at the county seat of the county in which such district is located. [Amendment approved May 7, 1919; Stats. 1919, p. 355.]

This section was added May 29, 1917; Stats. 1917, p. 1307. The original section was repealed in 1917. See Stats. 1917, p. 1299.

§ 14. Polling places and election officers. Ballots. Canvass of returns. At any time prior to the day fixed for the election the commission shall select one, and may select two or more, polling places within the district, and select and appoint from among the qualified electors within the district, one inspector, and two judges for each polling place to conduct the same, and shall make all necessary and proper arrangements for holding the election. The ballots shall contain the words "bonds, yes" and "bonds, no." After the vote shall have been counted and the result announced by the election officers the ballots shall be sealed up and delivered to the secretary of the boulevard commission, with the election returns, and said commission shall, at its first meeting thereafter, canvass said returns and shall enter the result upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, not less than two-thirds of the votes cast be in favor of the issuance of bonds, the said commission shall have full power and authority to issue and sell said bonds as proposed in the order calling the election and as hereinafter provided. If the result of the election be against the issuance of bonds no other election upon the question shall be called or held for one year after such election. [Amendment approved May 7, 1919; Stats. 1919, p. 355.]

This section was added May 29, 1917; Stats. 1917, p. 1307. The original section was repealed in 1917. See Stats. 1917, p. 1299.

§ 15. Denomination. Payment. Sale. All bonds issued under the provisions of this act shall be of such denomination as the boulevard commission may determine, except that no bonds shall be of less denomination than one hundred dollars nor of a greater denomination than one thousand dollars. Said bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district is situated, and shall bear interest at a rate not exceeding six per centum per annum; which interest shall be payable semi-annually in like gold coin. Not less than one-thirtieth part of the total issue of bonds

shall be payable each year, commencing not more than five years after the date of said bonds. Each bond shall be signed by the president and countersigned by the secretary of the boulevard commission, and said bonds shall be numbered consecutively, in the order of their maturity, and shall have coupons for interest attached, attested by the facsimile signature of the secretary of said commission. The bonds may be sold by the boulevard commission in such manner and in such quantities as it may determine, but no bond may be sold for less than its face value. The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund to be called the boulevard fund of — boulevard district (naming it); the money in such fund shall be used for the purposes indicated in the order calling the election upon the question of the issuance of bonds. [New section added May 29, 1917; Stats. 1917, p. 1308.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 16. Estimate of amount needed. The commission must at or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, an estimate in writing of the amount of money needed for the purposes of the district for the ensuing fiscal year. The amount must be sufficient to pay all interest and principal of outstanding bonds of the district maturing during the ensuing fiscal year, and to pay the estimated cost of repairs and maintenance of the boulevard, or boulevards, and the running expenses of the district. [New section added May 29, 1917; Stats. 1917, p. 1308.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 17. Levy of tax. Collection. Moneys from general fund. Constitutionality. The board of supervisors of any county wherein is situated a boulevard district, must annually at the time of levying county taxes levy a tax to be known as the "— (name of district) boulevard district tax," sufficient to raise the amount reported to them as herein, in section sixteen hereof, provided by the boulevard commission. The supervisors must determine the rate of such tax by deducting fifteen per cent for anticipated delinquencies from the total assessed value of the real property of the district within the county, as it appears on the assessment-roll of the county, and dividing the sum reported by the boulevard commission as required to be raised by the remainder of such total assessed value. The tax so levied shall be computed and entered on the assessment-roll by the county auditor, and if the supervisors fail to levy the tax as provided in the preceding section, then the auditor must do so. Such tax shall be collected at the same time and in the same manner as county taxes, and when collected shall be paid into the county treasury for the use of said district, and the purposes herein specified. The provisions of the Political Code of this state prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act. All moneys raised by taxation as herein provided shall belong to said district. Anything in this act to the contrary notwithstanding the board of supervisors shall set apart and turn over to the boule-

ward commission out of the general fund of the county twenty-five per cent of the cost of acquisition of rights of way for, and of construction of, said boulevard or boulevards and also twenty-five per cent of the cost of maintenance and repair of said boulevard or boulevards, all such moneys to be used by the boulevard commission for such purposes respectively, and the board of supervisors shall set apart and use for road work in the boulevard district all moneys raised in such district by the county for road purposes; provided, however, that if for any reason the provisions, or any thereof, of this sentence are unconstitutional or affect the constitutionality of this act or any of the provisions thereof, then this sentence, or such provisions thereof, only, shall be void and the remainder of this act shall stand as if this sentence, or such provisions thereof, as the case may be, had not been included in this act, the same being hereby declared to be separable. [New section added May 29, 1917; Stats. 1917, p. 1309.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 18. Funds kept by county treasurer. The treasury of the county wherein the district is situated shall be the repository of all the funds of the district. The treasurer of the county shall receive and receipt for the same, and shall place the same to the credit of the boulevard district. He shall be responsible upon his official bond for their safe-keeping and disbursement in the manner herein provided. [New section added May 29, 1917; Stats. 1917, p. 1310.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 19. Funds established. The following funds are hereby established to which the money belonging to the district, and raised by taxation as herein provided, shall be apportioned by the treasurer, to wit: bond fund, construction and maintenance fund, and district expense fund. The treasurer shall pay out the same only upon warrants of the boulevard commission, signed by the president and attested by the secretary, except that all bonds and coupons shall be paid on presentation by the county treasurer out of the bond fund without such warrant. The treasurer shall report in writing to the commissioners whenever requested by them or the secretary the amount of money in the various funds, the amounts of receipts since his last report and the amounts paid out. [New section added May 29, 1917; Stats. 1917, p. 1310.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 20. Maintenance and repair. The commission may do any or all work of maintenance or repair upon such boulevard, or boulevards, either with or without contract therefor, and with or without advertising for bids for contracts for such work of maintenance and repair, at its discretion; provided, however, that if the cost of any such work of maintenance or repair shall exceed the sum of one thousand dollars, then such work shall be done under contract pursuant to bids for such work after advertising in the same manner herein provided for advertising for bids and letting contracts for construction work. [Amendment approved May 7, 1919; Stats. 1919, p. 356.]

This section was added May 29, 1917; Stats. 1917, p. 1310. The original section was repealed in 1917. See Stats. 1917, p. 1299.

§ 21. Application to state department of engineering for exercise of powers. Anything in this act to the contrary notwithstanding, the boulevard commission shall have and is hereby given power and authority, at its option, to make application to the department of engineering of the state of California, or to the proper subdivision of said department, for the exercise by said department, or proper subdivision thereof, as the case may be, of any or all powers, duties or authority which said department or proper subdivision thereof, as the case may be, may now, or at any time hereafter, exercise or enjoy with respect to the ownership, construction, maintenance or improvement of any boulevard or boulevards or proposed boulevard or boulevards, constructed or to be constructed pursuant to the provisions of this act, including the preparation of plans, specifications and estimates for, and the handling and expenditure of boulevard district moneys for, such construction, maintenance or improvement; any such application to said department of engineering, or subdivision thereof, shall be made in accordance with the provisions of the law as it now is or may hereafter exist defining the powers, duties or privileges of such department of engineering or subdivision thereof in relation to such matters, and upon the granting of any such application by said department of engineering or subdivision thereof, the boulevard commission shall have full power to carry out the terms of such application on its part. [New section added May 29, 1917; Stats. 1917, p. 1311.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

22. Transfer boulevard to county. Anything in this act to the contrary, notwithstanding, the boulevard commission shall have, and it is hereby given, full power and authority at its option to transfer and convey all the right, title and interest of the boulevard district in and to any boulevard or boulevards in such district after complete construction thereof, to the county within which such district is situated, provided that the board of supervisors of such county consent to and accept such transfer and conveyance and agree thereafter to maintain such boulevard or boulevards as boulevards and as part of the county highway system of such county, any and all such boulevards so transferred and conveyed to be thereafter held and owned by such county as county boulevards without any further liability or responsibility therefor on the part of such district. But no such transfer or conveyance shall affect any bond or bonds theretofore issued by such district or the liability of such district thereunder. [New section added May 29, 1917; Stats. 1917, p. 1312.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 23. Dissolution of district. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof at an election called by the boulevard commission upon the question of dissolution. Whenever it shall deem it advisable, the boulevard commission shall, by resolution, order that an election be held in the said district upon the question of dissolution of the district. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, any property which may have been acquired by such boulevard district shall vest in the county, except that

any such property lying within the boundaries of an incorporated city shall vest in such city; provided, however, that if at the time of the election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such outstanding indebtedness of such district; and from the time such district is thus dissolved until such bonded indebtedness with interest thereon is fully paid, satisfied and discharged, the board of supervisors of the county shall constitute ex officio the boulevard commission of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, and the interest thereon, as herein provided. [New section added May 29, 1917; Stats. 1917, p. 1312.]

The original section was repealed in 1917. Stats. 1917, p. 1299.

§ 24. [There is no section of this number.]

§ 25. **Established districts validated.** Any and all boulevard districts heretofore established by order entered by any county board of supervisors under this act, and all amendments thereof or of any section or sections thereof, are hereby declared to be legally organized and existing and all the proceedings on the organization and formation of any and all such boulevard districts are hereby approved and in all respects declared valid, and all boulevard districts are subject to the provisions of this act so far as applicable. [New section added May 29, 1917; Stats. 1917, p. 1313.]

§ 26. **Proceeding to determine legality of district.** Any district formed hereunder, in order to determine the legality of its existence, may institute a proceeding therefor in the superior court of the county in which it was organized by filing with the clerk of said county a complaint setting forth the name of the district, its exterior boundaries, the date of its organization and a prayer that it be adjudged a legal boulevard district formed under the provisions of this act. The summons in such proceeding shall be addressed generally to all persons interested in said district or in any of the lands therein contained, and shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in the said county. Within thirty days after the last publication thereof any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district. If no answer shall be filed within said time the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California. [New section added May 29, 1917; Stats. 1917, p. 1313.]

ACT 1457s.

An act declaring and establishing a state highway from the city of San Bernardino, by way of Arrowhead avenue, Waterman canyon, Supp.—72

the "Crest drive" and Mill creek to the city of Redlands. [Approved May 29, 1917. Stats. 1917, p. 1314. In effect July 28, 1917.]

ACT 1457t.

An act providing for the taking over by the state of California of a certain road in Boulder Creek township, county of Santa Cruz, and for the maintenance and improvement of the same as a state road under the supervision of the state department of engineering.

[Approved May 29, 1917. Stats. 1917, p. 1325. In effect July 28, 1917.]

§ 1. **Road conveyed to state.** The board of supervisors of the county of Santa Cruz, state of California, is hereby authorized to transfer and convey unto the state of California, that certain road situate in Boulder Creek township, county of Santa Cruz, state of California, and described as follows, to wit: Beginning at the intersection of Main and Lorenzo streets in the town of Boulder Creek, thence running in a northwesterly direction over the present traveled road to the Sequoia schoolhouse; thence running over the road known as the Boulder Creek and state park road to the easterly boundary of the California Redwood Park; length of road, nine and one-half miles; and to execute on the part of said county of Santa Cruz, a deed to the state of California to carry into effect such transfer and conveyance.

The state department of engineering, through the state engineer, is hereby authorized and directed to accept said deed and said road on behalf of the state of California.

§ 2. **Improvement of department of engineering.** Upon the acceptance of such deed, the said department of engineering shall improve and maintain said road as a state road and any expense incurred in such work after the date of the acceptance of said deed, shall be a proper charge against any money in the state treasury available for the improvement and maintenance of state roads.

ACT 1457u.

An act extending the Mono Lake basin state road easterly to a junction with the county road from Mono Lake postoffice to Mono Mills.

[Approved May 29, 1917. Stats. 1917, p. 1326. In effect July 28, 1917.]

§ 1. **Extension of Mono Lake basin state road.** The state department of engineering is hereby authorized and directed to extend the Mono Lake basin state road easterly to a junction with the county road from Mono Lake postoffice to Mono Mills, which said extension is hereby declared and established as a portion of the Mono Lake basin state road.

ACT 1457v.

An act making an appropriation for the survey, location and construction of a highway between Susanville in Lassen county and a point on the line between California and Nevada, approximately two miles east of Constantia in said county. [Approved June 1, 1917. Stats. 1917, p. 1611.]

The act appropriated sixty thousand dollars for the purpose indicated.

ACT 1457w.

An act declaring and establishing a state highway from the town of Truckee running in a northeasterly direction along the present traveled road to the Nevada state line near Verdi. [Approved April 15, 1919. Stats. 1919, p. 102.]

ACT 1457x.

An act declaring and establishing a state highway between the present state highway in Butte county and the present state highway in Glenn county, over existing county roads passing through Butte city and Glenn postoffice to Willows. [Approved May 27, 1919. Stats. 1919, p. 1190.]

ACT 1457y.

An act declaring the public highway extending from Long Barn in Tuolumne county to the eastern boundary of the city of Sonora to be a public state highway. [Approved May 27, 1919. Stats. 1919, p. 1069.]

ACT 1458f.

An act providing for the creation, organization and government of joint highway districts composed of two or more counties of the state of California.

[Approved April 5, 1917. Stats. 1917, p. 46. In effect July 27, 1917.]

§ 1. Joint highway district may be created. A joint highway district, to be composed of two or more counties may be created, organized and governed for the purpose of constructing public highways therein as in this act provided. The word "county" as used in this act shall include any "city and county," but such city and county is herein regarded solely as a political subdivision of the state, and not as a municipality.

§ 2. Resolution initiating proceedings. The board of supervisors of any county may initiate proceedings for the creation of a joint highway district to be composed of two or more counties of the state by the adoption of a resolution reciting:

(a) That the public interest requires the construction of a public highway, stating generally the location and course thereof, and naming the counties in or through which such highway will pass.

(b) The names of the counties interested in and which will be benefited by such highway construction.

(c) That it is proposed to create a joint highway district composed of the counties so named.

When adopted, certified copies of the same shall be transmitted to the advisory board of the state engineering department of the state of California, and to the clerks of the boards of supervisors of the counties named in the resolution.

§ 3. Notice and hearing. Immediately upon receipt of a copy of the resolution adopted as aforesaid, the said advisory board, either at a regular or special meeting, shall fix a time and place in the county adopting the resolution at which the matter of the creation of a joint highway district will be heard and determined. Notice of such hearing shall be

published five days in one daily newspaper published in each of the counties named in said resolution, or two times in a newspaper published less than six days a week or if no newspaper be published in any county then such notice shall be posted in three public places in such county for a period of ten days. The time fixed for such hearing shall be not less than thirty nor more than forty days from the date of meeting at which the said advisory board caused such notice to be given.

§ 4. Proof of publication. Proof of the publication shall be made by the affidavit of the publisher, manager or principal clerk of the newspaper making such publication, or person posting the notice, and such notice, the publication, or posting thereof and proof thereof shall be sufficient to vest said advisory board of the state engineering department with jurisdiction and power to hear, determine and order the creation of the proposed joint highway district. A copy of such notice shall be mailed to the clerk of the board of supervisors of each of the counties named in the initiatory resolution.

§ 5. Board of directors named. Upon the receipt of such notice it shall be the duty of each of the boards of supervisors to name and appoint either one of its members or some other suitable person and each of the persons so appointed shall constitute a member of the board of directors of the joint highway district when created. It shall be the duty of each of the persons so appointed to attend the hearing fixed by the said advisory board. The said directors so appointed, may meet from time to time in advance of the time fixed for said hearing and may make and enter into an agreement limiting the amount to be assessed upon each of the counties to comprise the district when formed, and such limitation so agreed upon shall not thereafter be changed except by the unanimous vote of all the directors.

§ 6. Objections to creating district. At the time and place fixed for said hearing any person may appear and offer objections to the creation of the joint highway district, and the said advisory board shall hear such objections and may continue such hearing from time to time and all parties shall be deemed to have notice of any such continuance.

§ 7. Order creating district. At the conclusion of such hearing the said advisory board shall determine all matters relating to the creation of such joint highway district and may sustain or overrule any objection offered. The objections offered need not be specifically set forth, but may be sustained or overruled in general terms. An objection made by any person appointed a member of the proposed board of directors shall prevent the creation of the district. If no objections are made or if all objections shall be overruled, then the said advisory board shall make and enter in its minutes an order creating such joint highway district. The order shall contain the names of the several counties composing the district and the names of the persons constituting its board of directors. Districts shall be numbered in the order of their creation. A certified copy of such order shall be filed with the secretary of state and transmitted to the clerks of the several boards of supervisors of the counties composing the district. Upon the filing of the said order with the secretary of state said joint highway district shall be deemed created and organized, and shall exercise all of the

powers granted by this act, and shall be a public corporation under the designation of "joint highway district No. — of the state of California."

§ 8. Purpose of districts. The purpose for which the joint districts may be created is to provide the necessary authority and means to construct and maintain the highway described in the initiatory resolution in and through the several counties constituting the district; such highway to be continuous and afford adequate intercommunication for vehicular traffic. This act shall be so construed as to facilitate the accomplishment of this purpose.

§ 9. Board of directors to manage district. Said joint highway districts shall be managed, and the powers herein conferred thereon, shall be exercised by a board of directors. Said directors shall be chosen and appointed as follows: One by the board of supervisors of each of the counties composing said district either from its members or other suitable person. Said directors shall serve during the pleasure of the appointing power. They shall receive no compensation for their services, but may be allowed actual expenses incurred by them in connection with the discharge of their duties under this act.

§ 10. Place of business. Secretary. President. Vice-president. Said board shall fix a place within the district for the transaction of its business, but may hold its meetings from time to time in any place in said district that will best serve the convenience of the public. A majority of the members shall be necessary to constitute a quorum for the transaction of business. It may make all rules necessary to the orderly transaction of such business. It shall appoint a secretary; may employ such additional clerical, or legal or engineering service as may be required from time to time and fix the compensation to be paid therefor. Said board shall organize within thirty days from the date of the creation of the district and the time and place of meeting for purposes of organization shall be fixed by the director chosen by the supervisors of the county adopting the initiatory resolution. It shall choose one of its members as president of the board, who shall preside at its meetings. A vice-president shall be appointed who shall act in the absence or disability of the president. The president shall perform such duties as the board may designate.

§ 11. Powers. Said joint highway district through its board of directors shall have power—

To lay out, construct and maintain a highway as specified in section three of this act.

To accept in the name of the district all gifts, donations or contributions from any source whatsoever made to further the purpose of this act, and the counties composing the district may convey such public highways as may be utilized as a part of the highway herein authorized to be constructed.

To acquire necessary lands, or rights of way for purposes of such highway.

To exercise the right of eminent domain necessary to acquire lands or rights of way for highway purposes.

To acquire and use such personal property as may be necessary in the exercise of the powers herein granted.

To employ such labor and service as may be necessary.

To arrange for the safekeeping of all funds belonging to the district and to this end may appoint a treasurer or depository, and exact from him such bonds or other security as may be proper.

To sue and be sued.

To adopt a seal.

§ 12. Contingent fund. For the purpose of providing a contingent fund for the district and to meet the incidental expenses thereof, the boards of supervisors of the several counties comprising the district are hereby authorized and directed to appropriate from any money received by such counties under the provisions of the "vehicle act," in effect January 1, 1916, or any act in continuance thereof or supplemental thereto, such percentage thereof as may be determined by the board of directors of the joint district by a resolution adopted by a vote of all of its members. Such sums so appropriated shall be paid by warrant drawn in the name of the joint highway district, and shall be deposited with the treasurer or depository of the district.

§ 13. Survey of highway. Report by engineer. As soon as practicable after the organization of the board of directors of the district, said board shall cause to be surveyed and located the highway authorized by this act to be constructed or such portion thereof as may be deemed expedient, and for that purpose may employ an engineer and necessary assistants. Upon the completion of such survey the engineer shall file a report thereof with the board of directors together with all necessary maps, drawings and plans of construction, other than detailed drawings and specifications, also an estimate covering the cost of the completion of said highway, including rights of way therefor and interest to be paid during construction.

§ 14. Hearing on report. Assessment covering estimated cost. Upon filing said report the board of directors shall fix a time and place for considering the same. The hearing thereon may be continued from time to time or from place to place in the different counties, if so desired.

Upon such hearing being had said board of directors shall make an assessment covering such estimated cost, upon the state of California, and the several counties comprising the district according to the benefits that may result from the construction of such highway to said state and counties and the people residing therein, or may assess not to exceed one-fourth of such estimated cost upon such land in private ownership as may be benefited thereby in the manner provided by this act.

§ 15. Order determining benefits. Upon the conclusion of such hearing such board of directors shall make an order determining the amount of the benefits to accrue to the state and to each county comprising the district and to the people residing therein and shall make an assessment against the state and said counties in proportion to the benefits so to accrue, in a sum equal to said estimated cost, or as much thereof as may be necessary, but said estimated cost if deemed excessive may be reduced to such an amount as the board of directors shall seem proper. The amount of such assessment shall be certified to and transmitted to the state board of control and to the boards of supervisors of the counties constituting the district.

§ 16. Appeal to advisory board. In case the state board of control or the board of supervisors deem that the assessment imposed upon the state or such county be excessive or that it has been inequitably treated, the state board of control or such board of supervisors, within forty days from the receipt of the certificate referred to in the preceding section, may appeal from the order of the board of directors of the district to the advisory board of the state engineering department. Such appeal shall be in writing and set forth the nature of the objection and a copy thereof shall be filed with the board of directors of the district, with the advisory board of the state engineering department and with the boards of supervisors of the counties constituting the district.

§ 17. Hearing. Judgment. Upon filing such appeal, the said advisory board shall have jurisdiction to hear and determine the same. It may take testimony and hear all parties interested. It may change or modify any of the plans of the engineer, and may reduce the estimate of cost or change or modify any assessment or make a new assessment. Its judgment shall be final and conclusive, and a copy thereof shall be filed with the state board of control and with the boards of supervisors of the counties composing the district.

§ 18. Assessment charge on state and counties. Installments. Time for payment of first installment. The amount of the assessment imposed by the board of directors of the district, or by the said advisory board, shall be a charge, respectively, upon the state and the counties composing the district to the amount determined as herein provided, and shall be payable in five annual installments; provided, that should any installment exceed a sum equal to that which could be raised by a tax of five cents upon each one hundred dollars of assessed valuation as the same appears upon the assessment-roll of a county, then in the case of such county the number of annual installments may be increased to such a number that the amount of each installment will be less than that which would result from the levy of such tax. The first installment shall be payable on or before the first day of January following the filing of the assessment with the state board of control and boards of supervisors; provided, said assessment shall have been so filed prior to the first day of September preceding; otherwise it shall be payable on the first day of the second January succeeding such filing. The remaining installments shall be payable on the same day in each succeeding year.

§ 19. Payment of installments. On or before the time fixed by law for levying taxes for county purposes, the boards of supervisors of each county composing the district shall make provision for the payment of the amount of the installment of the assessment, either by the payment of the same from the moneys received from the state as herein stated or from a tax levied for that purpose, which tax shall be in addition to all taxes levied for county purposes. The amount assessed against the state in the discretion of the state board of control, may be paid in one installment and from any fund now available, or which may hereafter be made available for the purpose, or out of special appropriations for the purpose made by the legislature. Moneys shall be paid by the state treasurer upon warrants duly drawn by the controller of the state, upon demands made by the state engineering department and audited by the state board of control.

§ 20. "Construction fund." All moneys received by the joint highway district, unless otherwise provided herein, shall be kept in a fund to be named "construction fund" and shall be paid out upon the order of the board of directors only for the construction of the highway herein provided.

§ 21. "Revenue bonds." **Maturity.** Board of directors determine form, etc. **Interest rate.** Purchase by state board of control. At any time after the assessment, either against the state, the several counties or the land within an assessment district has been made, the board of directors of the district may anticipate the payment thereof and may issue "revenue bonds" against the fund into which shall be paid all sums paid on account of the assessments imposed. The maturity of any bonds issued shall be subsequent to the date upon which any installment of assessment is due and the amount to become due shall not exceed the amount of such installment of assessment available to pay the same. The intent of the foregoing provision is that there shall be available for the payment of the principal and interest of all bonds issued a sum sufficient to pay the same at the time such interest and principal become due, and it shall be the duty of the board of directors to make provision for the payment of all bonds issued and interest thereon prior to their sale and delivery.

The bonds shall be issued at such times and in such amounts as may be required to meet the payment of the demands of the district, as may be determined by the board of directors. The form, denomination, rate of interest, time, place and manner of payment and all matters relating to such issuance shall be determined by the board of directors of the district; provided, that the rate of interest shall not exceed five per centum per annum.

The bonds so issued shall be sold in such amounts as the board of directors may determine. The state board of control is hereby authorized to purchase such bonds and pay for them out of any surplus money in the state treasury which, in its judgment, shall not be required for governmental purposes prior to the maturity of such bonds. The boards of supervisors of the several counties shall likewise have authority to purchase such bonds with any surplus funds under their control.

§ 22. **Highway assessment district.** Whenever it shall appear to the satisfaction of the board of directors that any land under private ownership will be benefited by the construction of the highway herein provided for, said board of directors, after the receipt of the report and estimates of costs herein required to be made and filed, may adopt a resolution of intention substantially in the following form:

RESOLUTION OF INTENTION.

Whereas, it appears to the satisfaction of the board of directors of joint highway district number — of the state of California, that land under private ownership will be benefited by the construction of a highway provided for in an act entitled: "An act providing for the creation, organization and government of joint highway districts composed of two or more counties of the state of California," therefore be it

Resolved, That it is the intention of the board of directors of said joint highway district to create a highway assessment district to com-

prise all the land under private ownership within the following boundaries to wit: (Here set forth the boundaries of the proposed district.)

Further resolved, That it is the intention to assess the sum of \$—, being a — part of the estimated cost of said highway construction as appears upon the report of the district engineer filed in the office of the board of directors of said district, upon the land within the boundaries of said proposed district as herein described in the manner provided in said act.

Further resolved, That — the — day of — 19—, at the hour of — at (meeting place of the board of directors) is hereby fixed as the time and place for hearing all objections that may be made to the creation of said district or the amount of benefits to be assessed as aforesaid; also to hear and determine all claims for damages that may result from the construction of the highway aforesaid.

Reference to the aforesaid report of the district engineer for further particulars is here made.

Adopted by the board of directors of joint highway district number — of the state of California, this — day of —, 19—.

_____,
Directors.

Attest: — —,
Secretary.

Time for hearing. The time of hearing shall be not less than thirty nor more than forty days from the date of the adoption of the above resolution.

§ 23. Notice of resolution. Proof of publication. Posting of notices. The board of directors shall cause a notice of the passage of such resolution including a copy of the same to be published five times in a daily newspaper of general circulation published in each of the counties composing the district or two times in a newspaper published less than six days a week, or if no newspaper be published in any county then such notice shall be posted in three public places in such county for a period of ten days. The first publication in each of said counties shall be within five days after the adoption of said resolution of intention. Such notice shall be headed by the words "notice of intention to create highway assessment district." Proof of the publication of such notice shall be made by affidavit filed in the office of the secretary of the board of directors and such publication and proof shall be held sufficient to vest jurisdiction in the board of directors to hear and determine all matters authorized by this act to be so heard at the time and place of hearing fixed by the said resolution of intention.

The board of directors shall also cause to be conspicuously posted within fifty feet of all points where the highway proposed to be constructed shall intersect existing public highways two copies of the notice herein required to be published. Said notice shall be headed as herein specified and the words of said heading shall be in type at least two inches in height and the body of said notice shall be set in what is known as twelve-point or pica type. Said notices shall be posted within ten days from the date of the adoption of the resolution of intention.

§ 24. District engineer to prepare map. The district engineer shall be directed to prepare a map showing the exterior boundaries of the proposed

district, the line of the proposed highway, intersecting highways, boundary lines of the counties, the separate parcels of land within the district and names of the owners thereof as nearly as the same may be ascertained from the records of the assessors' office in the several counties. Said map shall be completed before the date set for the hearing.

§ 25. Objections. Any person who may be affected by the creation of the proposed assessment district may make objection thereto. Objections shall be in writing signed by the objector or his agent and filed prior to the day fixed for the hearing. Objections may be made to the boundaries of the district or to the amount of the assessment proposed to be imposed. Claims for damages to result from the construction of the highway or the grade thereof as delineated upon the map or profile drawings of the district made by district engineer shall also be presented prior to the day of hearing and a failure to present such claims shall be deemed to be an express waiver thereof.

§ 26. Hearing of objections. At the time fixed in the resolution of intention for hearing objections, or at such time as such hearing may be continued, and all parties shall be deemed to have notice of such continuance, the board of directors shall hear and determine all objections that may be made and it shall be competent for said board to hear and determine any or all objections of every kind or nature even though such objections shall not be expressly authorized by this act, and also may pass upon, compromise or determine any claim for damages presented as herein provided.

§ 27. Changing boundaries, etc. Claims for damages. Order by board of directors. At the conclusion of the hearing the board of directors may change the boundaries of the proposed district, but may not include any territory outside thereof, may reduce the total amount of the assessment proposed to be imposed, change or modify any grades of a proposed highway and may sustain or overrule any other objections or generally overrule all objections that may have been made. It may also reject or approve in whole or in part any claim for damages. The total amount of all claims for damages that may be allowed shall be added to the estimate of the cost of the proposed highway and one-fourth of such amount of claims may be added to the amount of assessment proposed to be imposed unless such estimate shall already have provided for such damages.

All matters pertaining to the hearing having been heard and determined, the board of directors shall cause an order to be entered in its minutes ordering the construction of the proposed highway, creating a highway assessment district for the purposes of this act and describing the boundaries of the highway assessment district in accordance with this determination, declare the amount of the assessment to be imposed and assessing the same upon the land within the district, which shall be deemed to be the benefits thereto accruing from such proposed highway construction, and the same to be distributed to and imposed upon the several parcels of land within the district and to be paid as in this act provided, and fix the number of annual installments in which such assessment may be paid. All objections not specifically set forth in said order shall be deemed to have been disallowed and overruled. The order shall also approve the map of the district made as herein provided.

§ 28. Order sent to assessors and recorders. Copies of said order and the map so approved shall be forthwith transmitted to the assessor and recorder of the several counties comprising the joint highway district. The recorder shall record said order and map as provided by law without charge therefor. The assessor shall preserve said map and in making any assessment-roll shall cause all parcels of land within the assessment district to be separately valued so that the value of all the land therein shall be definitely ascertained.

§ 29. Statement of total assessed value. On or before the fifteenth day of August in each year the auditor of each of the counties composing the district shall certify and transmit to the secretary of the joint highway district a statement showing the total assessed value of the land within his county included in the assessment district created as herein provided.

§ 30. Secretary to determine amount of installment. Immediately upon receipt of the statements required by the preceding section, the secretary of said joint highway district shall ascertain the amount of the installment of the assessment due and to be paid within the year thereafter. The sum so ascertained shall be the amount to be raised by taxation upon all the property within the assessment district. He shall apportion the said amount to the several counties composing the district according to the assessed value of the land therein as certified and shall transmit to the clerk of the board of supervisors of each of said counties a statement showing the total assessed value of the land within these counties included in the assessment district and the amount of money required to be raised by a tax imposed thereon.

§ 31. Levy of special tax in district. At the time and in the manner provided by law for the levying of taxes by board of supervisors, the board of supervisors in each of the counties composing the joint highway district shall levy a special tax upon all the land within the highway assessment district and within the county, sufficient to raise the sum of money required by this act and as certified by the secretary of the joint highway district.

§ 32. Collected at time of county tax. The tax so levied shall be computed and collected in the time and manner required by law for the computation and collection of taxes for county purposes and the land subject to such tax shall be subject to the same penalties for delinquencies, and the same provisions of law relating to the sale and redemption of land for nonpayment of county taxes, shall apply to the tax herein authorized.

§ 33. Moneys paid to treasurer. All money collected as the proceeds of a tax levied as herein provided shall be paid by the tax collector to the treasurer of the joint highway district and placed to the credit of the funds of the district as herein provided.

§ 34. Additional reports. It is hereby expressly provided that the entire highway originally described need not be provided for in the report of the engineer made as provided in section thirteen of this act. Additional reports may be made from time to time as the same shall be deemed expedient and provide for the construction of other sections of

§ 1. Powers of boards of supervisors to do road work. Prohibited work. Power is hereby vested in the board of supervisors of every county in this state, by and under the procedure prescribed in this act, to grade or regrade to the official grade, plank or replank, pave or repave, macadamize or remacadamize, gravel or regravell, pile or repile, cap or recap, oil or reoil the whole or any portion of roads, streets, avenues, boulevards, lanes or alleys so far as not within the territory of any incorporated city or town, and so far as by dedication or otherwise, public and open to public use, and to do so for any length or width of the same, one of the same or any number of the same in combination, and to construct therein or thereon sidewalks, sewers, manholes, culverts, bridges, cesspools, gutters, tunnels, curbing and crosswalks, and to do the aforesaid things singly or in any combination of the same, and the various items of the said work and constructions need not be continuous; and to issue bonds representing the costs and expenses of any said work or constructions as in this act hereafter provided; and to constitute a fund for the payment of such bonds as in this act hereafter provided; and to constitute a special fund for the payment of such bonds as in this act hereafter provided; and to levy special assessment taxes upon a district as in this act hereafter provided; and to establish said district and determine its boundaries as in this act hereafter provided; and, as incidental to the exercise of the powers aforesaid, to establish official grades within said district and such districts; and to transfer from county road funds to such special funds as in this act hereafter provided; and to purchase material and furnish the same to be used in the doing of any of the works above named.

But said board of supervisors are hereby prohibited from doing, under the provisions of this act, any work, except sewer or drain work, within the roadway of any railroad or within any area which by law is required to be kept in order or repair by any person or company having railroad tracks thereon, and this prohibition shall have the effect of excepting the prohibited work from that described in any resolution of intention in any proceeding under this act, and of charging all persons with notice of such exception or exclusion, and such exception of said prohibited work need not be made in any such resolution of intention. [Amendment approved May 31, 1917; Stats. 1917, p. 1370.]

§ 3. Resolution of intention. Form of resolution. Before ordering any work to be done under this act, the board of supervisors shall pass a resolution of intention so to do. Such resolution may, in form, and shall, in substance, be (filling all blanks) as indicated following, to wit:

In the matter of road district improvement No. ——. Resolution of intention No. — (the same number for both blanks.)

Resolved, That it is the intention of the board of supervisors of the county of —, state of California, proceeding under and by virtue of the road district improvement act of 1907, and in the matter of road improvement district No. —, on the — day of —, 19—, at the hour of — M. of that day or as soon thereafter as the matter can be heard, at the chambers of said board, to order work to be done, as follows: (Here insert a description of the work, stating the territorial extent thereof with all reasonable exactness, and in other particulars generally, yet so as to indicate fairly and approximately its probable cost), the said work to be done in accordance with the specifications therefor filed

with the clerk of said board on the — day of —, 19—, except as the boundaries of the district and grades therein specified may be changed at the hearing of the matter hereinafter mentioned, which specifications are made part hereof, and to which all persons are referred for further particulars as to said work. For the costs and expenses of the work and the proceeding bonds will be issued to the amount of the same, bearing interest at the rate of — per cent per annum, payable semi-annually, and one — part of the principal annually, all in gold coin and the aggregate principal of said bonds shall be paid and discharged within “—” years from the issue thereof.

A special fund for the payment of said bonds is to be constituted by the levy of special assessment taxes upon all land within a district to be known as “road improvement district No. — of the county of—,” (and it may be added, “and partly by transfer of moneys from county road funds”).

Such district (as proposed) being all that territory in the county of —, state of California, within exterior boundaries as follows, to wit: — (the blank to be filled with a careful statement of the exterior boundaries of the district).

Notice is hereby given that at the time specified hereinbefore for ordering the work, the matter of said road district improvement No. — will come up for hearing, and all objections, which are, under the provisions of said road district improvement act of 1907, entitled to be heard or determined, will then be heard and determined, and the boundaries of said district and grades therein be finally determined and established.

The — (here insert name and character of newspaper), is hereby designated as the newspaper for making publication of this resolution and for making all other publications in the proceeding.

—, a competent person, is hereby appointed superintendent of work with compensation at the rate of — dollars per diem for days actually spent in the performance of duty under this appointment, (or, in lieu of the paragraph last preceding, it may appear, “—, a county officer is hereby appointed superintendent of work without compensation”).

The foregoing resolution was, on the — day of —, 19—, passed by the board of supervisors of the county of —, state of California.

Attest — —,

Clerk of the board of supervisors of said county of —,

By — —,

Deputy Clerk.

The principal and interest of the bonds representing the cost of work done under the provisions of this act, shall be payable in gold coin of the United States of America, and the board of supervisors is authorized to determine the time, not to exceed twenty years, in which bonds issued to represent the cost of the work shall be paid, and to determine the rate, not to exceed seven per cent per annum, of the interest to be paid thereon, which interest shall be payable semi-annually, and to make such bonds in all respects as indicated by the form therefor, in this act hereafter provided. [Amendment approved May 31, 1917; Stats. 1917, p. 1370.]

§4. Publication of resolution. Copies posted. Power to proceed. Evidence of facts. Such resolution of intention shall be filed, and be

published by at least two insertions in the newspaper therein designated, which shall be a newspaper published and circulated in the county, or, if there be no such newspaper, then in any newspaper designated by said board of supervisors in such resolution. Printed copies of such resolution, headed, "notice of road district improvement," such heading to be in letters not less than one inch in length, shall be, by the superintendent of work, or by some person appointed by him for the purpose, posted along the line of work described in said resolution, at not more than one hundred feet in distance apart, but not less than three in all.

Affidavits in proof of such publication and posting shall be filed with the clerk of the board of supervisors. When, before the day of the hearing specified in the resolution of intention, twenty days have elapsed since the posting and the first publication (they need not be simultaneous) of the resolution of intention, the board of supervisors shall have acquired power to proceed with such hearing and to take all other action in the proceeding as is in this act authorized.

The determination of the board of supervisors to proceed with such hearing, whether evidenced by an express declaration or by its proceedings to make other determinations at such hearing, shall be presumptive evidence, at least, of the existence of all of the facts upon which the power of the board to proceed depends, except such as are required to appear of the record in the proceeding, and except, also, in so far as such presumption is rebutted by the record in the proceeding. [Amendment approved May 31, 1917; Stats. 1917, p. 1372.]

§ 7. Publication of notice inviting bids. Consideration of bids. Notice of award to be published. Bonds accompanying bids. Successful bidder to pay for advertising. The notice inviting sealed proposals or bids shall be published by at least two insertions in the newspaper designated in the resolution of intention and, not necessarily simultaneously, a copy or copies of the same be posted and kept posted for five days, at or near the chamber door of the board of supervisors. All proposals or bids shall be accompanied by a check, payable to the order of the presiding officer of the board of supervisors, certified by a responsible bank for an amount not less than ten per cent of the aggregate of the proposal or bid, or by a bond for said amount running to the presiding officer of the board of supervisors, signed by the bidder, with two sureties qualifying each in said amount over and above all statutory exemptions before an officer competent to administer an oath.

Said proposals or bids shall be delivered to the clerk of said board, and said board shall, in open session, examine and declare the same, but no proposal or bid shall be considered unless accompanied by said check or such bond in terms satisfactory to the board. The board may reject any and all proposals or bids should it deem this for the public good, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work to the lowest responsible bidder at the price named in his bid.

A notice of such award, attested by the clerk of the board of supervisors, shall be published two days and posted for five days in the same

manner as hereinbefore provided with respect to the notice inviting proposals or bids.

The check or bonds accompanying such accepted proposals or bids shall be kept by the clerk of said board until the contract for doing said work, as hereinafter provided, has been entered into. If said bidder fails, neglects or refuses to enter into the contract for said work, as hereinafter provided, then the certified check accompanying his bid, and the amount therein mentioned, shall be declared forfeited to the county, and may be collected by it and paid into its road fund, and any bond forfeited may be prosecuted, and the amount thereof collected and paid into said fund.

Before being entitled to a contract the bidder to whom the award thereof has been made must advance and pay to the clerk of the board of supervisors, for payment by him the costs and expenses of publishing and posting resolutions, notices and orders required under this act to be made, which have been made, given, posted or published in the proceeding. [Amendment approved May 31, 1917; Stats. 1917, p. 1373.]

§ 9a. If contractor fails to carry out contract. Action to recover on bond. If the contractor shall fail to begin in good faith the work provided for in said contract within the time in said contract set forth, or shall fail thereafter to prosecute said work in a workmanlike and diligent manner, or shall fail in any other respect to carry out the terms of said contract, then the board of supervisors shall cause written notice to be served upon said contractor, specifying the particular or particulars in which he fails to fulfill the requirements of said contract and if for a period of three days thereafter said contractor shall fail to remedy the defects set forth in said notice, and to prosecute said work thereafter with diligence and in a workmanlike manner, then the board of supervisors shall either take over said contract and complete said work, or shall relet said contract, without the necessity of advertising for bids, and cause the work to be completed, and shall declare the bond given by said contractor forfeited and order suit brought thereon, and all moneys collected therefrom shall be paid into the general road fund of the county.

If the contractor shall fail to pay for any labor or material furnished for, or in the doing of said work, by any person, such person shall have and hold a lien against the bonds to be issued to cover the cost and expenses of said work. Such person may at any time prior to the issuance of said bonds file with the county treasurer a verified statement of the fact that he has not been paid for such labor or material. The county treasurer shall withhold from the contractor or anyone claiming under him as assignee or otherwise, sufficient of said bonds to satisfy such claim, and costs which can reasonably be anticipated. Such claimant, if he so elects, and if he has not received the said bonds, may as an alternative, at any time within six months after the filing of such statement bring an action on the bond of the sureties in his own name, or if he has assigned his claim, the action may be brought in the name of the assignee; provided, however, that the right of the county to recover on said bond shall be superior to the rights of such claimant to

recover thereon. [Amendment approved May 15, 1919; Stats. 1919, p. 558.]

This section was also amended in 1917. See Stats. 1917, p. 1373.

§ 12. **Bonds to be issued in road districts. Road district improvement bond.** Upon the expiration of twenty days from the making of the final order mentioned in section eleven of this act, the clerk of the board of supervisors shall transmit to the county treasurer of the county an attested copy of said final order, and upon receipt of the same the treasurer shall proceed to issue bonds amounting in the aggregate to the principal sum for which bonds are to be issued as the same is stated in said final order. Said bonds, when issued, shall be dated as of the day when said final order of the board of supervisors was made. A bond may be issued in any amount, provided that the aggregate of the bond or bonds made payable in any one year is the proper part of the whole principal of the bond issue as specified in said final order, and that the interest thereon shall be payable as hereinafter provided. The said bonds may in form and shall in substance be as indicated following, to wit:

ROAD DISTRICT IMPROVEMENT BOND.

County of —, State of California.

Road Improvement District No. —.

§ —.

Bond No. —.

Under and by virtue of an act of the legislature of the state of California, known as the "road district improvement act of 1907" (here may be inserted a further designation of the act, if desired) the county of —, state of California, will pay to the bearer, out of the fund hereinafter designated, at the office of the treasurer of the said county, on the — day of —, 19—, the sum of — dollars in gold coin of the United States of America, with interest thereon, in like gold coin at the rate of — per cent per annum, payable semi-annually on the second day of January and the second day of July of each year from the date hereof (except the last installment thereof, which shall be payable at maturity of this bond) upon presentation and surrender, as they respectively become due, of the proper interest coupons hereto attached, the first of which is for interest from date hereof to the next date of interest payment, and the last for interest to maturity hereof from the last preceding date of interest payment.

This bond is issued under and in conformity to the provisions of the above-mentioned "road district improvement act of 1907" and the amendments thereof, and is one of a series of bonds of like date and effect numbered from one to —, consecutively, amounting in the aggregate to — dollars, issued in behalf of road improvement district number — of said county, which constitute the only indebtedness of said district. It is hereby certified, recited and declared that all proceedings, acts and things required by law precedent to or in the issuance of this bond have been regularly had, done and performed, and this bond is by law made conclusive evidence thereof.

This bond is payable out of road district improvement fund number — exclusively, as the same appears on the books of the treasurer of said county, and neither said county nor any officer thereof shall be

holden for its payment otherwise; but in accordance with said act the board of supervisors of said county will annually, at the time of levying other taxes, levy upon all the land in said road improvement district a special assessment tax in an amount clearly sufficient to pay the principal and interest of said bonds as the same shall become payable.

In witness whereof said county has caused this bond to be signed by the chairman of its board of supervisors and countersigned by its treasurer and the seal of said board to be hereto affixed and said interest coupons to be signed by the said treasurer this — day of —, 19—.

Chairman of the board of supervisors of the county of —.

[Seal of board of supervisors.]

Countersigned: —,

Treasurer of the county of —.

Said bonds shall be signed by the chairman of the board of supervisors and countersigned by the treasurer of the county, and shall have the seal of said board of supervisors thereto affixed, and when so signed shall be binding according to the terms thereof as prescribed in said form. The interest coupons attached to said bonds shall be in such form as the said treasurer may determine, subject to the provisions of this act and the determination made by the board of supervisors, and their signature by said treasurer alone, by either written or lithographed or printed facsimile signature, shall be sufficient. Said bonds shall be delivered by the said treasurer to said contractor or to his order, assignee, or lawful representative.

The board of supervisors is hereby vested with power to determine the number of years, not to exceed twenty, within which the aggregate principal of bonds to be issued under this act shall be paid and discharged, and to fix the rate of interest, not to exceed seven per cent per annum, to be paid thereon, and it shall be a sufficient determination and fixing of the same to set forth in the resolution of intention that bonds will issue for the work, in any terms that will fairly indicate such time and such rate and the fractional part of the principal to be paid each year, which part shall be the same for each of the years covered by the bond issued.

The interest payments on said bonds shall be payable semi-annually on the second days of January and July of each year (except the last installment, which shall be payable at maturity of the bonds) in the manner indicated in said form of bond, and the interest and principal shall be payable at the office of the county treasurer in gold coin of the United States of America; but it shall not be necessary, either in the resolution of intention or otherwise, to set forth or determine the days of the month on which payments of interest are to be made, nor that payments shall be made in such gold coin, nor that payments shall be made at such treasurer's office, but all persons are charged with notice of the contents of this section, especially in the aforesaid particulars. [Amendment approved May 10, 1919; Stats. 1919, p. 516.]

§ 13a. Materials furnished to contractor. The board of supervisors, by a four-fifths vote, may adopt a resolution setting forth that the improvement to be made is of more than local importance, and that all or a portion of the materials needed for the improvement are to be

purchased and furnished to the contractor and paid for out of the general road fund or out of the fund of the road district in which the improvement lies, or if it lies in two or more road districts, out of the funds of such districts in a proportion to be determined by the board of supervisors, and may thereupon purchase and furnish to the contractor such materials, and pay for the same in the manner set forth in said resolution; provided, however, that no material shall be furnished the contractor unless the specifications contain a statement of the kind and amount of the material to be furnished, and only in the amount and of the kind set forth in said specifications. [New section added May 31, 1917; Stats. 1917, p. 1374.]

§ 14. Engineer of work. The board of supervisors is hereby vested with power as follows, to wit:

1. To appoint, at any stage of the proceeding before calling for proposals or bids, any competent engineer, to be designated "engineer of work," for the purpose of doing and furnishing all the civil engineering work or services, surveying and similar work and services necessary to the proper doing of the work. His compensation or at least the rate or some basis for computing the same shall be fixed and stated in the order of his appointment, which said order shall be entered in the minutes of the board; provided, any county officer may be appointed as such engineer without compensation.

2. **Superintendent of work.** To appoint, in and as a part of the resolution of intention, any competent person to be designated "superintendent of work," whose duty it shall be to perform the services for him in this act prescribed or indicated, and to have the general actual supervision of the work. His compensation shall be fixed at the time and in the resolution of his appointment at a per diem not to exceed five dollars for all time actually devoted to the work; provided, any county officer may be appointed as such superintendent without compensation.

3. **Specifications.** To designate any competent person for the purpose of preparing and furnishing the specifications required by section two of this act, and with such designation to fix his compensation, or some basis for computing the same, or to appoint any county officer of the county without compensation.

4. **Appointees. Not charge against county. Supervisors ineligible.** To appoint and designate other competent persons in the places respectively of the persons so originally appointed, with compensation, so far as practicable, proportionately the same as fixed for the original appointee, and to appoint such additional persons as may be needed to carry on said work; and to fix their compensation which shall be a charge against the district.

No part of such or any compensation for said officers or employees, or for services rendered by any of them shall be a charge against the county or any officer thereof; except that for furnishing specifications and posting the resolution of intention the county shall be liable in case the proceedings cease or are abandoned, before the award of the contract; provided, however, that whenever any county officer is appointed to any of the positions hereinabove mentioned without compensation,

the actual and necessary expenses incurred under his supervision, including the compensation of other persons, made necessary by the duties of such positions shall be a charge against the county but shall be repaid to the county by the contractor as in the following section provided.

No member of the board of supervisors shall be eligible to appointment to any office, position or employment under this act, except as county officer without pay. [Amendment approved May 31, 1917; Stats. 1917, p. 1375.]

§ 15. Costs paid by contractor. All the costs and expenses of the proceeding, inclusive especially of the compensation of the person appointed to furnish the specifications, of the superintendent of work, of the engineer of work, of the cost of all publications under this act required to be made, shall be chargeable to and paid by the contractor, and they shall have been paid before delivery of the bonds shall be made by the county treasurer; provided, however, that if said costs and expenses are not paid within ten days after the notice given that said bonds, excepting such number thereof as may be withheld to satisfy claims filed as hereinabove provided are ready for delivery, a sufficient number of said bonds may be sold at not less than ninety-five per cent of their face value to fully satisfy said costs and expenses, any surplus over said costs and expenses obtained by such sale to be paid to said contractor; provided, further, that the county treasurer may make delivery of such bonds, if there be deposited with him, subject to the order of the board of supervisors, money to the amount of the costs and expenses chargeable to the contractor as the same is stated in the attested order of the board of supervisors, provided for in section twelve of this act. The contractor and all persons claiming under him any interest in said bonds, whether of ownership, lien or otherwise, shall be deemed to have notice of the contents of this section. [Amendment approved May 31, 1917; Stats. 1917, p. 1376.]

§ 15½. Adjustments with contractor. Whenever a contractor pays into the county treasury an amount larger or smaller than that actually due for incidental or preliminary expenses, the difference thus arising shall be adjusted by transfers from or to the interest and sinking fund of the district for which the payment was made, to or from the proper fund of the county. [New section added May 27, 1919; Stats. 1919, p. 1336.]

ACT 1466.

An act to allow unincorporated towns and villages to establish, equip and maintain systems of street lights on public highways; to provide for the formation, government and operation of highway lighting districts; the calling and holding of elections in such districts; the assessment, collection, custody and disbursement of taxes therein; and the creation of ex-officio boards of supervisors.

[Approved March 20, 1909. Stats. 1909, p. 551.]

Amended 1911, p. 439; 1913, p. 447; 1915, p. 943; 1917, p. 1521.

The amendment of 1917 follows:

§ 16. Disposition of funds. Remainder transferred to city treasurer. The revenue derived from said tax, together with all other moneys ac-

quired in any manner whatsoever by the lighting district shall be paid into the county treasury to the credit of the lighting fund of the district wherein said tax was collected, subject only to the order of the board of supervisors of said district, and to be by them expended only for and on behalf of the district wherein such money was collected; provided, however, that any funds arising from assessments made under the provisions of this act, and remaining in said county treasury after the payment of all outstanding legal obligations incurred by the district, shall be ordered transferred, by the board of supervisors of the county in which such district is situated, to the city treasurer of the city, if any there be, that has been incorporated since the formation of said district, and which includes within its corporate limits such district or any considerable portion thereof. If such incorporation has not taken place, then said funds so remaining in said county treasury shall be transferred to a separate fund and, upon the order of the board of supervisors of the county, shall be repaid pro rata to the persons by whom the assessments were originally paid. [Amendment approved June 1, 1917; Stats. 1917, p. 1521.]

§ 18a. Annexation of territory. Petition. Notice. Hearing. Order granting petition. The boundaries of any such highway lighting district may be altered and outlying contiguous territory in the same county in which a lighting district is situated annexed thereto in the following manner: A petition signed by the owners representing at least one-fourth in number of the total owners of real property, and at least one-fourth of the assessed valuation, as shown by the last equalized assessment-book of the county in which such lighting district is situated, of the real property, in such contiguous territory proposed to be annexed, designating the boundaries of such contiguous territory proposed to be annexed and the number of owners of real property in such territory and the assessed valuation thereof, as shown by said last equalized assessment-book, and stating that such proposed territory is not within the limits of any other lighting district, and asking that such territory be annexed to said lighting district, shall be presented to the board of supervisors of the county in which said lighting district is situated.

At their first regular meeting after the presentation of said petition, said board of supervisors shall cause notice of said petition to be published in a newspaper published and circulated in the county in which said lighting district is situated, if there be such a newspaper, otherwise by posting copies of said notice in three of the most conspicuous places in said territory proposed to be annexed, for three weeks prior to the date to be fixed by said board of supervisors for hearing said petition. Upon the date fixed for said hearing, or to which it may be continued, said board of supervisors shall take up and consider said petition, and any objections thereto which may be filed or to the inclusion of any property in said district.

Said board of supervisors shall have the power, by order entered on its minutes, to grant said petition either in whole or in part, and by order entered on its minutes to alter the boundaries of said lighting district, and annex thereto all, or such portion of said contiguous territory, described in said petition, as will be benefited by inclusion in said lighting district. No territory which will not be so benefited, or

which is not contiguous to said lighting district, or which is not described in said petition shall be included in said district.

Such order shall be conclusive evidence of the validity of all prior proceedings leading to the annexation or recited in said order, and from and after the making of said order, such territory shall become and be a part of such lighting district and shall be taxed, together with the remainder of said district, for all taxes to be thereafter levied by said board of supervisors, for the maintenance of said lighting district. [New section added June 1, 1917; Stats. 1917. p. 1522.]

§ 18b. If district annexed to city. If part of district annexed. Upon the annexation of all or of any portion of the territory embraced in any such lighting district to an incorporated city or city and county, all funds paid into the county treasury to the credit of the lighting fund of such district, if the whole of such district shall be annexed, shall be turned over by the board of supervisors of such district to the treasurer of said incorporated city, or city and county, and administered by the legislative body of said incorporated city, or city and county; said legislative body shall have all of the powers and perform all of the duties granted to or imposed upon the board of supervisors of the county in which such district is located and of the board of supervisors of said district, and shall carry out the provisions of this act as to such district to the same purpose and extent as if originally constituted, under the provisions of this act, the governing body thereof. Upon the expenditure of the funds and the discharge of the obligations and liabilities of any such lighting district, the whole of which has been annexed to an incorporated city, or city and county, such district shall ipso facto be dissolved with the same force and effect as if dissolved under the provisions of section eighteen of this act. In the event of the annexation of a portion of the territory embraced in any such lighting district to an incorporated city, or city and county, such proportionate part of the funds collected for the benefit of such district and remaining unexpended as the area of the territory so annexed bears to the total area of said district, shall be paid over to the treasurer of such incorporated city, or city and county, in the manner hereinabove provided, and administered by the legislative body of such city, or city and county, until the same are expended, for the benefit of the portion of such district so annexed. Upon the expenditure of such funds in the manner required in this act the territory of such district so annexed shall be deemed to be withdrawn from said lighting district and thereafter the remaining territory embraced in said district and not so annexed shall, upon a resolution adopted by the board of supervisors of the county in which such territory is located, be and become a lighting district within the meaning of this act and so remain until dissolved as provided in this act. [New section added June 1, 1917; Stats. 1917, p. 1523.]

ACT 1466b.

An act calling a special election to be held on Tuesday, July 1, 1919, and providing for the submission thereat to the qualified electors of the state of an amendment to the constitution of the state of California known as Senate Constitutional Amendment Number 27,

proposed by the legislature of said state at its forty-third session, providing for the issuance of bonds to the amount of forty million dollars for the completion of the state highway system and the acquisition and construction of other state highways by the state department of engineering, and making an appropriation for the purposes of this act. [Approved April 24, 1919. Stats. 1919, p. 136. In effect immediately.]

ACT 1467a.

An act expressing assent of the state of California to the provisions of the act of congress approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes."

[Approved March 21, 1917. Stats. 1917, p. 20. In effect July 27, 1917.]

§ 1. Assent to act of congress approved July 11, 1916. The state of California hereby assents to the provisions of the act of congress approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes."

ACT 1467b.

An act authorizing counties and municipalities to perform street work upon highways under the control of the state.

[Approved May 3, 1919. Stats. 1919, p. 138.]

§ 1. Local improvements on state highway. The several counties, municipalities and road divisions of this state, within the limits of which may exist a state highway or highways under the jurisdiction and control of the state engineering department, are hereby empowered to do or order to be done on such highways any paving, curbing, street work or sewer work authorized by law; provided, however, that permission to do any such work shall first be obtained from the state department of engineering and all grades, elevations or curb lines sought to be established or pavement proposed to be constructed by any county, municipality or road division shall first be approved by said engineering department of the state; and provided, further, that in case any existing pavement should be injured as a result of such work, such pavement shall be restored to the satisfaction of said engineering department.

ACT 1468a.

An act to provide for maintenance of county highways improved under bond issues in the counties of the state and empowering the boards of supervisors to levy taxes therefor.

[Approved May 1, 1911. Stats. 1911, p. 1391.]

Amended 1913; Stats. 1913, p. 1147; 1919, Stats. 1919, p. 342.

The amendment of 1919 follows:

§ 2. County highway maintenance fund. The board of supervisors must annually, for each fiscal year, levy a tax not to exceed ten cents on each one hundred dollars of value of taxable property of the county

for each one hundred miles or fraction thereof of improved county highways under a bond issue therefor. This tax shall be collectible by the several officers charged with the collection of other county taxes in the same manner, and at the same time as other county taxes are collectible on all property; and the collection must be paid into the county treasury, and by the county treasurer converted into a separate fund hereby created and known as the county highway maintenance fund. The money derived from such tax must be applied solely to the maintenance of county highways improved under a bond issue to cover the whole county. [Amendment approved May 7, 1919; Stats. 1919, p. 342.]

TITLE 230.

HISTORIC PROPERTY.

ACT 1468d.

An act to create a commission for the purpose of making a survey of local historical material in the state of California; defining the power and duties of said commission; and making an appropriation therefor.

[Approved June 12, 1915. Stats. 1915, p. 1528.]

Amended 1917; Stats. 1917, p. 572.

The amendment of 1915 follows:

§ 4. Purpose of commission. Models of mission buildings. Notice. The purpose of this commission shall be to make a survey of the material on local history within the state of California by investigating documents in local depositories and in the possession of private individuals and other sources of original information on the early history of the state of California and to compile, keep and publish a record of such sources of information; and to investigate and acquire information as to the physical characteristics of the several missions which were maintained in the state of California under the charge of the Franciscan fathers prior to the time of the secularization thereof, and to cause to be made a record thereof, and to be created models of the several mission buildings and outbuildings connected therewith, which shall be accurate representations of the mission buildings and outbuildings connected with the same as they were at the time when the Franciscan fathers were in charge, and the same shall be known respectively as the California model of each particular mission in question, and the said commission shall cause to be prepared plans and specifications sufficient in detail to enable any of said buildings and outbuildings to be restored, and the commission shall have authority to pass upon and determine the relative accuracy of information to be obtained and to establish for the state the models and plans and specifications thereof; provided, however, that no model shall thus be established as the correct model of any mission unless the said commission shall first have published for a period of at least sixty days a notice to the public fixing a time and place at which any person interested in the said respective mission, or having information as to the condition of said mission buildings, or any part thereof, may present to the commission facts, papers, documents, records or other information substantiating the said person's

ideas as to the condition of said mission buildings at the time in question, which notice must be published in one newspaper in the city of San Francisco, one newspaper in the city of Sacramento, one newspaper in the city of Los Angeles, and one newspaper in the county in which said mission building was situated.

ACT 1468f.

An act directing the California historical survey commission to prepare a record of California's part in the war between the United States and the central European powers and to compile biographical sketches of California's citizens who served in the army, navy or marine corps of the United States during said war, and making an appropriation to carry out the purposes hereof.

[Approved May 23, 1919. Stats. 1919, p. 830.]

§ 1. History of California's service in great war. It shall be the duty of the California historical survey commission to prepare and compile for publication a record of California's part in the great war between the United States and the central European powers. It shall be the further duty of the said commission to prepare and compile for publication a book or books in which shall appear a brief biography, together with a picture or likeness if obtainable, of each citizen of the state of California who served in either the army, navy or marine corps of the United States of America at any time during said war.

§ 2. Appropriation. Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated the sum of five thousand dollars to be expended by the California historical survey commission in carrying out the duties imposed upon it by this act.

TITLE 241.

HOTELS.

ACT 1530.

An act to regulate the building and occupancy of hotels and lodging-houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof. [Approved June 16, 1913. Stats. 1913, p. 1429.]

Repealed 1917; Stats. 1917, p. 1422. See next Act.

ACT 1530a.

An act to regulate the erection, construction, reconstruction, moving, alteration, maintenance, use and occupancy of hotels, and the maintenance, use and occupancy of the premises and land on which hotels are erected or located, in all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties, and to provide penalties for the violation thereof; and repealing an act act entitled "An act to regulate the building and occupancy of hotels and lodging-houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof," approved June 16, 1913, Statutes of California of 1913, page 1429.

[Approved May 31, 1917. Stats. 1917, p. 1422. In effect September 1, 1917.]

§ 1. Title. This act shall be known as the "state hotel and lodging-house act," and its provisions shall apply to all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties.

§ 2. Duty of building department. Duty of housing department. In case no such departments. **Enforcement. Power of commission of immigration and housing.** It shall be the duty of the "building department" of every incorporated town, incorporated city, and incorporated city and county, to enforce all the provisions of this act pertaining to the erection, construction, reconstruction, moving, conversion, alteration and arrangement of hotels and to issue the certificate of "final completion" hereinafter provided.

It shall be the duty of the "housing department" and if there is no housing department the health department of every incorporated town, incorporated city, and incorporated city and county to enforce all of the provisions of this act pertaining to the maintenance, sanitation, ventilation, use and occupancy of hotels after said hotels have been erected, constructed or altered, as the case may be, and the certificate of "final completion" has been issued by the building department and to issue the "permit of occupancy" as hereinafter provided.

In the event that there is no building department or no housing department or health department in an incorporated town, incorporated city or incorporated city and county, it shall be the duty of the officer or officers who are charged with the enforcement of ordinances and laws regulating the erection, construction or alteration of buildings, or the maintenance, sanitation, ventilation or occupancy of buildings, or of the police, fire or health regulations in said incorporated town, incorporated city or incorporated city and county to enforce all of the provisions of this act.

In every county it shall be the duty of the officer or officers who are charged with the enforcement of ordinances or laws regulating the erection, construction or alteration of buildings, or of the maintenance, sanitation, occupancy and ventilation of buildings, or of the police, fire or health regulations in said county, to enforce all of the provisions of this act outside of the limits of any incorporated town or incorporated city.

Every incorporated town, incorporated city, or incorporated city and county in the state of California shall have authority, and it is hereby empowered and given authority, to designate and charge by ordinance any other department or officer than the department or officers mentioned herein, with the enforcement of this act, or any portion thereof.

The commission of immigration and housing of California shall have, and it is hereby empowered and given authority to enforce the provisions of this act, which do not pertain to the actual erection, construction, reconstruction, moving, conversion, alteration and arrangement of hotels in all parts of the state of California, including all incorporated towns, incorporated cities, incorporated cities and counties, in the state of California, whenever said commission finds or discovers a violation or violations of the provisions of this act and notifies the local department or officer, or departments or officers who are charged with the enforcement of the provisions of this act, in writing, of such violation or violations, and the said local department or officer, or departments or officers, fail,

neglect or refuse to enforce the provisions of the said act within thirty days thereafter; provided, however, that the said commission of immigration and housing of California shall enforce the provisions of this act only in the instances specified in said written notice.

§ 3. Unlawful to construct hotel contrary to act. It shall be unlawful for any person, firm or corporation, whether as owner, agent, contractor, builder, architect, engineer, superintendent, foreman, plumber, tenant, lessee, lessor, occupant, or in any other capacity whatsoever, to erect, construct, reconstruct, alter, build upon, move, convert, use, occupy or maintain, or to cause, permit or suffer to be erected, constructed, reconstructed, altered, built upon, moved, converted, used, occupied or maintained any hotel or any portion thereof contrary to the provisions of this act, or to commit or maintain or cause or permit to be committed or maintained any nuisance in or upon any hotel or any portion thereof, or any of the premises, yards or courts which are a part thereof, or which are required by the provisions of this act; or to do or cause to be done, or to use or cause to be used, any privy, sewer, cesspool, plumbing or house drainage affecting the sanitary condition of any hotel or any portion thereof, or of the premises thereof, contrary to any of the provisions of this act.

§ 4. Alterations. It shall be unlawful for any person to make any alterations or changes or reconstruction work of any kind whatsoever, to any hotel erected prior to the passage of this act, or to any hotel hereafter erected, or to increase the height, in any manner which would be inconsistent with any of the provisions of this act, or in violation of the said provisions of this act; or in any manner to diminish the size of the yards, courts or shafts or the size of windows or skylights, or to remove any stairway or fire-escape, or to obstruct the egress from such building or from the hallways or stairways, or to do anything that would affect the ventilation and sanitation of the building, contrary to any of the provisions of this act.

§ 5. Building converted to use as hotel. Building moved. Building reconstructed. A building not erected for, or which is not used as a hotel at the time of the passage of this act, if hereafter converted to or altered for such use, shall thereupon become subject to all of the provisions of this act affecting hotels hereafter erected.

A building used as a hotel at the time of the passage of this act, if moved, shall be made to conform to all of the provisions of this act affecting hotels hereafter erected, in so far as they pertain to the percentage of lot occupied and the size of outer courts, inner courts bounded by a lot line, and yards.

It shall be unlawful to reconstruct any hotel which is hereafter damaged by fire or the elements to an extent in excess of fifty-one per cent of its physical proportions, unless the said building is made to conform to all the provisions of this act affecting hotels hereafter erected.

§ 6. Penalty for violation. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment, and in

addition to the penalty therefor, shall be liable for all costs, expense and disbursements paid or incurred by the department, by any of the officers thereof, or by any agent, employee or contractor of same, in the prosecution of such violation. The costs, expense and disbursements by this section provided shall be fixed by the court having jurisdiction of the matter.

Procedure. Except as herein otherwise specified, the procedure for the prevention of violations of this act, for the vacation of hotels or premises unlawfully occupied, or for the abatement of a nuisance in connection with a hotel, or the premises thereof, shall be as set forth in the charter and ordinances of the municipality in which the procedure is instituted.

§ 7. Permit to erect hotel. Application for permit. Affidavit. Permit issued. Revocation. Plans kept on premises. Permit for nominal alterations. Expiration of permit. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion or alteration of a hotel, or to move or to build upon a hotel, or to convert a building or any portion thereof into use as a hotel without first obtaining a permit in writing so to do from the department charged with the enforcement of this act. Any person, firm or corporation desiring such a permit shall file an application therefor with the department charged with the enforcement of this act. Said application shall give a detailed statement in writing, verified under oath by the person making the same, of the erection, construction, reconstruction, moving, conversion, or alteration, as the case may be, upon blanks or forms to be furnished by the said department. The said application must be accompanied with a full, true and complete set of the plans of the hotel, or alteration, or work proposed, as the case may be, together with a set of specifications describing the materials proposed to enter into the construction of the proposed work, also a plan of the lot on which such building is proposed to be erected, constructed, reconstructed, converted, altered or moved, as the case may be. Such statement shall give in full the name and address by street and number of the owner or owners, also the name and address of the architect and of the contractor, if there be such an architect or contractor; also shall give such other data and information as in the judgment of the department charged with the enforcement of this act is deemed necessary.

The affidavit to said application shall allege that the plans and specifications are true and contain a correct description of the proposed hotel, lot and proposed work. If any person other than the owner makes such affidavit, such person shall not be recognized except that he allege in his affidavit that he is authorized and empowered by the said owner to act for him and to sign the required affidavit. Said department charged with the enforcement of this act shall cause all such plans, specifications and statements to be examined, and if it appears that they conform to the provisions of this act, shall then issue a permit to the person submitting the same. Said department may, from time to time, approve changes in any plans, specifications or statements previously approved by it; provided, that all changes when so made shall be in conformity with the provisions of this act. Said department shall have the power to revoke or cancel any permit or approval that it has previously issued in case of any refusal, failure or neglect of the person to whom such

permit or approval has been issued to comply with any of the provisions of this act, or in case any false statement or misrepresentation is made in any of the said plans, specifications or statements submitted or filed for such permit or approval. The erection, construction, reconstruction, moving, alteration or conversion of any such hotel, as the case may be, shall be made in accordance with the plans, specifications and statements submitted or filed, and for which the permit is issued.

A true copy of the plans, specifications and other information submitted or filed, upon which a permit is issued, with the approval of the department with which they are filed, stamped or written thereon, shall be kept upon the premises of the hotel or work for which the said permit is issued, from the commencement of the said building or work to the final completion of same, and shall be subject to inspection at all times by proper authorities.

The department charged with the enforcement of this act may, at its discretion, issue a permit in case of nominal alterations or repairs, when application is made therefore, in writing, by the owner or his agent, when the making of said nominal alterations and repairs do not affect any structural feature or the sanitation or the ventilation of the hotel, without requiring the filing of plans or specifications.

The issuance or granting of a permit or approval by the department charged with the enforcement of this act under the authority of this section shall not be deemed or construed to be a permit or an approval of the violation of any of the provisions of this act.

Every permit or approval which is issued by the department charged with the enforcement of this act, but under which no work has been done within ninety days from the date of issuance, or where work has been suspended for a period of ninety days, shall expire by limitation and a new permit shall be obtained before the work may be done.

§ 8. "Certificate of final completion" and "permit of occupancy." Renewal of permit of occupancy. Certificate issued. Permit issued. Hotel occupied without certificate or permit deemed nuisance. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to occupy or to permit to be occupied, any hotel hereafter erected, constructed, reconstructed, altered, converted or moved, as the case may be, or any portion thereof, for human habitation until the issuance of a "certificate of final completion" and a "permit of occupancy" by the department or departments charged with the enforcement of this act.

It shall also be unlawful to occupy any existing hotel until a permit of occupancy has been issued by the department designated to issue such permit.

Every permit of occupancy shall be renewed each calendar year by the department designated to issue the said permit; provided, that no structural alteration, or changes have occurred since the issuance of the certificate of final completion; and provided, that all other provisions of this act have been complied with.

Any person desiring a certificate shall file a notice with the department charged with the enforcement of this act. Said department shall cause an inspection to be made of the said hotel or portion thereof, or work described in the said notice, within ten days after written application therefor, and shall issue a "certificate of final completion" if it

is found that all the provisions of this act, regulating the erection, construction, alteration or moving, as the case may be, have been complied with.

The department charged with the enforcement of this act and designated to issue the permit of occupancy, shall issue the said "permit of occupancy" upon application, in writing, therefor by the owner or his agent, and upon the filing by the owner or his agent of such statements or records required by the department, after the "certificate of final completion" has been issued; provided, that no violations have occurred since the issuance of the certificate of final completion, or, in the case of a hotel erected prior to the passage of this act, and for which no certificate of final completion has been issued, then after the said department has caused an inspection to have been made of the said hotel and has found that all of the provisions of this act applying to such hotel have been complied with.

All permits and certificates shall be made in duplicate and a copy shall remain on file in the department issuing them.

Any hotel hereafter erected, altered, converted or moved, which is occupied, or any portion thereof which is occupied for human habitation, prior to a "certificate of final completion" or a "permit of occupancy" being issued, shall be deemed a nuisance and the department or departments charged with the enforcement of this act may cause it to be vacated, until the said certificate of completion and permit of occupancy have been obtained in accordance with the provisions of this act.

§ 9. Power to enter hotel. The department or departments charged with the enforcement of this act in any incorporated town, incorporated city, and incorporated city and county, or county, and the authorized officers, agents or employees of such department or departments, may, whenever necessary, enter hotels or portions thereof, or the premises thereof, within the corporate limits of such towns, cities, cities and counties, or counties, for the purpose of inspecting such buildings, in order to secure compliance with the provisions of this act and to prevent violations thereof.

The members of the commission of immigration and housing of California and the agents, officers or employees of said commission may, whenever necessary, enter hotels or portions thereof, or the premises thereof, for the purpose of inspecting such buildings in order to secure compliance with the provisions of this act and to prevent violations thereof.

The owner or his authorized agent may, whenever necessary, enter hotels or portions thereof, or the premises thereof, owned by him, to carry out any instructions or to perform any work required to be done by the provisions of this act.

§ 10. Definitions. For the purpose of this act, certain words and phrases are defined as follows, unless it shall be apparent from their context that they have a different meaning:

Words used in the singular include the plural, and the plural, the singular.

Words used in the present tense include the future.

Words used in the masculine gender include the feminine, and the feminine, the masculine.

Words "building departments," "health department," "housing department," "department charged with the enforcement of this act," "fire commissioner," shall be construed as if followed by the words, "of the incorporated town, incorporated city, incorporated city and county, or county," as the case may be, in which the hotel is situated.

"Approved" means whatever material, appliance, appurtenance, or other matter meets the requirements and approval of the department charged with the enforcement of this act, or which is approved by local ordinance of the municipality in which the building is situated, or any appliance, appurtenance, or other matter which conforms to the requirements of, and bears the approval of the "national board of fire underwriters"; provided, however, that no such material, appliance, appurtenance or other matter shall be deemed "approved" for use where, or in such a manner as would be inconsistent with the intent, or specific provisions of this act.

"Basement" is any story or portion thereof partly below the level of the curb or the actual adjoining ground level, the ceiling of which in no part is less than seven feet above the curb level or actual adjoining ground levels. If the adjoining ground is excavated to or below the curb level, or to or below the adjoining natural ground level, such excavated space shall have not less than the minimum width and length required in this act for outer courts. Every basement is a story.

"Building" is a hotel.

"Building department" means the commissioner of buildings, superintendent of buildings, chief inspector of buildings, or any officer or department charged with the enforcement of ordinances and laws regulating the construction and alteration of buildings or structures.

"Cellar" is any story or portion thereof, the ceiling of which in any part is less than seven feet above the curb level and actual adjoining ground levels.

"Court" is an open, unoccupied space other than a yard on the lot on which is situated a hotel. A court, one entire side or end of which is bounded by a front yard, a rear yard or a side yard, or by the front of lot, or by a street or a public alley, is an "outer court." Every court which is not an "outer court" is an "inner court."

Every court shall be open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are windows from rooms abutting the said court, except that a cornice on the building may extend into an "outer court" two inches for each one foot in width of such court, and a cornice may extend into an "inner court" one inch for each one foot in width of such court.

"Curb level" is the curb level opposite the center of the "front of lot."

Wherever the word "department" is used it means the building department, the housing department, the health department or such other department or officer, or departments or officers, who are charged with the enforcement of the provisions of this act.

"Dormitory" is a room in which more than two persons are "guests" and are not living together, and shall, for the purpose of computing the number of rooms, be deemed a separate guest room for each one hundred square feet of superficial floor area therein.

"Fireproof hotel" is a building wherein all the exterior and interior loads or strains are transmitted to the foundation by means of concrete, reinforced concrete, brick, stone or by means of a skeleton framework of steel or iron; the exterior walls, inner court walls and roof constructed of concrete, reinforced concrete, brick, stone or hollow terra cotta tile; where all the structural steel or iron is thoroughly fireproofed by concrete, cement plaster, tile, brick or sandstone, not less than two inches thick; where all the interior partitions are constructed of either hollow terra cotta tile blocks, gypsum blocks, brick, concrete, reinforced concrete, or of metal studs lathed with metal lath and plastered not less than three-quarters inch thick including the lath, or of metal studs lathed with approved plaster board and plastered not less than three-quarters inch thick including the plaster board, or constructed of wire glass not less than one-fourth inch thick, set in metal frames and sash, and all other materials used in the said building are of approved incombustible material except that the glass in windows, transoms, or doors may be of plain glass, and except that doors, frames, sash and the usual trim of rooms, hallways, corridors, and passageways may be of wood, and except that wood floors may be placed on top of the floors constructed of incombustible materials, except in the public hallways.

"Guest" is any person hiring and occupying a room for sleeping purposes, and shall include both boarders and lodgers.

"Guest room" is a room which is occupied, or is intended, arranged or designed to be occupied for sleeping purposes by one or more guests, but shall not be deemed to include dormitories used for sleeping purposes.

"Hotel" is any house or building, or portion thereof, containing six or more guest rooms which are let or hired out to be occupied, or which are occupied by six or more guests, whether the compensation for hire be paid directly or indirectly in money, goods, wares, merchandise, labor or otherwise, and shall include Turkish baths, bachelor hotels, studio hotels, public and private clubs and any building of any nature whatsoever so designed or occupied, except hospitals where persons temporarily reside and where each such person receives regular bona fide medical attendance on the premises, and jails, detention buildings and similar buildings where human beings are housed and detained under restraint.

"Housing department" is any department or commission charged with the enforcement of ordinances or laws regulating the occupancy and maintenance of hotel, lodging-house or dwelling-house buildings; and where no such department is maintained, shall be deemed to be the health commissioner, the department of health, health officer, or similar department charged with the enforcement of laws and ordinances relating to the protection of the public health.

"Lot" is a parcel or area of land on which is situated a hotel, together with the land, yards, courts and unoccupied spaces for such a hotel as required by this act; all of which land shall be owned by or be under the absolute lawful control and in the lawful possession of the hotel.

A lot situated at the junction of two or more intersecting streets, with a boundary line thereof bordering on each of the two streets, is a "corner lot." All parts of the width of such corner lot which are distant more than seventy-five feet from the junction point of the two or more

intersecting streets, shall be deemed to be an "interior lot." The owner or his authorized agent may designate either street frontage as being the front of such corner lot for the purpose of determining the width thereof.

A lot which has only one boundary line bordering on a public street is an "interior lot."

"Rear lot" is a parcel or area of land having no boundary line bordering on a street, or having less than one-half of its width as a boundary line bordering on a street.

"Front of lot" is the boundary line of lot bordering on the street. In case of a corner lot, either of the boundary lines may be the "front of lot."

"Rear of lot" is the boundary line thereof opposite the "front of lot."

"Depth of lot" is the mean distance from the "front of lot" to the "rear of lot."

"Nuisance" embraces public nuisance as known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health; and shall also embrace the overcrowding with occupants of any room, insufficient ventilation, or illumination, or inadequate or insanitary sewerage or plumbing facilities, or uncleanness, and whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

"Person" is a natural person, his heirs, executors, administrators or assigns; also includes a firm, partnership, or corporation, its or their successors or assigns.

"Public hallway" is a hallway, corridor, passageway or vestibule not within a suite, and includes stairways, landings and platforms.

"Rear hotel" is a hotel on a "rear lot."

"Semi-fireproof hotel" is a building with all exterior walls and walls of inner and outer courts constructed of brick, stone, concrete, reinforced concrete or hollow terra cotta tile, except that the walls of an inner court, which court is surrounded on four sides by the same building, may be constructed as provided in this act for such inner courts; interior partitions and floors constructed of approved incombustible materials or of wood, with all ceilings, partitions, soffits of stairways, and outside stringers of open stairways and stair-wells metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with approved plaster board, plastered not less than three-quarters inch thick including the plaster board; in which all finished floors, frames, doors and the usual trim of rooms and hallways may be built of wood, and the roof of which shall be covered with at least a composition fire-retardant material.

"Shall." Whenever this word is used it shall be mandatory.

"Street" is any public street, alley, thoroughfare or park having a minimum width of sixteen feet, measured from the "front of lot" to the opposite "front of lot" and which shall have been dedicated or deeded to the public for public use.

"Turkish bath" is a dormitory or a combination of guest rooms, accommodating six (6) or more guests, in connection with which any form of bath or massage is given by the attendants to the guests.

"Wooden hotel" is a building which does not fully comply with the requirements for a fireproof or a semi-fireproof hotel as defined in this

act, and shall include all frame and all veneered buildings. In every such building all ceilings and walls and partitions of public hallways, soffits of interior stairways and the outside stringers of open stairways and stair-wells shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with an approved plaster board and be plastered not less than three-quarters inch thick including the plaster board.

"Yard" is an open unoccupied space other than a court on the lot on which is situated a hotel, open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are windows from rooms abutting the said yard; except that outside stairways, platforms and balconies, constructed of open metal work and fire-escapes may extend not more than four feet into a yard, providing they do not in any manner obstruct the light or ventilation of rooms. If such yard is between the front line of the building and the front boundary line of the lot, it is a "front yard." If it is between the extreme rear line of the building and the rear of the lot, it is a "rear yard." If it extends from the rear yard to the front yard, or front of lot, it is a "side yard."

§ 11. Front yard. No hotel shall hereafter be erected on or moved onto a rear lot. No building for any purpose shall hereafter be erected in front of any hotel unless there shall be left unoccupied a front yard extending from the front of the rear hotel to the front line of lot bordering on the street.

Such front yard shall not be in any part less in width than fifty (50) per cent of the actual width of the rear hotel.

§ 12. Height. No fireproof hotel hereafter erected shall exceed one hundred fifty feet in height, nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No semi-fireproof hotel building hereafter erected shall exceed six stories at any point, nor more than sixty-five feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No wooden hotel hereafter erected shall exceed three stories at any point, nor more than thirty-six feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

The width of the street, for this purpose, shall be measured from the extreme front of the building to the "front of lot" opposite, across the street.

For the purpose of this section, a basement is a story.

The height of a fireproof hotel is the perpendicular distance from the curb level or adjoining ground levels to the highest point of the roof. The height of a semi-fireproof or of a wooden hotel is the perpendicular distance from the curb level or adjoining ground levels to the lowest point of the finished ceiling of the top story; provided, that in the case of a semi-fireproof hotel situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed sixty-five feet above the curb level measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed seventy-five above the

adjoining curb in case of a corner lot, or above the level of the ground in the case of an interior lot, and in the case of a wooden hotel situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed thirty-six feet above the curb line measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed forty-six feet above the adjoining curb in the case of a corner lot or above the level of the ground in the case of an interior lot.

§ 13. Yard serving two hotels. Distance between buildings. In no event shall any yard or court be made to serve the purpose of two hotels hereafter erected, or of an existing hotel and a hotel hereafter erected, unless such yard or court, as the case may be, is of the full size required for two hotels, and then only in the event that such yard or court, as the case may be, is located on the same lot and owned by or in the absolute lawful control and in the lawful possession of the hotel it proposes to serve.

Where a hotel, now or hereafter erected, stands upon a lot, no other building shall hereafter be placed upon the front or rear of that lot, unless the minimum distance between such buildings shall be at least ten feet and two additional feet shall be added to such minimum distance of ten feet for every story more than one in height of the highest building on such lot.

§ 14. Depth of rear yard. The depth of a rear yard shall be measured at right angles from the extreme rear line of the building towards the rear lot line.

§ 15. Minimum size of rear yard. The minimum size of every rear yard for a hotel hereafter erected shall be not less in width and in area than an inner court, except that if such rear yard is bounded on its entire one end or side by an outer court, or by a side yard or by a street, or by a public alley or park, then such rear yard shall be not less in width or exceed the maximum length of an outer court; provided, however, that if the lot extends through from one street to another street or public alley, one-half of the narrowest street or public alley, to which said lot abuts may be considered as a part of the lot in computing the rear yard required.

§ 16. Passageway to street. Every rear yard not bordering on a street or public alley and without direct access thereto shall have access to a street or public alley by means of an unobstructed passageway not less than three feet six inches in clear width, nor less than seven feet in clear height; and if such passageway or any portion thereof passes through a building, such portion thereof shall be built of approved incombustible materials, or shall be lathed with metal lath or approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board, or shall be lined with not less than number twenty-six (gauge) galvanized iron, and shall be drained and lighted.

§ 17. Excavated front yard. Every front yard which is excavated below the level of the curb or below the adjoining ground level for the purpose of furnishing light and ventilation to a basement shall in no part be less in width and length than required for outer courts.

§ 18. Width of side yard. The width of every side yard shall be not less than the width required for an outer court, except that the provisions of this act regarding the maximum lengths of an outer court shall not apply to a side yard; provided, that if there is a side yard on both sides of the building connected one with the other across the rear of the building by the rear yard, then the width of the side yards may be reduced twelve inches.

§ 19. Minimum size of outer court. The minimum size of every outer court for a hotel hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is a guest room or guest rooms, or a dormitory or dormitories	Minimum width of court	Maximum length of court
1 story	4 ft. 0 in.	16 ft. 0 in.
2 stories	4 ft. 0 in.	16 ft. 0 in.
3 stories	4 ft. 6 in.	25 ft. 0 in.
4 stories	5 ft. 6 in.	30 ft. 0 in.
5 stories	6 ft. 0 in.	35 ft. 0 in.
6 stories	8 ft. 0 in.	35 ft. 0 in.
7 stories	10 ft. 0 in.	40 ft. 0 in.
8 stories	12 ft. 0 in.	40 ft. 0 in.
9 stories	13 ft. 0 in.	40 ft. 0 in.
10 or more stories	14 ft. 0 in.	40 ft. 0 in.

There shall be added to the minimum width of each such outer court six inches for each five feet or fractional part thereof in excess of the maximum length; provided, however, that the maximum lengths herein provided shall not apply when the outer court is bounded on one side for its entire length by a lot line; provided, further, that if an outer court is bounded by a public alley or public park, the width of such public alley or public park may be considered a part of the lot in determining the required width of the outer court.

§ 20. Minimum size of inner court. The minimum size of every inner court for a hotel hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is a guest room, or guest rooms, or a dormitory or dormitories	Minimum width of court	Minimum area of court in square feet
1 story	6 ft. 0 in.	75 square feet
2 stories	6 ft. 0 in.	75 square feet
3 stories	7 ft. 0 in.	120 square feet
4 stories	8 ft. 0 in.	160 square feet
5 stories	12 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more	24 ft. 0 in.	840 square feet

provided, however, that the minimum size of every inner court which is bounded on one side for its entire length by a lot line may be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is a guest room, or guest rooms, or a dormitory or dormitories	Minimum width of court	Minimum area of court
1 story	5 ft. 0 in.	75 square feet
2 stories	5 ft. 0 in.	75 square feet
3 stories	6 ft. 0 in.	120 square feet
4 stories	7 ft. 0 in.	160 square feet
5 stories	9 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more.....	24 ft. 0 in.	840 square feet

Every inner court hereafter constructed and every inner court or vent shaft now in any hotel or lodging-house shall be provided with a door or window at or near the bottom thereof, giving sufficient access to such court or vent shaft as to enable it to be properly cleaned out.

§ 21. **Recess.** Every recess from a court, yard or street in a hotel hereafter erected shall unless it conforms to the requirements of this act for an inner court, or an outer court, be not less in width than its depth. Every such recess shall be open and unobstructed from a point not more than two feet above the floor line of the lowest story in the building in which there are rooms the said recess proposes to serve.

§ 22. **Intakes for inner court. Construction.** Every inner court in a hotel of two or more stories in height hereafter erected shall be provided with one or more horizontal intakes at the bottom of the court, as follows:

Inner court areas	Minimum number of intakes	Net aggregate area of intakes
Each not exceeding 300 square feet.....	One	19½ square feet
Each not exceeding 800 square feet.....	Two	40 square feet
Each exceeding 800 square feet.....	Two	60 square feet

Every such intake shall always extend directly to the front of lot or front yard, or rear yard, or to a side yard, or to a street, or to a public alley or park. Whenever more than one intake is required, one such intake shall extend to the front of lot or front yard, and one to the rear yard, public alley, public park, or to the other street, and the court ends of the air intakes shall be as far apart as possible.

Each such intake shall consist of an unobstructed duct or passageway having a minimum width of three feet in all its parts and a minimum height of six feet six inches.

Every such intake shall be constructed of approved incombustible materials, or shall be lined with at least number twenty-six (gauge) galvanized iron on the inside thereof. Such air intakes may be closed at each end with a gate or grill having not less than seventy-five per cent of open work.

In case the inner court does not extend below the second floor level, then each such air intake may consist of an unobstructed open duct,

constructed of approved incombustible materials or lined with at least number twenty-six (gauge) galvanized iron on the inside thereof, having an interior area of not less than nineteen and one-half square feet, and in no dimension less than twelve inches, and covered at each end with a wire screen of not less than one inch mesh.

Every air intake shall be drained and so constructed and arranged as to be readily cleaned out.

§ 23. Cellars. In no hotel shall any room in the cellar be constructed, altered, converted or occupied for sleeping purposes.

Every cellar shall be illuminated and ventilated. The walls and floor of every cellar hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 24. Basements. In no hotel shall any room in the basement be constructed, altered, converted or occupied for sleeping purposes, unless such room conforms to all of the requirements of this act for rooms in other parts of the building, and that ceiling of each such room be in all parts not less than seven feet above the adjoining ground level.

Every basement shall be illuminated and ventilated. The walls and floors of every basement hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 25. Ventilation beneath floor. In every hotel hereafter erected, the lowest floor thereof shall be at least eighteen inches above the surface soil adjoining and under the floor, and the entire space under such floor shall be kept dry, drained, clean and free from any accumulation of rubbish, debris or filth.

Such space under the floor shall be enclosed and provided with a sufficient number of openings with removable screens or similar provisions of a size to insure ample ventilation; provided, however, that in any such building the lowest floor thereof may be less than eighteen inches above the surface soil but in no case less than six inches (except where masonry floors are laid directly on the soil) if the said floor is made impervious to the ingress of rats or other vermin, as follows:

(a) **Floor made impervious to rats.** Foundation walls shall be constructed of concrete or of brick or stone or other masonry laid in a good mortar or constructed of some other equally as rat-proof material.

(b) The said foundation walls shall be not less than six inches in thickness at the top nor less than twelve inches in thickness at the bottom, nor extend less than twelve inches below the surface soil, and except where masonry floors are laid directly on the soil, shall extend not less than six inches above the surface soil.

(c) Every opening in the foundation walls, for ventilation or for other purposes, shall be made rat proof with suitable metal screens or with some other similar rat-proof material. Door or window openings in such walls shall have tight-fitting doors or windows.

(d) The said lowest floor or differing levels thereof, forming a complete floor between the outside walls of the building, shall be constructed

either of masonry, or covered with concrete not less than one and one-half inches thick, or constructed of two layers of flooring with a layer of galvanized iron or galvanized iron wire cloth or other approved equally as rat-proof material placed between the two layers of flooring. Or in lieu of the floor being constructed as herein prescribed, the entire ground area under the floor shall be covered with concrete not less than two inches thick, except where the surface of the soil is composed of rock. The rat-proofing material shall always extend under the plates of the exterior walls and supporting partitions.

(e) All openings throughout the said floor for chimneys, plumbing, water pipes or for any other purpose shall be closed up tight in the same manner and with the same kind of materials as required under the plates of the exterior walls and supporting partitions, and if the rat-proofing material used for the closing of openings is other than masonry, it shall extend beyond and underlap the flooring all around the opening, not less than two inches.

§ 26. Floor area of guest room. Width and height. Curtains. In every hotel hereafter erected, every guest room shall contain not less than ninety square feet of superficial floor area. Every such room shall at every point be not less than seven feet in width, nor less than nine feet in height, measured from the finished floor to the finished ceiling; except that attic rooms and rooms where sloping ceilings occur need be nine feet in height in but one-half the area of the room.

Every water-closet compartment shall be not less than thirty-six inches in clear width, and every such water-closet compartment, bath or slop-sink compartment, or closet or recess from a room, or dressing-room shall have a height of not less than seven feet six inches, measured from the finished floor to the finished ceiling.

Every closet, recess from a room, or dressing-room which contains more than twenty-five square feet of superficial floor area (built-in dressers, clothes-presses and similar features which are a substantial part of the structure shall not be deemed to be part of the floor area of a closet, recess from a room, or dressing-room), shall conform to all of the provisions of this act as to guest rooms, and shall contain not less than ninety square feet of superficial floor area.

No part of any room in any hotel shall hereafter be inclosed or subdivided wholly or in part, by a curtain, portiere, fixed or movable partition, or other contrivance or device, for any purpose, contrary to any of the provisions of this act.

Entertainment, amusement or reception rooms, or public dining-rooms, hereafter constructed, altered or converted in any hotel shall conform to the provisions of section thirty of this act.

Dormitories hereafter constructed, altered or converted in any hotel shall conform to the provisions of section sixty-two of this act.

§ 27. Windows. Opening into vent shaft. Opening through porch. Ventilation by exhaust system. In every hotel hereafter erected, every guest room, dormitory, kitchen, scullery, pantry or other room in which food is stored or prepared, public dining-room, laundry, barber shop, Turkish baths, general amusement, entertainment or reception-room, water-closet or shower compartment, bath, toilet or slop-sink room and general utility room shall have at least one window, of the area herein-

after required, opening directly upon a street, or upon a yard or court of the dimensions specified in this act and located on the same lot.

All windows required by this act shall be located so as to properly light all portions of the room and shall be made so as to open in all parts and be so arranged that at least one-half of the window may be opened unobstructed.

The windows required by this section in a water-closet or shower compartment, bath, toilet or slop-sink room may open directly into a vent shaft in lieu of a street, yard or court. Such vent shaft to be not less than of the minimum size, and constructed of the materials and in the manner prescribed by section fifty-seven of this act, or such rooms or compartments, in lieu of being provided with windows may be ventilated by an exhaust system of ventilation installed, constructed and maintained as prescribed by-section sixty-one hereof.

The windows required by this section to open onto a street, yard, or an outer court, except windows from kitchens, may open through porches, provided that said porches do not exceed seven feet in depth, measured at right angles to the windows and that at least seventy-five per cent of the entire side of the porch, bounded by the street, yard, or outer court, is left open except that the open space may be inclosed with mosquito screens.

Kitchens, sculleries, pantries or other rooms used for cooking, storing or preparing of food, public dining-rooms, laundries, barber-shop, Turkish baths, general amusement or reception-rooms and general utility rooms, in lieu of windows may be ventilated by an exhaust system of ventilation installed, constructed and maintained as prescribed by section sixty-one hereof.

§ 28. Window area. In every hotel hereafter erected, the total window area in each guest room, kitchen, scullery, pantry or other room in which food is stored or prepared, laundry, barber-shop, Turkish bath, or general utility room, shall be at least one-eighth of the superficial floor area of the room.

The aggregate window area in each room shall be not less than twelve square feet and no single window shall be less than six square feet in area.

All measurements for window area shall be taken to the outside of the sash.

The window area required for dormitories, entertainment, amusement, reception or dining rooms shall be as hereinafter provided.

§ 29. Window area. In every hotel hereafter erected each window in a water-closet compartment, bath, toilet or slop-sink room, or shower-room, shall be not less than three square feet in area. The aggregate area of windows for each such compartment or room shall be not less than six square feet. In each such compartment or room containing more than one water-closet, bath, urinal or slop-sink, the aggregate window area shall be equivalent to three square feet for each water-closet, bath, urinal or slop-sink therein; except that at no time need the aggregate window area exceed one-fourth of the superficial floor area of such compartment or room.

§ 30. Total window area in dining-room, etc. Height of rooms. In every hotel hereafter erected the total window area in each room used

for the purpose of entertainment, amusement, reception or dining-room, which room has a superficial floor area not exceeding one hundred eighty square feet, shall be at least one-eighth of the superficial floor area of such room.

Every such room which has a superficial floor area exceeding one hundred eighty square feet shall have an aggregate window area not less than that required for a room of one hundred eighty square feet of superficial floor area.

Every such entertainment, amusement, reception or dining room shall have a minimum height between the finished floor and the finished ceiling of not less than nine feet. No such room or part thereof shall be used for sleeping purposes, except that said room or part thereof complies with all of the other provisions of this act for guest rooms.

§ 31. Windows in public hallway. Skylights. French windows. In every hotel hereafter erected every public hallway, on any floor where there are more than five guest rooms, shall have at least one window, opening directly upon a street, or upon a yard or a court, of the dimensions specified in this act and located on the same lot; such windows shall be at the end of the public hallway and placed so as to secure the maximum light into the hallway; provided, however, that in hotels not exceeding two stories in height the public hallway may, in lieu of such windows, be lighted and ventilated by one or more skylights constructed in accordance with the provisions of this act.

Every window required by this act in a public hallway shall be not less than twenty-nine inches in clear width, nor less than fifty-eight inches in height, and the finished sill of same shall be not more than thirty inches above the adjoining finished floor.

Every window shall be made so as to open, and so arranged that at least one-half of the window may be opened unobstructed.

Every skylight provided for in this section shall have an effective horizontal area of glass of not less than fifteen square feet, and shall have ridge ventilators or fixed or movable louvres so as to provide a ventilating area of not less than five hundred square inches. Such skylights shall be so located that no portion of the hallway be distant more than twenty feet, measured from a vertical line, from a skylight opening.

Any part of a public hallway which is offset, recessed, or cut off from any other part of a hallway where such offset or recess is more in length than one and one-half times the width of the public hallway from which it offsets or recesses, shall be deemed a separate public hallway within the meaning of this section.

French windows or doors, if arranged to open and glazed to give the areas of opening and glass required by this act for windows in public hallways, may be used in lieu of windows therein.

§ 32. Ventilating skylight. In every hotel two or more stories in height hereafter erected, where there are more than five guest rooms on any one floor, there shall be provided at the roof over each stairway a ventilating skylight, placed directly as practicable over same, having a minimum effective horizontal area of glass at least twenty square feet in area for buildings two stories in height, and the area of glass in such skylight shall be increased at the ratio of six square feet for each additional story in height. In every such skylight the ventilating area shall be not less than five hundred square inches.

Every such skylight, ventilating openings, shutters and closing and opening devices for the ventilating openings, shall be made of approved incombustible materials, and so arranged that the entire ventilating area may be readily opened from at least the topmost and first story levels; except that in hotels not exceeding four stories in height the ventilators may be arranged so as to open from at least the first story, or may be fixed permanently in an open position.

Skylights as in this section prescribed may be omitted in case that windows are provided of the size fixed by section thirty-one hereof, and located adjoining the stairways, and that each window adjoining the stairway be provided with an open louvre or ventilator providing a ventilating area of not less than one hundred square inches or such louvre or ventilator may be placed in the roof over the stairway in which event the ventilating area shall be not less than five hundred square inches.

Whenever a skylight is required, as in this section provided, there shall be constructed a stair well, the clear open area of which shall be at each floor equal to one-third of the area of the glass in the skylight.

§ 33. Water-closets. Waterproof floor. In every hotel hereafter erected there shall be installed not less than one water-closet in a separate compartment, located on the public hallway, for each sex on such floor. One of such water-closets shall be distinctly marked "for men," and one of the water-closets distinctly marked "for women"; and there shall be installed not less than one water-closet in a separate compartment, located on the public hallway, for every ten guest rooms, or fractional part thereof, on such floor, which are not provided with private water-closets. Each of the said water-closets shall be accessible from each of the guest rooms through the public hallway, and not more than one hundred feet distant from the entrance door of each of the guest rooms the said water-closet proposes to serve.

In every hotel hereafter erected there shall be installed not less than one water-closet for every twenty employees of each sex in said building.

No door or other opening in a water-closet or urinal compartment shall open from or into any room in which food is prepared or stored.

The walls enclosing a water-closet compartment shall be well plastered, or constructed of some nonabsorbent material, except that the ordinary wood trim for openings may be used in such a compartment. Every water-closet compartment shall be provided and equipped with a full door, properly hung, and provided with a lock or bolt to lock same.

The floor of every water-closet compartment hereafter constructed shall be made waterproof with asphalt, tile, marble, terrazzo, cement or some other similar nonabsorbent material, and such waterproofing shall extend not less than six inches on the vertical walls of the compartment.

§ 34. In hotel already erected. Sewer connection required. In every hotel erected prior to the passage of this act there shall be installed not less than one water-closet in a separate compartment, located on the public hallway for each sex; one of such water-closets shall be distinctly marked "for men," and one of the water-closets shall be distinctly marked "for women"; and there shall be installed not less than one water-closet in a separate compartment, located on the public hallway, for every twelve guest rooms, or fractional part thereof, on such floor, which are not provided with water-closets; provided, however, that the housing department charged with the enforcement of this act may ex-

empt any hotel existing at the time of the passage of this act from fully complying with the provisions of this paragraph when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof, or to the sanitation of the said hotel or premises; provided, further, that no such exemption shall apply to any addition or extension to a hotel.

Every water-closet hereafter placed in a hotel erected prior to the passage of this act shall comply with every provision of this act relative to water-closets installed in hotels hereafter erected, except that if a water-closet is installed in the top story of any such building, the compartment in which it is installed may be ventilated by a skylight with fixed louvres in lieu of a window; provided, however, that a new water-closet may be installed to replace a defective or antiquated fixture in the same location. No door or other opening in a water-closet, privy, or urinal compartment shall open from or into a room in which food is prepared or stored.

Every hotel erected prior to the passage of this act or hereafter erected, where a connection with the sewer is possible, shall discontinue the use of any school sink, privy vault or any similar receptacle used to receive fecal matter, urine or sewage, and every such receptacle shall be completely removed and the place where it was located be properly disinfected. All such receptacles shall be replaced by individual water-closets of durable nonabsorbent material, properly connected, trapped, vented and provided with flush tanks, the same as is required, by the provisions of this act, in hotels hereafter erected.

§ 35. Bathtub or shower. In every hotel hereafter erected there shall be installed not less than one bathtub or shower, in a separate compartment, located on the public hallway, for every ten guest rooms, or fractional part thereof, not provided with private baths; provided, that the said bathtub or shower is on the same floor and is accessible from each guest room through the public hallway. There shall also be installed not less than one slop-sink on each floor.

The walls and floors to every bath, shower or slop-sink room hereafter constructed shall be waterproofed and shall be provided with doors in the same manner as required for the construction of water-closet compartments in hotels hereafter erected.

§ 36. In hotel already erected. In every hotel erected prior to the passage of this act there shall be installed not less than one bathtub or shower, in a separate compartment, located in the public hallway, for every twenty guest rooms, or fractional part thereof, which are not provided with private baths; provided, that the said bathtub or shower is located on the same floor and is accessible from each guest room through the public hallway.

There shall also be installed not less than one slop-sink on each floor; provided, however, that the housing department charged with the enforcement of this act may exempt any hotel existing at the time of the passage of this act from fully complying with the provisions of this section when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof, or to the sanitation of the said hotel or premises; provided, further, that no such exemption shall apply to any addition or extension to a hotel.

§ 37. Running water. Sewer. In every hotel hereafter erected every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

Every plumbing fixture affecting the sanitary drainage system in any hotel hereafter erected, shall be properly connected with the street sewer, if a street sewer exists in the street abutting the lot on which the building is located and is ready to receive connections. When it is impracticable to connect such plumbing fixtures with a street sewer, then the plumbing fixtures shall be connected and drained into a cesspool constructed satisfactorily to the department charged with the enforcement of this act; or some other means of sewage disposal satisfactory to the department charged with the enforcement of this act may be made until such time as it may become practicable and possible to connect with the street sewer.

§ 38. In hotel already erected. In every hotel erected prior to the passage of this act, every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

§ 39. In case no running water. Privy. Water-closets, baths, showers, sinks, slop-sinks, faucets and other plumbing fixtures required by this act need not be installed in the event that the hotel hereafter erected or an existing hotel, as the case may be, is situated where there is no running water and where there is no practical means of sewage disposal, until such time as it becomes practicable and possible to obtain running water and means of sewage disposal; provided, in every such case the department charged with the enforcement of this act shall decide whether or not it is practicable and possible to provide running water and proper means of sewage disposal. A special permit in writing shall be obtained in every such case from the department charged with the enforcement of this act, which permit shall be made in duplicate, and a copy thereof shall remain on file in the department issuing it; provided, further, that proper, separate toilet facilities for each sex shall be provided for the use of the occupants of such building. Such facilities shall be made sanitary. A privy, or toilet other than a water-closet, erected under the authority of this section shall consist of a pit at least three feet deep, with suitable shelter over the same to afford privacy, and protection from the elements. The openings of the shelter and pit shall be inclosed by mosquito screening, and the door to the shelter shall be made to close automatically by means of a spring or other device. No privy pit shall be allowed to become filled with excreta to nearer than one foot from the surface of the ground, and the excreta in the pit shall be covered with earth, ashes, lime or similar substances at regular intervals.

All drainage water shall be conveyed from the premises by means of a covered drain to a covered cesspool.

§ 40. Plumbing fixtures made sanitary. In every hotel erected prior to the passage of this act all plumbing fixtures affecting the sanitary

drainage system shall be properly trapped and vented and made sanitary in every particular. In any hotel hereafter erected, and in any hotel erected prior to the passage of this act no plumbing fixtures shall be inclosed with woodwork, but the space under and around same must be left entirely open. All woodwork inclosing a water-closet, sink, slop-sink, wash-tray or lavatory shall be removed and the floor and wall surfaces beneath and around such water-closet, sink, slop-sink, wash-tray or lavatory shall be maintained in good repair, and if of wood, well painted with a light-colored paint of sufficient body to make it nonabsorbent. All wooden seats, attached to water-closet bowls, shall be varnished or enameled, or by some other method made nonabsorbent.

In every hotel hereafter erected water-closets shall have earthenware bowls and shall have earthenware seats integral with the bowls, or wooden seats, varnished or enameled so as to be nonabsorbent, or seats made of some nonabsorbent material attached directly to the bowls. No wooden wash-trays or wooden kitchen sinks shall be permitted in such buildings. All plumbing connections hereafter made in buildings shall be of standard lead, iron, steel or brass; and every gas and water service connection hereafter made shall be of steel or iron, and shall be equipped with cut-off valves placed outside of the building, and such cut-off valves shall be readily accessible.

Whenever any plumbing fixture becomes insanitary the department charged with the enforcement of this act is hereby empowered to order the same removed and to order that it be replaced by a fixture conforming to the provisions of this act.

§ 41. Two means of egress. Every hotel hereafter erected, three or more stories in height and in which there are more than five guest rooms on any one floor, shall be so designed and constructed that every guest room in such building shall have not less than two means of egress, either by stairways or fire-escapes, constructed in accordance with the provisions of this act. Such means of egress shall be accessible from every guest room, either directly or through a public hallway, and so located that should one egress be or become blocked, the other egress shall be available.

§ 42. Stairways. Every hotel two or more stories in height, hereafter erected shall have not less than two stairways.

Every fireproof hotel two or more stories in height hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each six thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every semi-fireproof hotel two or more stories in height hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each four thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every wooden hotel two or more stories in height hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each three thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every hotel hereafter erected shall have not less than one stairway leading from the outside to every basement or cellar thereof.

§ 43. Computing number of stairways required. The largest floor area above the ground floor shall be used as the basis for computing

the number of stairways required in a hotel hereafter erected; provided, that if all floors above the largest floor area of the building are diminished in area, the stairway or stairways from that portion of the building containing a smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 44. Location of stairways. All stairways hereafter constructed shall be located so as to furnish the best means of egress from the building, shall be as far removed from each other as is practicable, and shall be as follows:

Access to stairways shall be provided at every floor by means of a public hallway, corridor, or passageway, and the public hallway, corridor, passageway and stairway from the ground exit level to the top story or roof shall be accessible at all times.

No stairway shall abut on more than one side of an elevator shaft, except on the entrance and topmost stories; provided, that the stairway is so located that it can be approached from the street entrance without passing by or in front of the open side of the said elevator shaft.

No stairway shall be located over a steam boiler, gas meter or gas heater or furnace, unless such boiler, gas meter, gas heater or furnace be located in a room, the walls and ceiling of which are constructed as required for a boiler-room by section fifty-nine of this act. No stairway leading from any other portion of the building shall terminate in or pass through a boiler-room.

§ 45. Construction of stairways. Every stairway hereafter constructed shall be as follows: Have a rise of not more than eight inches and a run of not less than nine inches, without change in the run or rise between floors; and shall be provided with head room of not less than six feet six inches, measured from the nearest nosing of the stairway to the nearest soffit.

The depth of every landing in a stairway shall be not less than the width of the stairway, and all treads shall be of equal width for every run of stairs, and shall not vary in width in the width of the stairs.

Every stairway required by this act shall be continuous from the ground level to the top story, i. e., the flights of such stairway shall be constructed one directly above the other, or shall be constructed so that each flight shall be in plain view of each succeeding flight; provided, however, that half of the stairways from the upper floors may terminate at the second floor, in the event that the stairways from the first to the second floor be increased in width not less than fifty per cent.

Every stairway shall have at least one handrail and if the stairway be five feet or more in width, shall have a handrail on each side thereof.

The under side and soffits of wooden stairways and the outside stringers of open stairways, except outside stairways in semi-fireproof and wooden hotels shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with approved plaster board and plastered not less than three-quarters inch thick including the plaster board.

The width of stairways shall be measured in the clear of all projections except the baseboards, and except that handrails and newel posts may project not more than four inches.

§ 46. Space under stairway. No closet of any kind shall be constructed in any hotel under any wooden stairway, but such space shall

be kept entirely open, and be kept clean and free from all encumbrance; or such space shall be effectually closed with walls of studs, lathed and plastered, with no door or opening of any kind therein; provided, however, that the provisions of this section as to a closet under a stairway shall not apply to any hotel not more than two stories in height, in which there are not more than five guest rooms above the first floor thereof.

§ 47. Stairway to roof. In hotel already erected. In every hotel hereafter erected more than two stories in height, the stairway nearest to the main entrance of the building shall be carried to the roof level and shall give egress to the roof through a penthouse or roof structure. In every such building not exceeding two stories in height there shall be constructed a scuttle, in the public hallway, near the stairway. Such scuttle shall be not less than two feet by three feet in area, and shall be cut through the ceiling and roof.

Penthouses over stairways shall be built either of fireproof materials or of wood studs, lathed with metal lath or approved plaster board and plastered not less than three-quarters inch thick including the lath or plaster board on the inside and outside thereof; or such penthouses may be covered in the same manner and with the same kind of material as required by this act for the doors from such penthouses.

The door to the roof from a penthouse or roof structure shall be self-closing and shall open outward to the roof and shall be covered on both sides and edges with tin or other metal.

The frames and trim of such door opening shall be similarly constructed and all glass in such door shall be wired glass not less than one-fourth inch thick.

Every hotel of more than two stories in height, erected prior to the passage of this act, shall have in the roof a penthouse or a scuttle, which scuttle shall be not less than two feet by three feet in area, located in the ceiling of a public hallway. There shall be provided a stairway or a stationary ladder leading from the top floor of such hotel to the roof thereof. Such stairway or stationary ladder shall be made readily accessible to all tenants of the building. No scuttle or penthouse door shall at any time be locked with a key, but may be fastened on the inside by a movable bolt or lock.

§ 48. Hallways, etc., from stairways. Public hallways, landings, and corridors from stairways shall be of the same width and measured in the same manner as the stairways, as provided in section forty-six hereof.

§ 49. Fire-escapes. On every hotel hereafter erected more than two stories in height, there shall be provided at least one fire-escape. If such hotel exceeds three thousand square feet of floor area on any one floor above the second floor thereof, such building shall be provided with one additional fire-escape for each four thousand square feet of floor area or fractional part thereof.

Fire-escapes required by this act shall be of one of the following types:

Type 1. Types of fire-escapes. Metallic throughout and fastened securely to the exterior walls of the building, with a balcony at each story above the first story thereof, with inclined stairways connecting all balconies and a goose-neck ladder connecting the topmost balcony

to the roof. The lowest balcony of such fire-escape to be not more than fourteen feet above the street or ground level directly under same.

All metallic balconies shall be not less than forty-four inches in width nor less than thirty-three square feet in area. The stairway openings therein shall be not less than twenty-one inches-wide and forty inches in length. The balcony balustrade shall be not less than thirty-four inches high, with no opening in such balustrade greater than eight inches in horizontal dimension.

There shall be no opening greater than one inch in width in a fire-escape balcony platform, except the stair-well opening.

There shall be no opening greater than one inch in width in the lowest fire-escape balcony platform, except that there be attached a counter-balanced or permanent ladder reaching to the street or ground below.

Every balcony platform shall be fastened to the outside walls of the building by building in and anchoring to such walls the balcony platform and the balustrade framing, or by securely bolting same thereto. Every balcony shall be supported by brackets, braces, or struts fastened to or built in and anchored to the walls.

The inclined stairways shall be not less than eighteen inches in width and placed in no part nearer than twenty-one inches from the face of the wall. Such inclined stairways shall have an inclination of not less than four inches and not more than six horizontally to each twelve inches of vertical height. The treads shall be not less than four inches wide, placed not more than twelve inches apart. Each side of such stairways shall be provided with a handrail not less than one inch in diameter fastened to the stair stringers and continued around the well hole openings of balcony platform.

The goose-neck ladder shall be not less than fifteen inches wide and extend vertically from the topmost balcony to three feet above the fire wall or roof above, and then be brought down and fastened to the inside face of the fire wall or to the roof. The rungs of the goose-neck ladder shall be not less than five-eighths inch round iron or steel, placed not more than fourteen inches apart. The goose-neck ladder shall be securely braced and fastened to the outside wall, and in no case shall such ladder pass in front of any opening in the wall to the interior of the building. The cornice opening for the passage of such ladder shall be not less than twenty-four inches in width and twenty-four inches in the clear outside of the ladder.

Such fire-escape shall be framed and riveted or bolted together in a solid, substantial manner and properly supported, braced and fastened to the outside walls so as to be rigid, durable and secure and carry the loads imposed.

All metallic fire-escapes shall be painted with not less than two coats of good, durable paint; or such fire-escapes may be galvanized.

Type 2. Metallic ladders and stairways conforming to the provisions set forth for type one and with reinforced concrete or iron or steel fire-proofed balconies, with fastenings of similar materials. Such balconies to measure the full size inside of balustrades. Floor openings and well holes provided and protected similarly to the requirements for metallic balconies.

Type 3. Any type of a inclosed approved metallic spiral fire escape which consists of a rigid form of an inclined chute or chutes constructed

entirely of incombustible material; securely attached to the outside walls of the building; provided with proper means of ingress thereto from the building and egress therefrom at the bottom; having means enabling firemen to reach the roof thereby from the ground; equipped with stand-pipes; painted the same as provided for metallic fire-escapes; and satisfactory to the department charged with the enforcement of this act as being as solid, substantial and durable and as fireproof in construction, and providing at least as safe and efficient means of escape from the building for the occupants thereof, and furnishing all the protection and utility of the metallic fire-escape described as "type one" in this act.

Type 4. Fire and smoke towers, consisting of a fire-escape stairway not less than twenty inches in width, constructed of reinforced concrete, iron or steel, or a combination of these materials; and in all other details as required in this act for metallic fire-escape stairways; said stairways being continuous the full height of the building from the first floor exist level to the roof, and with handrails on each side thereof the full length of same. Such stairways to be constructed at a point adjoining the exterior walls of the building and be entirely enclosed with walls of brick, terra cotta tile, concrete or reinforced concrete not less than twelve inches thick; such walls to be continuous from the basement up to and extending three feet above the roof of the building, with no covering of any kind over same, and with no openings in the walls of such tower into the building. The inclosing walls of such tower not to be used to carry or support any floor joist, beam, girder or other structural feature of the building, nor to be chased for any pipe, conduit or other purpose; to have an exit from the inclosure at the first floor line opening directly to a street or yard, and having an entrance by means of an outside balcony at each floor, such balconies to have a solid floor and in all other details and kind of materials to be as in this act required for metallic fire-escape balconies. The balconies to be located and arranged to connect with a door opening from a public hallway in the interior of the building and with a door opening leading from the balcony to the tower, such door opening from the building to the balcony and from the balcony to the tower to be not less than thirty inches wide by seventy-two inches high and be equipped with metal-lined doors and with a frame and threshold of such door openings constructed of fireproof materials.

Type 5. A fire and smoke tower in every way similar to "type four" of this section, except that instead of the outside balcony there be built a vestibule with inclosing walls continuous with and of the same kind of materials and of the same thickness as the inclosing walls of the fire tower; that the vestibule opening be direct from a public hallway and be equipped with metal-lined doors. The vestibule floor to be of masonry construction. The inclosure to have an opening at each floor through the exterior wall of the building, such opening to extend from the floor to the ceiling and be not less in width than three-fourths of the width of the tower, said opening to be protected with an open metallic balustrade similar to that specified for metallic fire-escape balconies.

§ 50. Stairway and fire-escape combined. In any hotel hereafter erected in which there is constructed a fire-escape of "type four" or "type five," as prescribed in this act, such fire-escape may be used and construed as a stairway and a fire-escape combined; provided, that there is

at least one other stairway or one other fire-escape constructed in accordance with the provisions of this act, in the said building.

§ 51. Location of fire-escapes. Every fire-escape required by this act shall be located on the building so as to furnish the best means of escape therefrom for the occupants, and at least one such fire-escape shall be located on a street front. Every such fire-escape shall have egress thereto from a public hallway or passageway not less than three feet wide, or such fire-escapes, in lieu of being located on a public hallway, shall be so located that each guest room has direct egress thereto without passing through another room. If a public parlor, public lobby, or similar room is connected directly with the public hall, corridor or passageway through a clear and unobstructed opening, without doors, then egress may be had thereby to a fire-escape. Signs both pointing towards and marking the locations of fire-escapes shall be placed on each floor.

§ 52. Computing number of fire-escapes required. The largest floor area above the second floor shall be used as a basis for computing the number of fire-escapes required by this act; provided, that if all floors above the largest floor area are diminished in size, the number of fire-escapes from that portion of the building containing the smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 53. Strength of platform, etc. Strength of fastenings, etc. All parts of each balcony platform of a fire-escape shall be designed to carry, in addition to the dead load thereof, a live load of one hundred pounds per square foot over the entire area thereof, using outside dimensions, and the live and dead loads from the ladders or stairs supported thereon.

Each ladder shall be designed to withstand a horizontal pressure of one hundred pounds per square foot.

Each stairway shall be designed to carry, in addition to the dead load thereof, a live load of one hundred fifty pounds per square foot of horizontal projection.

Top rails of balcony balustrades shall be designed to withstand a horizontal pressure of one hundred pounds per lineal foot of railing.

Each balcony shall be independently supported.

All fastenings of fire-escape balconies to the building shall be designed to carry twenty-five per cent greater load than the total dead and live loads carried by the balconies. The balcony anchorage shall be direct to the structural steel or iron members of the balustrades and platforms extended into the walls and anchored into the structural work of the building.

The level of the inside sill of the door or window giving access to a fire-escape balcony or the balcony floor shall be not more than thirty inches above the adjoining floor in the building. Every such door or window opening shall be not less than twenty-nine inches in clear width nor less than fifty-eight inches in height.

Where double-hung windows are used in such openings, the lower sash shall be at least the size of the upper sash and shall slide to the top of such opening. Any lock used on any such window shall be of a type

which can be readily opened from the interior of the building without the use of a key or other tool.

§ 54. Readily accessible. Every fire-escape in or on a hotel hereafter erected, or in or on a hotel erected prior to the passage of this act, shall at all times be maintained in good order and repair, well painted and clear and unobstructed at all times, and be readily accessible.

§ 55. Standpipes. On every hotel hereafter erected four or more stories in height, there shall be provided one or more metallic standpipes. Each such standpipe shall be not less than four inches in internal diameter, and shall have a Siamese inlet valve near the sidewalk or ground directly under the same, and an outlet valve at each story above the first story and on the roof.

One such standpipe shall be placed on or in the exterior walls of the building at one fire-escape on each street frontage, and the outlet valves shall be readily accessible from the balconies of the fire-escapes.

The inlet and outlet valves on every standpipe shall be threaded and brought to a size which will meet the standard connections of the local fire department of the municipality in which such hotel or lodging house is being erected.

The standpipes required by this section need not be installed in any hotel which is situated where there is no running water and where it is not practicable or possible to obtain water for efficient use of such standpipes in case of fire, until such time as it is practicable and possible to obtain running water; and the department charged with the enforcement of this act shall decide whether or not it is possible or practicable to obtain running water.

§ 56. Elevator shaft inclosed. In every fireproof hotel hereafter erected, every elevator shaft, dumb-waiter shaft or other interior shaft shall be inclosed in walls constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard, incombustible materials, or shall be constructed of metal studs lathed either with metal lath or an approved plaster board and plastered on both sides so as to make a solid partition not less than two inches thick.

In every semi-fireproof or wooden hotel hereafter erected, every such shaft shall be inclosed by walls constructed as provided by this act for fireproof hotels, or such walls shall be constructed with wood studs, with wood firestops the same size as the studs, cut in between the studs at each floor and halfway between each floor, lathed on both sides with metal lath or an approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board.

Every opening from any shaft into the building shall be equipped with a metal door and with door frame and trim entirely of metal; or such door and door frame shall be constructed of wood covered with metal on the shaft side thereof, and if there is any glass therein, such glass shall be wired glass not less than one-fourth inch thick. Every door or window therein shall be made to close tight, and every door except elevator doors therein shall be self-closing.

Every window in such shaft shall be of wired glass, not less than one-fourth inch thick, set in a metal sash or a sash metal-covered on the shaft side thereof.

At the roof over every elevator shaft there shall be constructed a ventilating skylight or a ventilator with open louvres.

§ 57. Vent shafts inclosed. In every hotel hereafter erected every vent shaft shall be inclosed by walls constructed the same as required by this act for elevator shafts in the same class of building. Such vent shafts may, in a semi-fireproof or wooden hotel, be lined on the outside thereof (weather side) with metal in lieu of metal lath and plaster; also that portion of such shaft extending from the ceiling joists to the top thereof may be lined with metal in the same manner as is required for the weather side of such vent shaft.

Every opening from any vent shaft into the building or any window therein shall be equipped in the same manner as required by this act for elevator shafts in the same class of building.

Plaster on the weather side of any such shaft shall be cement plaster.

Every vent shaft required by this act shall be not less than four feet in any direction and be at least sixteen square feet in area. If such vent shaft exceeds fifty feet in height, measured from the bottom to the top of the walls of such shaft, then such vent shaft shall throughout its entire height be increased in area three square feet for each additional ten feet or fractional part thereof above fifty feet.

Every such vent shaft shall be provided with an air intake or duct at or near the bottom thereof, communicating with the street or yard or a court. Such intake shall be not less than three square feet in total area, and may be divided into not more than three separate ducts running between the joists or otherwise, and shall in all cases be placed as nearly horizontal as possible. Every such intake or duct shall be constructed of approved fireproof material or shall be of metal or metal-lined, and be provided with a wire screen of not less than one inch mesh at each end. Plumbing, gas, steam or other similar pipes may be placed in such a vent shaft.

Every vent shaft shall have a door or a window at or near the bottom of the shaft, so arranged as to permit of its being readily cleaned out.

§ 58. Walls of inner court. The walls of every inner court in a fireproof hotel hereafter erected shall be constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard, incombustible material. In a semi-fireproof or in a wooden hotel such inner court walls, if surrounded on four sides by the walls of the same building, shall be constructed as provided for fireproof hotels, or may be of wood studs with wood firestops the same size as the studs, cut in between the studs at each floor and halfway between each floor, lathed on both sides with metal lath, or with an approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board. Plaster on the weather side of such inner court walls shall be cement plaster, or such inner court walls may be lined on the weather side with not less than number twenty-six (gauge) metal, in lieu of metal lath and plaster.

§ 59. Boiler-room. Doors in boiler-room. In every hotel hereafter erected, every boiler used for the purpose of heating the building, using fuel other than gas, and every heating furnace or water-heating apparatus, using oil for fuel, shall be installed in a room, the walls of which room shall be built of concrete, reinforced concrete, brick, stone or

terra cotta tile, not less than six inches thick, and such walls shall extend from the floor of the boiler-room to the ceiling over same. The entire ceiling of such room shall be built of similar materials as the walls, or shall be built with a double ceiling, with a space of not less than seven-eighths inch between the two ceilings, each ceiling shall be metal lathed or lathed with an approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board. The floor of a boiler-room shall be of concrete not less than two inches thick.

Any door in the wall of such room shall be a fire-resisting door, constructed of three thicknesses of seven-eighths inch by not more than six inches, tongued and grooved, matched, redwood boards entirely covered on the sides and edges with lock-jointed tin; every such door shall be self-closing, so hung as to overlap the walls of the room at least three inches, and any glass in any such door or any glass in any window or opening in the walls of a boiler-room shall be wired glass, not less than one-fourth inch thick, set in a metal or metal-covered sash.

All such doors shall have hinges, hangers, latches and other hardware of wrought iron, bolted to the doors, and shall have steel tracks, when sliding doors are used, with wrought-iron stops and binders bolted through the wall. Swinging doors shall have wall eyes of wrought-iron, built into or bolted through the wall.

Every such boiler-room shall have a sill across each door not less than four inches high. Such sills shall be of masonry, and the doors shall overlap same at least three inches, or in lieu of a masonry sill a steel or iron sill may be used, in which case the door shall close tight on top of same.

Where oil or other fluid fuel is burned, the oil or other fluid fuel shall not be fed by a gravity flow.

§ 60. **Garage.** In every hotel hereafter erected any portion of such building in which there is kept or stored any automobile or automobiles shall be a room inclosed in partitions which shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six inches thick. Such inclosing partitions shall extend from the floor of the room to the ceiling of the same. The entire ceiling of such room shall be built of material similar to that in the construction of its walls or shall be either metal lathed or be lathed with an approved plaster board and be well plastered, and if any portion of the building is used as a public automobile garage, or automobile repair-shop, or machine-shop the ceiling thereof shall be constructed either of masonry, or of a double ceiling metal lathed or lathed with an approved plaster board and be well plastered, there shall be left a space between the ceilings of not less than six inches measured vertically. The lower ceiling shall be suspended with iron or steel channels. In each case each of the ceilings shall be plastered not less than three-quarters of an inch thick including the lath or the plaster board. The floor of such room shall be of concrete not less than two inches thick. Every door, window or other opening in the walls of such room opening to the interior of the building shall be protected in the same manner required by section fifty-nine hereof for doors, windows and other openings in a boiler-room.

§ 61. Fan exhaust system of ventilation. Penalty for failure to maintain. In every hotel hereafter erected the water-closet compartments, bath, toilet or slop-sink rooms, kitchens, sculleries, pantries or other rooms in which food is stored or prepared, public dining-rooms, laundries, barber-shops, Turkish baths, general amusement, entertainment or reception-rooms, and rooms used for similar purposes and general utility rooms, in lieu of being provided with windows, as in this act prescribed, may be provided with a fan exhaust system of ventilation. Such fan exhaust system of ventilation shall consist of independent inlet ducts extending from the outer air to each such room or compartment and exhaust ducts extending from each such room or compartment to the outer air above the highest roof of the building.

All of the inlet ducts and exhaust ducts shall be constructed of galvanized iron or other smooth surfaced, nonabsorbent material and so arranged that they may be readily cleaned out.

The exhaust ducts shall always be connected to an exhaust fan mechanically operated, so designated and operated as to provide a complete change of air in not to exceed fifteen minutes for each room used for the following purposes: kitchens; pantries or other rooms used for cooking, storing or preparing of food; barber-shops; Turkish baths, laundries.

General amusement, entertainment, reception or dining rooms, or rooms used for similar purposes; general utility rooms; and the said fan exhaust system of ventilation shall be so designed and operated as to provide a complete change of air in not to exceed five minutes for each room used for the following purposes: water-closets; shower compartments; bath, toilet or slop-sink rooms or sculleries.

Any person in charge of a building in which a system of fan exhaust ventilation, as in this section is required, who fails, neglects or refuses to operate and maintain the said system of ventilation in good order and repair so that the ventilation (complete change of air) herein specified is provided in each of the rooms or compartments at all times, shall be deemed guilty of a misdemeanor and subject to all of the penalties fixed by this act.

§ 62. Dormitory. Every dormitory hereafter constructed, altered, or converted in any hotel shall be as follows:

(a) In no one dormitory shall there be provided sleeping accommodations for more than twenty adult persons, nor shall the superficial floor space for each person be less than required by section sixty-five hereof.

(b) The ceiling height, measured from the finished floor to the finished ceiling, shall in no case be less than nine feet in the clear, and in no case shall there be permitted in such dormitory more than one tier of beds; provided, however, that in a dormitory in which the clear ceiling height is not less than eighteen feet measured between the finished floor to the finished ceiling thereof, a double tier of beds may be permitted, i. e., one tier above the other; provided, that in no event shall there be less than three feet of clear vertical space between the beds, nor less than three feet in any horizontal direction between any of the beds, nor less than one foot of clear space between the floor of the room and the under side of the first tier of beds.

(c) In every dormitory there shall be provided windows opening on to a street, or on to a yard or court of the dimensions specified in this act and located on the same lot. The window area shall in no case be less than one-eighth of the superficial floor area in the dormitory, and in the event that a double tier of beds are provided, the said window area shall be doubled.

(d) The frames of beds in every dormitory shall be made of steel or iron or of some similar hard, smooth, incombustible and nonabsorbent material.

(e) In every dormitory there shall be provided not less than one water-closet in a separate compartment, not less than one urinal in a separate compartment, and not less than one shower in a separate compartment, and not less than one wash-sink, for each twenty persons or fractional part thereof occupying the said dormitory.

(f) Every dormitory in a hotel erected prior to the passage of this act shall be made to conform to the provisions of subsection "(a)" of this section.

§ 63. Hotels erected prior to passage of act. In any hotel erected prior to the passage of this act, every additional room or hallway that is hereafter constructed or created may be of the same height as the other rooms or hallways on the same story of such hotel.

§ 64. Windows, courts, etc., in hotels already erected. Every room in a hotel erected prior to the passage of this act shall, if the said room be hereafter occupied for living or sleeping purposes, have a window of an area not less than eight square feet, opening directly upon a street, a yard, a court or upon a vent shaft not less than twenty-five square feet in area, which vent shaft shall in no part be less than four feet wide and open and obstructed, without roof or skylight over same; except that if such room be located on the top floor of the building, such room may be ventilated by a skylight with fixed louvres directly to the outer air, or may have a window opening upon a vent shaft not less than ten square feet in area, if such window from the room be not more than three feet below the top of the wall of such vent shaft.

Every public hallway in every hotel erected prior to the passage of this act, which does not conform to the provisions for public hallways in buildings hereafter erected, shall be provided with light and ventilation to the outer air. Such light and ventilation shall be provided by the placing of windows or skylights, or by making such alterations as in the judgment of the housing department may be deemed necessary to accomplish the result.

§ 65. Kitchen. Sleeping in cellar, etc. Floor space for each occupant. Food shall not be cooked or prepared in any room except in a kitchen designed for that purpose. Floors of kitchens and rooms in which food is stored shall be made impervious to rats by a layer of concrete not less than one and one-half inches thick or by a layer of sheet tin or iron or similar material.

It shall be unlawful for any person to live or sleep, or permit or suffer any person to live or sleep, in any cellar, bath, shower or slop-sink room, water-closet compartment, hallway, closet, kitchen, recess

from a room, or dressing-room, except when such recess from a room, or dressing room has at least ninety square feet of superficial floor area and complies with every requirement of this act for rooms, or in any other place in such building, which in the judgment of the department charged with the enforcement of this act, would be dangerous or prejudicial to life or health by reason of want of light, windows, ventilation, drainage or on account of dampness, offensive, obnoxious or poisonous odors, or in any room that shall be so overcrowded as to afford less than the following floor space for each occupant, in accordance with the age of said occupant:

Number of persons over 12 years of age	Number of persons under 12 years of age	Superficial floor area required
1 or	2	60 square feet
2 or	4	120 square feet
3 or	6	180 square feet
4 or	8	240 square feet
5 or	10	300 square feet
6 or	12	360 square feet

Additional floor area in the same ratio shall be provided for additional persons.

§ 66. Lighting of hallway, etc. In every hotel there shall be installed and kept burning from sunrise to sunset throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, passageway, public water-closet compartment, or toilet-room, whenever there is insufficient natural light to permit a person to read in any part thereof.

In every hotel there shall be installed and kept burning from sunset to sunrise throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, public water-closet compartment, or toilet-room and exterior passageway on the lot.

§ 67. Light-colored material on walls. The walls and ceilings of every sleeping-room in every hotel shall, except when there is sufficient natural light to permit a person to read in any part thereof during day-time, be calcimined or painted or papered with a light-colored material, and such calcimine, paint or paper, as the case may be, shall be renewed as often as is necessary to maintain the same of a light color and clean and free from vermin.

The walls of courts and shafts, unless built of light-colored materials, shall be painted of a light color or whitewashed, and such painting or whitewashing shall be renewed as often as is necessary to maintain the same of a light color.

§ 68. Repapering. No wall, partition or ceiling of any room in any hotel shall be repapered, calcimined, or have any other covering placed thereupon unless the old wall paper or other covering shall have first been removed therefrom, and the said wall, partition or ceiling cleaned, disinfected and freed from bugs, insects or vermin.

§ 69. Repairs. Every hotel shall be maintained in good repair. The roofs shall be kept waterproof and all storm or casual water properly drained and conveyed therefrom to the street sewer, storm drain or street gutter.

All portions of the lot about such hotel, including the yards, courts, areaways, vent shafts and passageways, shall be properly graded and drained; and whenever the department charged with the enforcement of this act deems it necessary for the protection of the health of the occupants of such building, or for the proper sanitation of the premises, it may require that the said lot, yards, courts, areaways, vent shafts and passageways be graveled or properly paved and surfaced with concrete, asphalt or similar materials.

§ 70. Metal mosquito screening. There shall be provided, whenever it is deemed necessary for the health of the occupants of any hotel or for the proper sanitation or cleanliness of any such building, metal mosquito screening of at least sixteen mesh, set in tight-fitting removable sash, for each exterior door, window or other opening in the exterior walls of the building.

§ 71. Garbage cans. In every hotel there shall be provided such number of tight metal receptacles with close-fitting metal covers for garbage, refuse, ashes and rubbish as may be deemed necessary by the department charged with the enforcement of this act, or in lieu of such metal receptacles there may be constructed a garbage chute or shaft approved by the housing department. Each of said receptacles, chutes or shafts shall be kept in a clean condition by the person in charge or in control of the building.

§ 72. Rooms, etc., to be kept clean. Swill, etc., not to be deposited in plumbing fixtures. Every room, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain, water-closet compartment or room, toilet-room, bath-room, slop-sink or washroom, plumbing fixture, drain, roof, closet, cellar, or basement in any hotel or on the lot, yard, court or any of the premises thereof, shall be kept in every part clean and sanitary and free from all accumulation of debris, filth, rubbish, garbage or other offensive matter.

No person shall, or cause or permit any person to deposit any swill, garbage, bottles, ashes, cans or other improper substance in any water-closet, sink, slop-hopper, bath-tub, shower, catch-basin, or in any plumbing fixture connection or drain therefrom; or otherwise to obstruct the same; or to place or cause to permit to be placed any filth, urine or other foul matter in any place other than the place provided for same; or to keep or cause or permit to be kept any urine or filth or foul matter in any room in any hotel, or in or about the said building or premises thereof, for such length of time as to create a nuisance.

§ 73. Beds kept clean. In every hotel, every part of every bed, including the mattress, sheets, blankets and bedding, shall be kept in a clean, dry and sanitary condition, free from filth, urine or other foul matter, in or upon the same; and free from the infection of lice, bed-bugs or other insects. No roller or public towels shall be permitted.

Bed linen shall be changed at least as often as a new guest occupies the bed.

§ 74. Dangerous articles not to be kept. In no hotel, or any part thereof, or in the lot, yard, court or any portion thereof, shall there be kept, stored or handled any article dangerous or detrimental to life or to the health of the occupants thereof; nor shall there be stored, kept or handled any feed, hay, straw, excelsior, cotton, paper stock, rags or junk, except upon a written permit so to do, obtained from the fire commissioner or other department authorized to issue such permit. Every such permit shall be deemed to be a public record, made in duplicate and a copy thereof shall remain on file in the office of the fire commissioner or department issuing same.

§ 75. Animals not to be kept. No horse, cow, calf, swine, sheep, goat, rabbit, mule or other animal, chicken, pigeon, goose, duck or other poultry shall be kept in a hotel, or any part thereof; nor shall any such animal or poultry, nor shall any stable be kept or maintained in the same lot, yard, court or premises of a hotel, or within twenty feet of any window or door of such building.

No hotel shall be connected with or have any door, window or transom opening to any part of a building wherein paint or oil are stored or kept for the purpose of sale or otherwise.

§ 76. Housekeeper in charge. In every hotel in which there are eight or more guest rooms and in which the owner does not live, there shall be a janitor, housekeeper or other responsible person, who shall reside in such hotel or on the same lot or premises thereof and have charge of same.

§ 77. Action to abate nuisance. Authority to execute order. In case any hotel, or any part thereof, is constructed, altered, converted or maintained in violation of any provisions of this act or of any order or notice of the department charged with its enforcement, or in case a nuisance exists in any such hotel or building or structure or upon the lot on which it is situated, said department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said hotel, building or structure, to prevent any illegal act, conduct of business in or about such hotel or lot. In any such action or proceeding said department may, by affidavit setting forth the facts, apply to the superior court, or to any judge thereof, for an order granting the relief for which said action or proceeding is brought, or for an order enjoining all persons from doing or permitting to be done any work in or about such hotel, building, structure or lot, or from occupying or using the same for any purpose, until the entry of final judgment or order. In case any notice or order issued by said department is not complied with, said department may apply to the superior court, or to any judge thereof, for an order authorizing said department to execute and carry out the provisions of said notice or order, to remove any violation specified in said order or notice, to abate any nuisance in or about such hotel, building or structure, or the lot upon which it is situated. The court, or any

judge thereof, is hereby authorized to make any order specified in this section. In no case shall the said department or any officer thereof or the municipal corporation be liable for costs in any action or proceeding that may be commenced in pursuance of this act.

§ 78. Fine a lien. Every fine imposed by judgment under section six of this act upon a hotel owner shall be a lien upon the house in relation to which the fine is imposed, from the time of the filing of a certified copy of said judgment in the office of the recorder of the county in which said hotel is situated, subject only to taxes and assessments and water rates, and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department charged with the enforcement of the provisions of this act, upon the entry of such judgment, to file forthwith the copy as aforesaid, and such copy upon filing shall be forthwith indexed by the recorder in the index of mechanics' liens.

§ 79. Notice of pendency of action. In any action or proceeding instituted by the department charged with the enforcement of this act, the plaintiff or petitioner may file, in the county recorder's office of the county where the property affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Said notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards before final judgment or order, or at any time after the service of any notice or order issued by said department. Such notice shall have the same force and effect as the notice of pendency of action provided for in the Code of Civil Procedure. Each county recorder with whom such notice is filed shall record it and shall index it in the name of each person specified in a direction subscribed by an officer of the department instituting such action or proceeding. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending. The recorder of the county where such notice is filed is hereby directed to mark such notice and any record or docket thereof as canceled of record, upon the presentation and filing of a certified copy of such order.

§ 80. Name of owner, etc., filed. Every owner of a hotel and every lessee or other person having control of a hotel, shall file in the housing department a notice, containing his name and address, and also a description of the property, by street and number and otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act easily to find the same; and also the number of rooms in the building. In case of a transfer of any hotel, it shall be the duty of the grantee of said hotel to file in the housing department a notice of such transfer, stating the name of the new owner, within thirty days after such transfer. In case of the devolution of the said property by will, it shall be the duty of the executor and the devisee, if more than twenty-one years of age, and in case of devolution of such property by inheritance without a will, it shall be the duty of the heirs, or in case all the heirs are under age, it shall be the duty of the administrator of the deceased owner of said property, to file in said de-

partment a notice, stating the death of said owner and the names of those who have succeeded to his interests, within thirty days after the death of the decedent, in case he died intestate, and within thirty days after the probate of his will if he died testate.

§ 81. Name of agent filed. Every owner, agent or lessee of a hotel shall file in the housing department a notice containing the name and address of such agent of such house, for the purpose of receiving service of process, and also a description of the property, by street and number or otherwise, as the case may be, in such manner as will enable the department charged with the enforcement of this act easily to find the same. The name of the owner or lessee may be filed as agent for this purpose.

§ 82. Index of names. The names and addresses filed in accordance with sections seventy-nine and eighty shall be indexed by the housing department in such a manner that all of those filed in relation to each hotel shall be together and readily ascertainable. Said indices shall be public records, open to public inspection during business hours.

§ 83. Time of service. Every notice or order in relation to a hotel shall be served five days before the time for doing the thing in relation to which it shall have been issued.

§ 84. Manner of service. In any action brought by any department charged with the enforcement of this act in relation to a hotel for injunction, vacation of the premises or other abatement of nuisance, or to establish a lien thereon, it shall be sufficient service of summons to serve the same as notices and orders are served under the provisions of the Code of Civil Procedure.

§ 85. Minimum requirements. Supplementary. Repealed. Powers of cities not abrogated. The provisions of this act shall be held to be the minimum requirements adopted for the protection, the health and the safety of the community, and for the protection, the health and the safety of the occupants of hotels. Nothing in this act contained shall be construed as prohibiting the local legislative body of any incorporated town, incorporated city, incorporated city and county, or county, from enacting from time to time, supplementary ordinances or laws imposing further restrictions, or providing for fees to be charged for permits, certificates or other papers required by this act; but no ordinance, law, regulation or ruling of any municipal department, authority, officer or officers, shall repeal, amend, modify or dispense with any of the provisions of this act.

All statutes of the state and all ordinances of incorporated towns, incorporated cities, incorporated cities and counties, and counties, as far as inconsistent with the provisions of this act, are hereby repealed; provided, that nothing in this act contained shall be construed as repealing or abrogating any present ordinance or law of any incorporated town, incorporated city, incorporated city and county, or county, in the state which further restricts the percentage of the lot to be covered by a hotel, the number of stories or height of such hotel or number of rooms therein, the occupation thereof, the materials to be used in its

construction, or increasing the size of the yards or courts, the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

Nothing in this act contained shall be construed as abrogating diminishing, minimizing or denying the power of any incorporated town incorporated city, incorporated city and county, or county, by ordinance or law, to further restrict the percentage of the lot to be covered by a hotel within said municipality, the number of stories or height of such hotel or number of rooms therein, the occupation thereof, the materials to be used in its construction, or increasing the size of the yards or courts, the floor space to each person occupying a room, the requirements as to sanitation, ventilation, light and protection against fire.

§ 86. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 87. In effect when. This act shall take effect and be in force from and after September 1, 1917.

§ 88. Repealed. "An act to regulate the building and occupancy of hotels and lodging-houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof," approved June 16, 1913, Statutes of California of 1913, page 1429, and all acts amending said act, are hereby repealed.

ACT 1531.

An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, repealing all acts or parts of acts in conflict with this act, providing for its enforcement by the state board of health and providing a penalty for the violation of any of its provisions. [Approved April 26, 1915. Stats. 1915, p. 213.]

Repealed 1917; Stats. 1917, p. 432. See next Act.

ACT 1532.

An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, providing for its enforcement by the state board of health and local health officers, prescribing a penalty for the violation of the provisions hereof; and repealing an act entitled "An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, repealing all acts

or parts of acts in conflict with this act, providing for its enforcement by the state board of health, and providing a penalty for the violation of any of its provisions," approved April 26, 1915.

[Approved May 11, 1917. Stats. 1917, p. 432. In effect July 27, 1917.]

§ 1. Hotel defined. Every building or structure, kept as, used as, maintained as, or advertised as, or held out to the public to be, a place where sleeping or rooming accommodations are furnished to the public, or any part of the public, whether with or without meals, shall, for the purpose of this act, be deemed to be a hotel, and whenever the word "hotel" shall occur in this act, it shall be deemed to include lodging-house and rooming-house.

§ 2. Clean bedding, etc. All bedding, bedclothes, or bedcovering, including mattresses, quilts, blankets, sheets, pillows or comforters, used in any hotel in this state must be kept clean and free from all filth or dirt; provided, that no bedding, bedclothes or bedcovering, including mattresses, quilts, blankets, sheets, pillows or comforters, shall be used which is worn out or unfit for use by human beings according to the true intent and meaning of this act.

§ 3. Infected rooms fumigated. Any room in any hotel in this state which is or shall be infected with vermin or bedbugs or similar things, shall be thoroughly fumigated, disinfected and renovated until such vermin or bedbugs or other similar things are entirely exterminated.

§ 4. Clean rooms. Every room in any hotel in this state used for sleeping purposes, must be kept free from any and every kind of dirt or filth of whatsoever nature, and the walls, floors, ceilings and doors of every such room shall be kept free from dirt.

§ 5. Ventilation devices. Every room in any hotel, used for sleeping purposes, shall have devices, such as a window or transom, so constructed as to allow for proper and a sufficient amount of ventilation in each such room.

§ 6. Size of sheets. Every bed, for the accommodation of any person or persons or guests, kept or used in any hotel in this state, must be provided with a sufficient supply of clean bedding and must be provided with sheets at least eighty-one inches wide and ninety-eight inches long; provided, however, that on every single bed there shall be sheets at least fifty inches wide and ninety-eight inches long. Every bed shall be supplied with clean sheets and pillow slips as often as assigned to a different person.

§ 7. Individual towels. Every hotel, within this state, having a public washstand or washbowl, where different persons gather to wash themselves, must keep a sufficient supply of clean individual towels for the use of such persons within easy access of or to such persons and in plain sight and view.

§ 8. Penalty for violation. Every owner, manager, lessee or other person in charge of any hotel in this state who shall fail to comply with this act whether through the acts of his agents or employees, or otherwise, shall be guilty of a misdemeanor and upon conviction shall be

ined not more than two hundred dollars or shall be imprisoned for not more than three months; and every day that any hotel shall be kept in violation of any of the provisions of this act such keeping shall constitute a separate offense.

§ 9. Enforcement. It shall be the duty of the state board of health and local health officers to enforce the provisions of this act.

§ 10. Other than hotels. Nothing in this act shall be construed to include cots or bunks where the same are used in places other than in hotels.

§ 11. Stats. 1915, p. 213, repealed. An act of the legislature entitled "An act relating to hotels, defining the same, providing regulations in connection therewith, providing for the sanitation of the rooms of such hotels, providing for the sanitary method and manner of keeping, handling and using bedclothes or bedcovering in such hotels, repealing all acts or parts of acts in conflict with this act, providing for its enforcement by the state board of health, and providing a penalty for the violation of any of its provisions," approved April 26, 1915, is hereby repealed.

TITLE 242.

HOURS OF LABOR.

ACT 1537.

An act limiting the hours of labor of females employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company; compelling each employer in any manufacturing, mechanical, or mercantile establishment, laundry, hotel or restaurant, or other establishment employing any female to provide suitable seats for all female employees and to permit them to use such seats when they are not engaged in the active duties of their employment; and providing a penalty for failure, neglect, or refusal of the employer to comply with the provisions of this act, and for permitting or suffering any overseer, superintendent, foreman or other agent of any such employer to violate the provisions or this act.

[Approved March 22, 1911. Stats. 1911, p. 437.]

Amended 1913, p. 713; 1917, p. 828; 1919, p. 394.

The amendments of 1917 and 1919 follow:

§ 1. Females not to work more than eight hours per day. Employment in more than one establishment. Not applicable to nurses, fruit canning, etc. No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, public lodging-house, apartment house, hospital, place of amusement, or restaurant, or telegraph or telephone establishment or office, or in the operation of elevators in office buildings or by any express or transportation company in this state more than eight hours during any one day of twenty-four hours or more than forty-eight hours in one week. It shall be unlawful for any employer of labor to employ, cause to be employed or permit

any female employee to labor any number of hours whatever, with knowledge that such female has heretofore been employed within the same date and day of twenty-four hours in any establishment and by any previous employer, for a period of time that will, combined with the period of time of employment by a previous employer exceed eight hours; provided, that this shall not prevent the employment of any female in more than one establishment where the total number of hours worked by said employee does not exceed eight hours in any one day of twenty-four hours. If any female shall be employed in more than one such place, the total number of hours of such employment shall not exceed eight hours during any one day of twenty-four hours or forty-eight hours in one week. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of one day, or forty-eight hours during any one week; provided, further, that the provisions of this section in relation to hours of employment shall not apply to or affect graduate nurses in hospitals, nor the harvesting, curing, canning or drying of any variety of perishable fruit, fish or vegetable during such periods as may be necessary to harvest, cure, can or dry said fruit, fish or vegetable in order to save the same from spoiling. [Amendment approved May 10, 1919; Stats. 1919, p. 395.]

This section was also amended in 1917. See Stats. 1917, p. 828.

The title of the amendatory act of 1919 stated that sections 1 and 3 of the act were amended and that a new section 1a was added to the act. In the body of the act, however, only section 1 was amended.

TITLE 249.

IMMIGRATION.

ACT 1589.

An act relating to immigrants and immigration, creating a commission of immigration and housing, providing for the employment by said commission of a secretary, agents and other employees, authorizing said commission to fix their compensation, prescribing the duties of said commission, providing for the investigation by said commission of all things affecting immigrants, and for the care, protection and welfare of immigrants, and making an appropriation for the purpose of carrying out the provisions hereof.

[Approved June 12, 1913. Stats. 1913, p. 608.]

Amended 1915, p. 848; 1917, p. 1514.

The amendment of 1917 follows:

§ 15. Immigration and housing commission to promote city planning. The commission may make investigations of the housing of immigrants and working people and of city planning in California and elsewhere, may encourage the creation of local city planning commissions and may furnish information as to the progress of other cities for the use of such commissions. It may investigate and report upon defective housing and the evils resulting therefrom and the work being done to remedy the same in California and elsewhere. It may make studies of the opera-

tion and enforcement of building and tenement house laws, of housing finances and taxes, of zoning and districting regulations and may promote the formation of organizations intended to increase the supply of wholesome homes for the people, and aid in the enforcement of any laws enacted to promote the purposes for which the commission is established. [New section added May 31, 1917; Stats. 1917, p. 1514.]

§ 16. Annual report of city planning commissions. Conference. City planners. It shall be the duty of each and every city-planning commission or housing commission of any incorporated city or town in the state of California to file on the first day of June of each year with the secretary of the commission of immigration and housing of California a complete report of its transactions and recommendations to any municipal organization or private person or corporation during the previous year, and particularly to report any conflict in authority, lack of co-operation with local municipal authorities or with adjoining cities, with recommendations for needed legislation to properly carry on the development of their housing and city-planning work. The commission may annually, or oftener, call a conference of representatives of these commissions, of local health officers, housing inspectors, building inspectors or such other municipal officers as it shall deem advisable to carry out the purposes of this act. The commission may employ city planners and other persons whose salaries, wages and other necessary expenses of the commission will be provided for out of the funds at the disposal of the commission. [New section added May 31, 1917; Stats. 1917, p. 1515.]

§ 17. Annual report. Information furnished. The commission may make an annual report on housing and city planning to the governor, which the state printer shall cause to be printed as a public document, and copies of this report shall be filed with each and every local housing and city-planning commission in the state of California. The commission is further authorized to furnish information and suggestions from time to time to city governments, housing and city planning commissions and other public, semi-public or private bodies such as may, in its judgment, tend to promote the purposes for which the commission is established. [New section added May 31, 1917; Stats. 1917, p. 1515.]

TITLE 249a.

IMPERIAL COUNTY.

ACT 1607a.

An act to provide one additional judge of the superior court in the county of Imperial.

[Approved May 27, 1919. Stats. 1919, p. 1295.]

§ 1. Additional superior judge in Imperial county. The number of judges of the superior court of the state of California for the county of Imperial is hereby increased from one to two.

§ 2. Within thirty days after the taking effect of this act, the governor shall appoint one additional judge of the superior court of the county of Imperial, state of California, who shall hold office until the first Monday after the first day of January, A. D. 1921. At the general election to be held in November, 1920, a judge of the superior court of

said county shall be elected in said county, who shall be the successor of the judge appointed hereunder, to hold office for the term prescribed by the constitution and by law.

TITLE 254.

INFANTS.

ACT 1608.

An act regulating the employment of women and minors and establishing an industrial welfare commission to investigate and deal with such employment, including a minimum wage; providing for an appropriation therefor and fixing a penalty for violation of this act.

[Approved May 26, 1913. Stats. 1913, p. 632.]

Amended 1915, p. 950; 1919, p. 302.

The amendment of 1919 follows:

§ 34. Power to issue subpoenas, etc. Any member of the commission or deputies duly authorized by it in writing, shall have the power and authority to issue subpoenas to compel the attendance of witnesses or parties and the production of books, papers, pay-rolls or records, and to administer oaths and to examine witnesses under oaths and to take the verification or proof of instruments of writing, and to take depositions and affidavits for the purpose of carrying out the provisions of this act, or any of its orders, rules or regulations; provided, that no witness shall be compelled to attend on said commission outside of the county in which said witness resides or at a distance greater than fifty miles from his place of residence.

Obedience to subpoenas issued by the commission or its duly authorized representatives shall be enforced in the superior courts of the county or city and county in which the subpoenas were issued. [New section added May 5, 1919; Stats. 1919, p. 302.]

§ 6. Power to fix wages, hours, etc. (a) The commission shall have further power after a public hearing had upon its own motion or upon petition, to fix:

1. A minimum wage to be paid to women and minors engaged in any occupation, trade or industry in this state, which shall not be less than a wage adequate to supply to such women and minors the necessary cost of proper living and to maintain the health and welfare of such women and minors.

2. The maximum hours of work consistent with the health and welfare of women and minors engaged in any occupation, trade or industry in this state; provided, that the hours so fixed shall not be more than the maximum now or hereafter fixed by law.

3. The standard conditions of labor demanded by the health and welfare of the women and minors engaged in any occupation, trade or industry in this state.

(b) **Notice of hearing.** Upon the fixing of the time and place for the holding of a hearing for the purpose of considering and acting upon any matters referred to it in subsection (a) hereof, the commission shall give public notice by advertisement in at least one newspaper published in each of the cities of Los Angeles, Oakland, and Sacramento, and in

the city and county of San Francisco, and shall give due notice in at least one newspaper published in each of the cities of Fresno, Eureka, San Diego, Long Beach, Alameda, Berkeley and Stockton, and by mailing a copy of said notice to the county recorder of each county in the state to be posted at the courthouse of each county, or city and county, and to each association of employers or employees of fifteen or more members within the state of California which shall file with the commission a written request for such notice of such hearing and purpose thereof; which notice shall state the time and place fixed for such hearing, which shall not be earlier than fourteen days from the date of publication and mailing of such notices.

(c) **Mandatory order specifying wages. Notice to employer.** After such public hearing, the commission may, in its discretion, make a mandatory order to be effective in sixty days from the making of such order, specifying the minimum wage for women or minors in the occupation in question, and the maximum hours; provided, that the hours specified shall not be more than the maximum for women or minors in California, and the standard conditions of labor for said women or minors; provided, however, that no such order shall become effective until after April 1, 1914. Such order shall be published in at least one newspaper in each of the cities of Los Angeles and Sacramento and in the city and county of San Francisco, and a copy thereof be mailed to the county recorder of each county in the state, and such copy shall be filed without charge. The industrial welfare commission shall send by mail, so far as practicable, to each employer in the occupation in question, a copy of the order, and each employer shall be required to post a copy of such order in the building in which women or minors affected by the order are employed. Failure to mail notice to the employer shall not relieve the employer from the duty to comply with such order. Finding by the commission that there has been such publication and mailing to county recorders shall be conclusive as to service. [Amendment approved May 5, 1919; Stats. 1919, p. 302.]

§ 11b. Enforcement. It shall be the duty of the industrial welfare commission to enforce the provisions of this act and compliance with its orders, rules and regulations. Full power and authority is hereby vested in the commission to take such action as may be deemed essential for such purposes. [New section added May 5, 1919; Stats. 1919, p. 302.]

ACT 1611.

An act regulating the employment and hours of labor of children—prohibiting the employment of minors under certain ages—prohibiting the employment of certain illiterate minors—providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof.

[Approved February 20, 1905. Stats. 1905, p. 11.]

Amended 1907, pp. 598, 978; 1909, pp. 211, 387; 1911, pp. 282, 910; 1913, p. 364; 1915, p. 1201; 1917, p. 826; 1919, p. 394.

The amendments of 1917 and 1919 follow:

§ 7. Minors under eighteen not to work over eight hours. No minor under the age of eighteen years shall be employed in laboring in any manufacturing, mechanical, or mercantile establishment or other place of labor, more than eight hours in one day of twenty-four hours, or more than forty-eight hours in one week, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week, nor before the hour of five o'clock in the morning, nor after the hour of ten o'clock in the evening. [Amendment approved May 10, 1919; Stats. 1919, p. 394.]

§ 14. Agricultural, etc., labor. Theatrical employment. Consent of labor commissioner. Nothing in this act shall be construed to prohibit the employment of minors sixteen years of age or over at agricultural, horticultural, or viticultural, or domestic labor. Nor shall anything in this act be construed to prohibit the employment of minors at agricultural, horticultural, or viticultural, or domestic labor, during the time the public schools are not in session, or during other than school hours. For the purpose of this act, horticultural shall be understood to include the curing and drying, but not the canning of all varieties of fruit. Nor shall anything in this act be construed to prohibit any minor between the ages of fifteen and eighteen years, who is by any statute or statutes of the state of California, now or hereafter in force, permitted to be employed as an actor, or actress, or performer in a theater, or other place of amusement, previous to the hour of ten o'clock P. M., in the presentation of a performance, play or drama, continuing from an earlier hour till after the hour of ten o'clock P. M. from performing his or her part in such presentation as such employee between the hours of ten and twelve o'clock P. M.; provided, the written consent of the commissioner of the bureau of labor statistics is first obtained. Nor shall anything in this act prevent, or be construed to prohibit, the employment of any minor, whether resident or nonresident, in the presentation of a drama, play, performance, concert or entertainment, with the written consent of the commissioner of the bureau of labor statistics, but no such consent shall be given unless the officer giving it is satisfied that the environment in which the drama, play, performance, concert or entertainment is to be produced is a proper environment for the minor, and that the conditions of such employment are not detrimental to the health of such minor, and that the minor's education will not be neglected or hampered by its participation in such drama, play, performance, concert or entertainment, and the commissioner may require the person charged with the issuance of age and schooling certificates to make the necessary investigation into such conditions; and every such written consent shall specify the name and age of the minor together with such other facts as may be necessary for the proper identification of such minor, and the dates when, and the theaters or other places of amusement in which such drama, play, performance, concert or entertainment is to be produced, and shall specify the drama, play, performance, concert or entertainment in which the minor is permitted to participate, and every such consent shall be revocable at the will of the officer giving it. Dramas and plays shall include the production of motion picture plays. [Amendment approved May 22, 1917; Stats. 1917, p. 826.]

ACT 1611b.

An act to be known as the child labor law, and regulating the employment, hours, kinds and conditions of labor of children; providing for the administration and enforcement of the provisions of this act by the commissioner of the bureau of labor statistics, providing penalties for the violation hereof and repealing all acts and parts of acts inconsistent herewith.

[Approved May 10, 1919. Stats. 1919, p. 415. In effect July 22, 1919.]

§ 1. Child labor regulated. Work defined. No minor under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, manufacturing establishment, mechanical establishment, workshop, office, laundry, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages, or in any other place of labor at any time except as may be provided by the provisions of this act or by the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for violation of the act," as now in force or as may be hereafter amended, or by the provisions of an act entitled "An act to require certain high school districts to provide part-time educational opportunities in civic and vocational subjects for persons under eighteen years of age, who are not in attendance upon full-time day schools, and part-time educational opportunities in citizenship for persons under twenty-one years of age who cannot adequately speak, read or write the English language; to enforce attendance upon such part-time classes where established, and providing penalties for violation of the provisions of this act."

Work shall be deemed to be done for a manufacturing establishment within the meaning of this act, whenever it is done at any place upon the work of a manufacturing establishment, or upon any of the materials entering into the products of a manufacturing establishment, whether under contract or arrangement with any person in charge of or connected with a manufacturing establishment directly or indirectly through the instrumentality of one or more contractors or other third persons.

§ 2. Eight-hour limit. Night work. Except as otherwise provided in sections three, three and one-half and five hereof no minor under the age of eighteen years shall be employed more than eight hours in one day of twenty-four hours or more than forty-eight hours in one week, or before the hour of five o'clock in the morning, or after the hour of ten o'clock in the evening.

§ 3. Messenger service. No girl under the age of eighteen years and no boy under the age of sixteen years shall be employed, permitted or suffered to work as a messenger for any telegraph, telephone or messenger company, or for the United States government or any of its departments while operating a telegraph, telephone or messenger service, in the distribution, transmission or delivery of goods or messages in towns of more than fifteen thousand inhabitants, nor shall any boy under the age of eighteen years be employed, permitted or suffered to engage in any of the work last mentioned before the hour of six o'clock in the morning or after the hour of nine o'clock in the evening.

§ 3½. Street trades. Exception. No boy under ten years of age, nor girl under eighteen years of age, shall be employed, permitted or suffered to work at any time in or in connection with the street occupation of peddling, bootblacking, the sale or distribution of newspapers, magazines, periodicals or circulars nor in any other occupation pursued in any street or public place; provided, however, that nothing in this section shall be construed to apply to cities whose population is less than twenty-three thousand according to the last federal census.

§ 4. Prohibited occupations. Bureau of labor statistics to determine whether business prohibited. No minor under the age of sixteen years shall be employed, permitted or suffered to work in any capacity at any of the following occupations or in any of the following positions, to wit: (1) Adjusting any belt to any machinery, or sewing or lacing machine belts in any workshop or factory, or oiling, wiping or cleaning machinery, or assisting therein, or operating or assisting in operating any of the following machines: (a) Circular or band saws; (b) wood-shapers; (c) wood-jointers; (d) planers; (e) sandpaper or wood-polishing machinery; (f) wood turning or boring machinery; (g) picker machines or machines used in picking wool, cotton, hair or any other material; (h) carding machines; (i) paper-lace machines; (j) leather-burnishing machines; (k) printing-presses of all kinds; (l) boring or drill presses; (m) stamping-machines used in sheet-metal and tinware or in paper and leather manufacturing, or in washer and nut factories; (n) metal or paper-cutting machines; (o) corner-staying machines in paper-box factories; (p) corrugating rolls, such as are used in corrugated paper, roofing or washboard factories; (q) steam boilers; (r) dough brakes or cracker machinery of any description; (s) wire or iron straightening or drawing machinery; (t) rolling-mill machinery; (u) power punches or shears; (v) washing, grinding or mixing machinery; (w) calendar rolls in paper and rubber manufacturing; (x) laundering machinery; or in proximity to any hazardous or unguarded belts, machinery or gearing; or (2) upon any railroad, whether steam, electric or hydraulic; or (3) upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state; or (4) in, about, or in connection with any processes in which dangerous or poisonous acids are used; or (5) in the manufacture or packing of paints, colors, white or red lead; or (6) in soldering; or (7) in occupations causing dust in injurious quantities; or (8) in the manufacture or use of dangerous or poisonous dyes; or (9) in the manufacture or preparation of compositions with dangerous or poisonous gases; or (10) in the manufacture or use of compositions of lye in which the quantity thereof is injurious to health; or (11) on scaffolding; or (12) in heavy work in the building trades; or (13) in any tunnel or excavation; or (14) in, about or in connection with any mine, coal breaker, coke oven, or quarry; or (15) in assorting, manufacturing or packing tobacco; or (16) in operating any automobile, motor car or truck; or (17) in a bowling-alley; or (18) in a pool or billiard room; or (19) in any other occupation dangerous to the life or limb, or injurious to the health or morals of such child; provided, however, that the provisions of this section shall not apply to the courses of training in vocational or manual training schools or in state institutions.

The bureau of labor statistics may, from time to time, after a hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under the age of sixteen years is not already forbidden by law, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under sixteen years of age to justify their exclusion therefrom. No child under sixteen years of age shall be employed, permitted or suffered to work in any occupation thus determined to be dangerous or injurious to such children. There shall be a right of appeal to the superior court from any such determination.

§ 5. Agricultural, etc., labor. Theatrical employment. Nothing in this act shall be construed to prohibit the employment of minors sixteen years of age or over at agricultural, horticultural, or viticultural; or domestic labor for more than eight hours in one day or more than forty-eight hours in one week. Nor shall anything in this act be construed to prohibit the employment of minors at agricultural, horticultural, or viticultural, or domestic labor during the time the public schools are not in session, or during other than school hours. For the purpose of this act, horticultural shall be understood to include the curing and drying, but not the canning, of all varieties of fruit. Nor shall anything in this act be construed to prohibit any minor between the ages of fifteen and eighteen years, who is by any statute or statutes of the state of California, now or hereafter in force, permitted to be employed as an actor, or actress, or performer in a theater, or other place of amusement, previous to the hour of ten o'clock P. M., in the presentation of a performance, play or drama, continuing from an earlier hour till after the hour of ten o'clock P. M., from performing his or her part in such presentation as such employee between the hours of ten and twelve o'clock P. M.; provided, the written consent of the commissioner of the bureau of labor statistics is first obtained. Nor shall anything in this act prevent, or be construed to prohibit, the employment of any minor, whether resident or nonresident, in the presentation of a drama, play, performance, concert or entertainment, with the written consent of the commissioner of the bureau of labor statistics, but no such consent shall be given unless the officer giving it is satisfied that the environment in which the drama, play, performance, concert or entertainment is to be produced is a proper environment for the minor, and that the conditions of such employment are not detrimental to the health of such minor, and that the minor's education will not be neglected or hampered by its participation in such drama, play, performance, concert or entertainment, and the commissioner may require the person charged with the issuance of age and schooling certificates to make the necessary investigation into such conditions; and every such written consent shall specify the name and age of the minor together with such other facts as may be necessary for the proper identification of such minor, and the date when, and the theaters or other places of amusement in which such drama, play, performance, concert or entertainment is to be produced, and shall specify the drama, play, performance, concert or entertainment in which the minor is permitted to participate, and every such consent shall be revocable at the will of the officer giving it. Dramas and plays shall include the production of motion picture plays.

§ 6. Employer to keep register. Report by authority issuing permits. Every person, firm, corporation or agent, or officer of a firm or corporation, employing either directly, or indirectly through the instrumentality of one or more contractors or other third persons, minors under the age of eighteen years, shall keep a separate register containing the names, ages and addresses of such minor employees and shall post and keep posted in a conspicuous place in every room where such minors are employed, a written or printed notice stating the hours per day for each day of the week required of such minors, and shall keep on file all permits and certificates either to work or to employ, issued under the provisions of this act, or under the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended. Such records and files shall be open at all times to the inspection of the school attendance and probation officers, the state board of education and the officers of the state bureau of labor statistics.

All such certificates and permits to work or to employ shall be returned to the authority issuing the same within five days after the minor quits his employment. Such certificate or permit shall be subject to cancellation at any time by such commissioner of the bureau of labor statistics, or by the authority issuing the same, whenever such commissioner or such issuing authority shall find that the conditions for the legal issuance of such certificate or permit no longer exist or have never existed.

At least once in every six months, to wit, on or before January tenth and on or before July tenth of each year, the authority issuing all such permits and certificates either to work or to employ, shall file a full written report of the same, stating the names, ages and addresses of the minors under sixteen years of age affected thereby, with the state bureau of labor statistics and the state board of education.

§ 7. Penalty. Fines to be paid into school funds. Report of violation of act. Any person, firm, corporation, agent, or officer of a firm or corporation, employing either directly or indirectly through the instrumentality of one or more contractors or other third persons, or any parent or guardian of a minor affected by this act, who violates or omits to comply with any of the provisions hereof, or who employs or suffers or permits any minor to be employed in violation thereof, is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars, nor more than two hundred dollars, by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment for each and every offense.

A failure to produce any permit or certificate either to work or to employ or to post any notice required by this act shall be prima facie evidence of the illegal employment of any minor whose permit or certificate is not so produced or whose name is not so posted. Any fine collected under the provisions of this act shall be paid into the school funds of the county, or city, or city and county, in which the offense occurred, except such fines as are imposed and collected as the result of prosecutions by the officers of the bureau of labor statistics, in which cases one-half of the resultant fine or fines shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics and one-half paid into the school funds of the county, or

city, or city and county, in which the offense occurred. All reported violations of the provisions of this act, whether prosecuted or not, must be reported in writing immediately after their occurrence by the state bureau of labor statistics to the state board of education. Such report shall state the name and address of the person or corporation charged with such violation, the nature of such charge and the name, age and address of the minor or minors affected thereby, and shall be followed, at least once in every six months, to wit, on or before January tenth, and on or before July tenth of each year, by a written summary of all violations of the provisions of this act which have occurred during the preceding period of six months.

§ 8. Duty of labor commissioner. Duty of attendance officers. The bureau of labor statistics shall enforce the provisions of this act. The commissioner, his deputies and agents, shall have all the powers and authority of sheriffs or other peace officers, to make arrests for violation of the provisions of this act, and to serve any process or notice throughout the state.

The attendance officer of any county, city and county, or school district in which any place of employment, in this act named, is situated, or the probation officer of such county, shall have the right and authority, at all times, to enter into any such place of employment for the purpose of investigating violations of the provisions of this act, or violations of the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, and any act amending or superseding the same; provided, however, that if such attendance or probation officer is denied entrance to such place of employment, any magistrate may, upon the filing of an affidavit by such attendance or probation officer setting forth the fact that he has a good cause to believe that the provisions of this act, or the act hereinbefore referred to, are being violated in such place of employment, issue an order directing such attendance or probation officer to enter said place of employment for the purpose of making such investigations.

§ 9. Repealed. All acts and parts of acts inconsistent herewith are hereby expressly repealed.

§ 10. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

ACT 1623a.

An act to provide for the registration of minors.

[Approved May 9, 1919. Stats. 1919, p. 437. In effect July 22, 1919.]

§ 1. Appointment of registrar of minors by school board. It shall be the duty of the governing board of every school district, except high school districts, to appoint a registrar of minors, and such assistant registrars as may be necessary, such appointments to be made on or be-

fore the fifteenth day of October, 1919. Such registrar of minors and assistants shall be residents of the school district and at least twenty-one years of age, and may be allowed such compensation as the governing board shall fix, not exceeding four dollars a day for the time actually and necessarily employed. Before entering upon the discharge of his duties, each registrar and assistant registrar must qualify and file his oath of office with the superintendent of schools of the county.

§ 2. Appointment by county superintendent. If the governing board of any school district shall fail to appoint a registrar of minors as herein provided, it shall be the duty of the county superintendent of the schools having jurisdiction over such district to appoint a registrar of minors and such assistant registrars as may be necessary for such district and to fix their compensation, not exceeding four dollars a day for the time actually and necessarily employed. He shall also draw a warrant on the funds of such district in payment of the services of such registrar and assistants.

§ 3. Registration of minors. It shall be the duty of the registrar of minors during the month of November, 1919, to visit each habitation, residence, domicile or place of abode in his school district and make a complete registration of minors residing in the school district on the first day of November, 1919, on blanks provided by the superintendent of public instruction.

Such registration shall show the name and residence of each head of a family in the school district, the names of all minor children in each family, the nativity, sex, race, date of birth of each minor child, the school attended by each minor child if he is attending school, the grade in which he is placed in school, the occupation of each minor child if he is employed in a gainful occupation and the name and address of the employer. Wherever a district is formed lying partly in two or more adjoining counties, the registrar must report to each county superintendent the data concerning the families and children residing in the county under the jurisdiction of such superintendent. Minors who are absent attending institutions of learning shall be registered in the districts where their parents or guardians reside. Orphans, half-orphans and children living in orphanages shall be registered in the district in which the orphanage is situated. Minors under guardianship shall be registered in the district in which the guardian resides.

§ 4. Report of registrar. The registrar shall on or before the first day of January, 1920, file a complete report of such registration, attested by oath, with the county superintendent of schools and a duplicate report with the clerk of the governing board of the district. Such report shall include a statistical abstract showing the number of families enumerated; the total number of boys; the total number of girls; the total number of native-born and foreign-born children, segregated according to sex; the total number of boys and girls of each race, segregated according to sex; the total number of minors under six years of age, segregated according to sex; the total number of minors six and seven years of age, segregated according to sex; the number of minors between the ages of eight and fifteen years inclusive, segregated according to sex; the total number of minors between the ages of sixteen and twenty, inclusive, segregated according to sex; the total number of

minors between the ages of sixteen and twenty inclusive, attending school, segregated according to sex; the total number of minors under sixteen years of age employed in gainful occupations; and the total number of minors over sixteen years of age employed in gainful occupations; and the total number of (1) crippled children, (2) blind children, (3) dumb children and (4) deaf children, segregated according to age and sex.

§ 5. Report to superintendent of public instruction. It shall be the duty of the county superintendent of each county to make a report of the registration of his county to the superintendent of public instruction on or before the first day of March, 1920. Such report shall be compiled from the statistical abstracts filed by registrars of minors of his county and shall be on forms prescribed by the superintendent of public instruction.

§ 6. Expenses. The actual and necessary expenses for making such registration shall be paid, subject to provisions of law, out of the county or special fund of the school district. In carrying out the provisions of this act, any board of school trustees may appoint any teacher or attendance officer employed by them to serve as registrar of minors, and pay such teachers for such additional service, subject to the provisions of this act. In districts employing an attendance officer, such attendance officer shall serve as registrar of minors without additional compensation.

TITLE 255.

INITIATIVE AND REFERENDUM.

ACT 1624.

An act to provide for direct legislation by cities and towns, including initiative and referendum.

[Approved January 2, 1912. Stats. Ex. Sess. 1911, p. 131.]

Amended 1915, p. 319; 1917, p. 655.

The amendment of 1917 follows:

§ 2. Not applicable to street proceedings. This act is not intended to apply to those cities having a freeholders' charter adopted and ratified under the provisions of section eight of article eleven of the constitution and having in such charter provision for the direct initiation of ordinances by the electors; nor to proceedings had for the improvement of streets in or rights of way owned by municipalities, the opening or closing of streets, the changing of grades or the doing of other work, the cost of which or any portion of which is to be borne by special assessments upon real property. [Amendment approved May 17, 1917; Stats. 1917, p. 655.]

TITLE 256.

INSANE.

ACT 1633b.

An act authorizing the board of managers of the Napa State Hospital to grant a right of way to San Francisco, Napa and Calistoga Railway over land owned by the state of California, for the consideration herein expressed.

[Approved May 15, 1919. Stats. 1919, p. 621. In effect July 22, 1919.]

§ 1. Authority for Napa State Hospital to grant right of way to San Francisco, Napa and Calistoga Railway. For and in consideration of the grantee of the right of way hereinafter mentioned removing its tracks from the state highway at the point hereinafter mentioned and on to the said right of way and thereby eliminating a source of danger to the people using said highway and railway, arising from the existence of a sharp and dangerous curve on the main line of said railway at said point on said state highway, and upon the further consideration of the abandonment by the grantee of that portion of its present right of way over said state highway from which its said tracks are to be so removed, the board of managers of Napa State Hospital are hereby authorized to grant to San Francisco, Napa and Calistoga Railway a right of way over and along a strip of land used by the Napa State Hospital for farming purposes, and desired by said railway for a right of way for its railroad, in order to straighten its track at said point, and remove the same from said highway and thereby eliminate a curve thereon, over, along, and upon the following lands belonging to the state of California, to wit: Commencing on the western line of the state highway leading from Napa to Cordelia, at the southeast corner of the tract of land purchased by the state of California from Homer S. King et ux., by deed bearing date October 1, 1904, and recorded in liber 89 of deeds, page 154, Napa county records, and running thence north seven and one-half degrees west, along said western line of said state highway, five hundred sixty-one feet; thence south two degrees east five hundred eighty feet and to a point on the southern line of said tract of land purchased from said Homer S. King, as aforesaid, distant south sixty-nine and one-half degrees west fifty-six feet from the point of commencement; thence north sixty-nine and one-half degrees east, fifty-six feet and to the point of commencement, containing thirty-six one-hundredths of an acre of land.

ACT 1635b.

An act providing for the removal of bodies from the cemetery at the Stockton State Hospital and the disposition thereof, and making an appropriation therefor.

[Approved June 1, 1917. Stats. 1917, p. 1661. In effect July 31, 1917.]

§ 1. Appropriation: Removal of bodies Stockton State Hospital. Out of any money in the state treasury not otherwise appropriated the sum of five thousand dollars is hereby appropriated, to be expended in accordance with law in the removal of bodies from the cemetery at the Stockton State Hospital and in the disposition thereof incident to such removal.

ACT 1648.

An act to establish an institution for the care, confinement and instruction of feeble-minded and epileptic persons; to provide for the government and maintenance thereof, and for the study of mental deficiency and related problems; to provide for admission and commitment to such institution, and to prescribe penalties for unlawfully or improperly contriving to have persons adjudged feeble-minded under this act; to provide for the sterilization of inmates of such

institutions; to prescribe penalties for procuring the escape, or aiding or advising in the escape, of inmates, or concealing inmates thereof; to provide a contingent fund for the use of such institution and to make an appropriation therefor.

[Approved June 1, 1917. Stats. 1917, p. 1623.]

§ 1. Pacific Colony created. There is hereby created an institution to be known as the Pacific Colony and which is hereby declared to be a corporation.

§ 2. Board of trustees. The said institution shall be under the control of a board of three trustees, to be appointed by the governor, one for one year, one for two years, and one for three years, and thereafter for terms of four years each, to hold office until their successors are respectively appointed and qualified. The governor shall fill vacancies occurring from any cause in the membership of such board, and the first board shall be appointed within thirty days after this act takes effect.

§ 3. Chairman. The said trustees shall annually elect from their own number a chairman and a vice-chairman, whose terms of office shall be one year and until their successors shall be duly appointed and qualified.

§ 4. By-laws. The board of trustees may, from time to time, establish such by-laws, rules and regulations, not inconsistent with the laws of the state, as they may deem expedient for the efficient management and government of the said institution, for the transaction of its business and the holding of its meetings.

§ 5. Vacancy. If any trustee fail, for three months, to attend the regular meetings of the board, unless he is ill or absent from the state, his office shall become vacant, if the board, by resolution, so declare. A copy of any such resolution, certified by the secretary of the board, must thereupon be forthwith transmitted to the governor.

§ 6. Compensation. The trustees shall be entitled to receive as compensation for their services, while in the actual discharge of their duties as such trustees, ten dollars per day each; provided, that the total thereof shall not exceed two hundred forty dollars in any one year for any trustee; and provided, that if such services be performed on two or more consecutive days, there shall in such case be remuneration paid for one day only; and provided, also, that the trustees shall be entitled to receive, in addition to such compensation, all of their necessary expenses while attending to the business of the institution.

§ 7. Superintendent. Secretary. The board of trustees shall appoint a superintendent, not of their own number, who shall be a resident of the institution and shall have charge, management and control of the same and of its property, and shall have the charge, control, discipline and training of its inmates, subject to the direction of the board of trustees; and he shall give a bond to the state in such sum and with such sureties as will be satisfactory to the state board of control, for the faithful performance of his duties. The board of trustees shall appoint a secretary who shall perform such duties as the board may direct. The superintendent may be appointed to that position.

§ 8. Treasurer. The superintendent shall, subject to the approval of the board of trustees, employ, with power to discharge, a treasurer and such other officers and employees as he may consider proper and necessary for the efficient carrying into effect of the design of the said institution, determine their titles, and prescribe their duties.

§ 9. Duty of treasurer. The treasurer shall receive and disburse all moneys and keep account of the same, under the direction of the board of trustees, but subject to such supervision or control as is vested by law in the state board of control, and he shall give a bond to the state in such sum and with such sureties as will be satisfactory to the state board of control for the faithful performance of his duties.

§ 10. Compensation of officers. The board of trustees shall fix the compensation of the superintendent, whose salary shall be not less than three hundred dollars per month, and the superintendent shall fix the compensation of the other officers and employees, subject to the approval of the board of trustees.

§ 11. Purchase of site. The board of trustees, together with the superintendent, are hereby empowered and instructed to purchase on behalf of the state, in the territory covered by and included within the counties of Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside and San Diego, for the use of the said institution, such a site as they may deem most advantageous, of preferably not less than eight hundred acres, subject to the approval of the state board of control as to the purchase price, and subject to such approval, the said board of trustees and superintendent may, if they consider it advisable, purchase water rights or make provision for the development of water for the use of said lands. The state department of engineering shall, at the request of the board of trustees, and with the approval of the state board of control, examine into the matter of water, light, power and sanitation, and the engineering problems involved, in connection with any site or sites the board may investigate with a view to purchasing, and shall report thereon to the board of trustees, with special regard to the suitability of such site or sites for the purposes of the institution.

The University of California shall, on the approval of the state board of control, render to the board of trustees such reasonable assistance as the board may desire, in determining the quality and character of the soil of such site or sites for agricultural, horticultural and other purposes, and its suitability for the purposes of the institution.

The said trustees and superintendent, the said state department of engineering, and the said university, shall be entitled to receive their necessary expenses in connection with said investigations and the selection and purchase of said site.

§ 12. Buildings. The board of trustees shall erect the buildings for said institution, subject to such supervision or control as is by law vested in the state department of engineering.

§ 13. Equipment, etc. The board of trustees is authorized and required to purchase such equipment, furniture, supplies and materials, as it may deem suitable for the proper completion and furnishing of the said buildings, and for the operation and maintenance of the said insti-

tution, subject to such supervision or control as is by law vested in the state board of control and the state purchasing agent.

§ 14. Donations and bequests. The said institution may take and hold in trust for the state any grant or devise of land, or any donation or bequest of money or other personal property, heretofore or hereafter granted, devised, donated, or bequeathed to the use of the institution, and shall dispose of the same in accordance with the wishes of the donor, or testator, if expressed, and if no condition be attached thereto, or in so far as any wishes expressed do not prevent, then to invest and reinvest the same, or to change the investment thereof, as to the board of trustees may seem best, and to use the income arising therefrom for the best interests of the institution.

§ 15. Forms for admission of inmates. The board of trustees shall prescribe and publish instructions and form, in relation to the commitment and admission of inmates, and may include in them such interrogatories to be answered as it may deem necessary or useful; which instructions and forms shall be furnished to anyone applying therefor, and shall also be sent in sufficient numbers to the county clerks of the several counties of the state.

§ 16. Who are "feeble-minded." The following persons, if not insane, shall be held to be "feeble-minded" within the meaning of this act:

(a) Those who are so mentally deficient that they are incapable of managing themselves and their affairs independently, with ordinary prudence, or of being taught to do so, and who require supervision, control, and care, for their own welfare, or for the welfare of others, or for the welfare of the community; or

(b) Those whose intelligence in the judgment of one or more psychologists, when they have been examined by such psychologist or psychologists making use of standardized psychological tests and whatever supplementary material may be available, will not develop beyond the level of the average child of twelve years.

§ 17. Petition to superior court for order admitting person. Whenever any parent, guardian or other person charged with the support of a supposedly feeble-minded person who is not insane, or an epileptic under twenty-one years of age, desires such person to be admitted into the said institution, he may petition the superior court of the county in which such person resides for an order admitting such person thereto; the petition shall disclose his reasons for supposing such person to be eligible for admission thereto, and shall be verified by the affidavit of the petitioner. Or whenever any peace officer desires any such supposedly feeble-minded or epileptic person to be so admitted, he may petition the said court as aforesaid for an order therefor; provided, he shall have given two days previous written notice of the date of the presentation of the petition, personally or by United States mail, to such parent, guardian or other person charged with such support, if known to him, and if not so known, then to some other relative or friend, if any known to him, residing in the said county, an affidavit whereof, together with the names, addresses and relationship of the parties so notified, and the facts of his said knowledge or want of knowledge, shall be filed with the petition.

§ 18. Warrant for arrest. The court may cause a warrant to issue for the arrest and delivery to the court of such supposedly feeble-minded or epileptic person, whenever considered advisable or necessary, and have the same executed by any peace officer.

§ 19. Examination of person. Order of commitment. The judge of the said court must inquire into the condition or status of such supposedly feeble-minded or epileptic person, for which purpose he may by subpoena require the attendance before him of a clinical psychologist and a reputable physician, or one of each, or two of either, to examine such person and testify as to his or her mentality. Such physicians must have made a special study of mental deficiency and be qualified to act as "medical examiners." The said judge may also by subpoena require the attendance of such other persons to give evidence as he may deem advisable, and if the judge find such person to be a feeble-minded person, as defined by section sixteen of this act, or an epileptic person under twenty-one years of age, and that such person has been a resident of the state for at least one year next preceding the presentation of the petition, such judge may make an order of commitment to said institution, and on the presentation of such order the superintendent must receive such person therein; provided, that, in the opinion of the board of trustees, the condition of such person, the accommodation at the said institution, and the state of its finances, be such as to justify the receiving of such person. Pending the said investigation the said supposedly feeble-minded or epileptic person may be left in charge of the parent, guardian or other suitable person or in a detention home.

§ 20. Order to pay expenses. The judge shall attach to the order of commitment his findings and conclusions, together with all the social and other data he may have bearing upon the case, and the same shall be delivered to the said institution with such order. The judge must inquire into the financial condition of the parent, guardian or other person charged with the support of any such person, and if he find him able to do so, in whole or in part, he must make a further order, requiring him or her to pay, to the extent the judge may consider him or her able to pay, the expenses of the proceedings in connection with the investigation, detention and commitment of such person, and the expenses of the delivery thereof to the institution, and to pay to the institution, at stated periods, such sums as, in the opinion of the judge, are proper, during such time as the person may remain in the institution. This order may be enforced by such further orders as the judge deems necessary, and may be varied, altered or revoked in his discretion.

§ 21. Petitioner to pay, when. In case of the dismissal of the said petitioner, the judge may, if he considers the petition to have been filed with malicious intent, order the petitioner to pay the expenses in connection therewith, and may enforce the same by such further orders as he may deem necessary.

§ 22. Penalty. Any one who shall knowingly contrive to have any person adjudged feeble-minded under this act, unlawfully or improperly, shall be deemed guilty of a misdemeanor.

§ 23. Feeble-minded boy or girl before juvenile court. When a boy or girl is brought before a juvenile court under the juvenile court law, if it appear to the court, either before or after adjudication, that such person is feeble-minded within the meaning of this act; or if on the conviction of any person of crime by any court it appear to the court that such person is feeble-minded as aforesaid, the court may adjourn the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this act against the person before the court, and the court may order that, pending the preparation, filing, and hearing of the petition, the person before the court be detained in a place of safety, or be placed under the guardianship of some suitable person, on his entering into a recognizance for the appearance of the person upon trial or under conviction when required. If upon the hearing of the petition, or upon a subsequent hearing under this act, the person upon trial or under conviction be not found to be feeble-minded, the court may proceed with the trial or impose sentence, as the case may be.

§ 24. Persons admitted for observation. The superintendent may admit to the Pacific Colony temporarily, without commitment, under such rules and regulations as the board of trustees may prescribe, for purposes of observation and testing, such persons, as are suspected of being feeble-minded, to ascertain whether or not they are actually mentally defective, and proper cases for care, treatment and training in an institution for the feeble-minded, and if such is found to be the case, application may be made to the superior court for an order of commitment of such persons to such an institution. On presentation of an affidavit or affidavits of the facts upon which such opinion is based, the judge of the said court may make such order. .

§ 25. Witness fees. Each psychologist and physician shall be entitled to receive for each attendance mentioned in section nineteen the sum of five dollars for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall be entitled to receive for such attendance such fees and expenses as the court in its discretion may allow, if any, not exceeding the fees and expenses allowed by law in other cases in the said courts.

§ 26. Payment by county treasurer. Any fees or traveling expenses payable to a psychologist, physician, or witness as aforesaid, and all expenses connected with the execution of any process under this act, which may not be paid by the parent, guardian or person charged with the support of the said supposed feeble-minded or epileptic person, shall be paid by the county treasurer of the county in which such person resides, upon the presentation to the treasurer of a certificate of the said judge that the party is entitled thereto.

§ 27. Transfer to or from state hospital for insane. The said board of trustee, when it shall deem desirable, owing to the mental condition of an inmate of the Pacific Colony, may, with the approval of the state commission in lunacy, transfer such inmate to a state hospital for the insane, provided that on due investigation by such commission, the commission shall consider such inmate a fit subject

therefor. And the said commission, whenever on due observation and investigation it shall consider a patient in any state hospital for the insane eligible for commitment to the Pacific Colony may with the approval of the said board of trustees, transfer such patient thereto, for care and treatment therein.

§ 28. Transfer to or from Sonoma State Home. Inmates of the Sonoma State Home may be transferred to the Pacific Colony, and inmates of the Pacific Colony may be transferred to the Sonoma State Home, at any time and from time to time as may be agreed upon by the boards of trustees of the two institutions, upon the application of the parent, guardian or other persons charged with the support of such inmate, provided he pay the expenses thereof, and may, with the approval of the state board of control, be so transferred without such application and without such payment, in which latter case the expenses thereof shall be paid by either or both of such institutions as may be determined by the state board of control.

§ 29. Liability for support unchanged. In the event of the transfer of any inmate or patient as provided in sections twenty-seven and twenty-eight of this act the liability of any estate, person or county for the care, support and maintenance of such person, shall be the same to the institution to which the person is transferred as it was to the institution from which the transfer is made.

§ 30. Execution of writ of commitment. It shall be the duty of the sheriff of any county wherein an order is made by the judge of the superior court committing any person to the Pacific Colony, or of any other person designated by the said judge, to execute the writ of commitment, and to receive as compensation therefor such fees as are now or may hereafter be provided by law for the transportation of prisoners to the state prison; provided, that in all cases the parent, guardian or other person charged with the support of such person may, at his option, with the approval of the said judge, and in all cases where he is able or the estate of such person is sufficient, shall, if the said judge approve, without expense to the county or state, execute said writ, after being duly sworn therefor, with like effect and with like powers as the sheriff would have; but no such person, being a female, shall be taken to the said colony by any male person not her husband, father, brother or son, without the attendance of some woman of good character and mature age, chosen for the purpose by the judge, which woman shall, if the judge see fit, be paid therefor such reasonable remuneration as he may allow.

§ 31. Payments by county. For each person committed to the Pacific Colony there shall be paid by the county from which he is committed, to the state treasurer, the sum of fifteen dollars monthly, for and during each month or part of month such person so committed remains an inmate of the institution, in case the payments herein provided to be made by the parent, guardian or other person charged with the support of any such person should not be made, and to the extent they are not made, not exceeding fifteen dollars per month.

§ 32. Statement by county auditor. Each county auditor must include in his state settlement report, rendered to the controller in the

months of May and December, the amount due under this act, by reason of commitment to the Pacific Colony, and the county treasurer, at the time of the settlement with the state in such months, must pay to the state treasurer, upon the order of the controller, the amounts found to be due by reason of the commitments herein referred to.

§ 33. When others may be admitted. Whenever the accommodations of the Pacific Colony permit, and if such action does not conflict with the interest or welfare of committed cases, the board of trustees, without judicial commitment, and upon such terms as may appear to said board to be to the best interests of the state, may admit to said institution epileptics, of any age, and also such other persons as are, under the provisions of this act, eligible for admission to said institution.

§ 34. Transfer from state schools. Any boy who has been or may hereafter be committed to the Preston School of Industry, or the Whittier State School, or any girl who has been or may hereafter be committed to the California School for Girls at Ventura, or to any similar institution now or hereafter created, who comes within the provisions of this act, may, on application to a judge of the superior court of the county in which such person may be located, by the superintendent of the institution to which he or she has been committed, be discharged from such last mentioned institution, and be recommitted, for an indeterminate period, to the Pacific Colony to the Sonoma State Home or to any similar institution hereafter created; provided, the findings of the judge and the opinion of the board of trustees of the institution to which such boy or girl is sought to be committed are the same as on the commitment to and receiving into the Pacific Colony of other persons as aforesaid; and provided, that there shall have been served upon such relatives of said boy or girl, or upon such other persons and in such manner as the said judge may deem necessary or proper, such notice of the application as he shall consider sufficient, in order to enable them to be heard on the application.

§ 35. Object of colony. The object aimed at in the Pacific Colony shall be such care and training of its inmates as to render them more useful and happy, and tend to make them as nearly self-supporting as their level of intelligence may permit.

§ 36. Manufacture of furniture, etc. The Pacific Colony may manufacture or raise for sale, such articles of furniture, supplies or produce as may be used in the said or any other state institution, subject to the approval and under the control of the state board of control.

§ 37. Disposition of funds. All moneys received from the sale of articles of furniture, supplies or produce as provided in section thirty-six of this act shall be paid to the state treasurer, to be placed in the contingent fund to the credit of the said colony and for its use.

§ 38. Department for clinical diagnosis. The Pacific Colony shall have a department for the clinical diagnosis of inmates, and their subsequent classification and observation, with a view to their proper segregation and treatment.

§ 39. Examination of inmate before discharge. The superintendent shall, at least two weeks before the discharge of any inmate, have made, by a trained clinical psychologist, an examination of the mental condition of such inmate, and a permanent record thereof shall be kept in the office of the superintendent; which record shall be open to the inspection of all state boards or commissioners authorized by law to investigate or inspect the institution.

§ 40. Biennial report of superintendent. The superintendent shall issue, at the end of each period of two years, a report of the work done during that period, giving the number of inmates received within that time, their sex, nativity, residence, date of reception, level of intelligence determined as aforesaid, and the results of the investigations that may have been made; such report shall also give the number of inmates discharged during that period, with the date and reason therefor, and the names of all paying inmates, the amounts charged for them, and the amounts received therefrom, together with such other information or suggestions as shall be required by the board of trustees or the state board of control, or to the superintendent may seem desirable; which report shall be kept on file in the office of the superintendent, but shall not be printed. A copy of such report shall be sent to the governor, along with the biennial report of the board of trustees, and may be printed for the use of the legislature or for distribution; provided, the names of the inmates are not given or their identity made evident.

§ 41. Discharge of inmates. The board of trustees may discharge, or the superintendent may grant a temporary leave of absence to, any inmate at any time.

§ 42. Sterilization before discharge. Before any inmate who has been committed to the Pacific Colony, and who is feeble-minded or is afflicted with incurable chronic mania or dementia, shall be released or discharged therefrom, the board of trustees on the recommendation of the superintendent approved by a clinical psychologist holding the degree of Ph.D. and a physician qualified to serve under section nineteen of this act, after they shall have made a careful investigation of all the circumstances of the case, may cause such person to be sterilized; and such sterilization, whether with or without the consent of the inmate, shall be lawful, and shall not render the said commission, or its members, or any person participating in the operation, the said trustees, the said colony, or any of its officers or employees, liable civilly or criminally.

§ 43. Action against trustees, etc. No civil action shall be brought against the trustees, the superintendent, or any other officer or employee of the said colony, because of any act done or failure to perform any act while discharging his official duties, without leave of the controller first had or obtained. Any just claim for damages against such trustee, superintendent, officer or employee, for which the state would be legally or equitably liable, may be paid out of any moneys appropriated for the said institution.

§ 44. Penalty for bringing drugs or liquor. Any person, not authorized by law, who brings into the said colony, or within the grounds adjoining or adjacent thereto, any opium, morphine, cocaine, or other narcotic, or any intoxicating liquor of any kind whatever, except for

medicinal or mechanical purposes, or any firearms, weapons or explosives of any kind, is guilty of a misdemeanor.

§ 45. Penalty for aiding escape. If any person procure the escape of any male inmate of the said colony, or advise, connive at, aid or assist in such escape, or conceal any such inmate after such escape, or if any person advise or connive at the escape of any female inmate of the said colony, he or she is guilty of a misdemeanor; and if any person procure the escape of any female inmate of the said colony, or aid or assist in such escape, or conceal such female inmate after such escape, he or she is guilty of a felony.

§ 46. Trustees, etc., not to be interested in contracts. No trustee or employee of the said colony shall be personally, directly or indirectly, interested in any contract, purchase or sale made, or any business carried on, in behalf of or for said institution. All contracts, purchases or sales made in violation of this section shall be held and declared null and void, and all moneys paid to such trustee, employee, or any other person, for his benefit, in whole or in part, in consideration of such purchases, contracts or sales made, may be recovered by civil suit, to be instituted in the name of the state of California against such trustee, employee or person acting in his behalf; and in addition, it is hereby made the duty of the governor or the board of trustees, as the case may be, upon satisfactory proof of the fact of such interest, to immediately remove the trustee or employee delinquent as aforesaid, and to report the facts to the attorney general, who shall take such legal steps in the premises as he shall deem expedient.

§ 47. Exempt from control of state commission in lunacy. The Pacific Colony, its inmates, officers, employees and property are hereby declared to be exempt from the operation of chapter one, title five, part three of the Political Code, and free from the supervision, inspection or control of the state commission in lunacy.

§ 48. Appropriation. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of two hundred fifty thousand dollars (\$250,000) for the purposes of this act.

§ 49. Payment. The controller of the state is hereby directed on requisition of the board of trustees, duly audited by the state board of control, to draw his warrant on the state treasurer in favor of the board of trustees for any moneys duly appropriated, to pay for the expenditures in the establishment and maintenance of the said colony, and the said treasurer is directed to pay the same from the appropriations provided therefor.

§ 50. Validity. The invalidity of any part of this act shall not be construed to affect the validity of any other part capable of having practical operation and effect without the invalid part.

ACT 1648a.

An act to authorize and empower the board of managers of the Agnews State Hospital to grant, under the conditions herein provided, to the Southern Pacific Railroad Company, a corporation, a right of way and easement for the purpose of constructing, maintaining and

operating an industrial spur-track over, along and upon a strip of land situate in the county of Santa Clara and belonging to the state of California.

[Approved May 5, 1917. Stats. 1917, p. 251. In effect July 27, 1917.]

§ 1. Board of managers of Agnews State Hospital may grant right of way. The board of managers of the Agnews State Hospital is hereby authorized and empowered, in its discretion, under the conditions herein provided, to grant to the Southern Pacific Railway Company, a corporation, a right of way and easement for the purpose of constructing, maintaining and operating an industrial spur-track to the adjacent property of Western Grain and Sugar Products Company, a corporation, over, along and upon a strip of land not to exceed thirty feet in width, situate along the northerly and easterly boundaries of the land owned by the state of California whereon said Agnews State Hospital is located, in the county of Santa Clara, in said state, together with the right to connect such spur-track with its existing line of railroad along and upon the arc of a curve having a radius no greater than that of the spur-track mentioned in section two hereof.

§ 2. Conditions. Such grant shall be made only upon the happening of the following conditions precedent, namely: The said Southern Pacific Railway Company shall agree and bind itself, so soon as said spur-track shall be completed and in condition to operate, to take up and remove from the strip of land known as Scott lane, and also sometimes called the Old Lick Mills road, all of the ties, rails and roadbed of the existing spur-track thereon, situate northerly and easterly of the point where the spur-track running to said state hospital departs from said Scott lane, and to remove the embankment whereon said portion of said spur-track to be removed is now constructed. Said company shall further agree and bind itself so to construct such proposed new spur-track as to provide ample facilities thereunder for the free and unimpeded flow and drainage of the storm waters usually and ordinarily cast upon said lands of the state in times of heavy and prolonged rainfall.

ACT 1648b.

An act confirming the sale and conveyance by the board of managers of the Agnews State Hospital to Western Industries Company of a portion of real property situate in the county of Santa Clara, state of California, and belonging to the state of California. [Approved May 21, 1919; Stats. 1919, p. 780.]

TITLE 257.

INSECTS.

ACT 1651.

An act to prevent the importation into or transportation through the state of California of insects injurious to cultivated crops, providing exemption for specific scientific purposes, fixing the authority to grant such exemption and providing a penalty for a violation of the terms of this act.

[Approved May 5, 1917. Stats. 1917, p. 271. In effect July 27, 1917.]

§ 1. Importation of injurious insects forbidden. No person, firm or corporation shall bring into the state of California, nor shall any railroad, steamship, express or other transportation company knowingly transport into the state of California from any state, territory or district in the United States, or from any foreign country, or from one point or place in the state of California to another point or place therein, any cotton boll weevil, gypsy moth, or any insect in a live state which is injurious to cultivated crops, or the eggs, larvae of pupae of any insect injurious as aforesaid; except when brought for scientific purposes under the regulations hereinafter provided for; nor shall any person bring into the state of California from any state, territory or district in the United States, or from any foreign country, or from any point or place in the state of California to another point or place therein, except for scientific purposes under the regulations as hereinafter provided for, any insect in a live state which is injurious to cultivated crops, or the eggs, larvae or pupae of any insect injurious as aforesaid.

§ 2. Insects for scientific purposes exempted. No provision in this act shall apply to the transportation or moving into or through the state of California, of live insects for scientific purposes under the rules and regulations promulgated by the United States department of agriculture, or by the state commissioner of horticulture of California.

§ 3. Penalty. Any person, firm or organization who shall violate the provisions of section one of this act shall be guilty of a misdemeanor.

TITLE 259.

INSURANCE.

ACT 1667.

To provide for the organization and management of county fire insurance companies.

[Stats. 1897, p. 439.]

Amended 1907, p. 941; 1909, p. 912; 1911, p. 1339; 1917, pp. 163, 943.

§ 7. Qualifications for members. Any person owning insurable property in the county in which any such company is formed or any person owning insurable property in any county adjoining the county wherein such company is formed as hereinafter provided, may become a member by insuring therein, and shall be entitled to all the rights and privileges appertaining thereto; but no person not residing in the county in which a company is formed shall become a director of such a company.

[Amendment approved May 26, 1917. Stats. 1917, p. 944.]

§ 8. What may be insured. Limitation. Pro rata share of expense and loss. Such company may issue policies on detached dwellings, school-houses, churches, and farm buildings (except hotels and public barns or garages); and such property as may be contained therein; also, on property owned by the assured on the premises or stored in public or private warehouses outside the corporate limits of any city or town; provided, that insurance upon personal property owned by the insured including automobiles and livestock permitted under this act, shall continue in full force and effect during the use or transportation thereof in the

ordinary course of business of the insured wherever the same may be located at the time of loss; all for any time not exceeding five years and not to extend beyond the time limited for the existence of the charter; provided, however, that if an amount in excess of four thousand five hundred dollars subject to one risk or hazard be written, then all in excess of this amount must be immediately placed with or reinsured in some other company; provided, also, that no company that has been organized more than six months shall write insurance subject to one fire in amount exceeding three per cent of the total amount of risks or hazards upon the books of any such company. All persons, whose property is so insured, shall give their obligations to the company binding themselves, their heirs and assigns to pay their pro rata share to the company of the necessary expense and loss by fire which may be sustained by any member thereof during the time for which their respective policies are written; and they shall also at the time of effecting the insurance pay such percentage in cash and such other charges as may be required by law or by the rules and by-laws of the company. [Amendment approved May 26, 1917; Stats. 1917, p. 914.]

§ 10. **Insuring outside county and in municipalities. Definition of terms.** No such company shall insure any property beyond the limits of the county wherein the said company is organized, excepting that the company may insure in any county next adjoining the county wherein such company is organized. No such company shall issue policies covering on property in excess of four thousand five hundred dollars on any one risk or hazard under one or more policies, without immediately reinsuring the excess amount in some other company. Nor shall any such company assume a risk or risks on property situated in the limits of any city or town, or within any closely built up district, within any one block, without immediately reinsuring all in excess of four thousand five hundred dollars. Any such company may reinsure or accept reinsurance in any company operating under the provisions of this act, and not otherwise, but in no case shall the reinsurance taken by any one company exceed the amount of the risk written by the company originating the business. The location, character of, and number of risks reinsured shall not vary from that permitted in the case of original insurance. Where the amount of insurance covered by policies already written exceeds four thousand five hundred dollars, no additional insurance shall be written by such company on farm property, within a radius of one hundred feet and such radius shall continue at not less than seventy-five feet during the life of the policy, nor shall any risk be taken on any building closer than one hundred feet to any business property, nor shall any insurance be written by any such company on city or country property in excess of seventy-five per cent of its actual cash value and no additional insurance shall be allowed.

For the purpose of this act "a city or town block" shall be construed to be an area having at least one frontage in a closely built up district fronting on a used public street or highway, surrounded on all sides by a clear space at least equal in width to the clear space of such public street or highway and containing an area of not more than one hundred sixty thousand square feet.

"Closely built up district" shall mean territory on the line of a public highway or street or block or blocks where for not less than a quarter

of a mile the dwelling-houses and business structures average less than one hundred feet apart.

"One risk" means one hazard under one or more policies, subject to one fire and relates to the amount named in the policy or policies.

"Clear space" means space free from combustible material likely to communicate fire. [Amendment approved May 26, 1917; Stats. 1917, p. 945.]

§ 12. Assessments for deficiency. Loans to meet losses not over certain amount. When the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of said company, who shall make an assessment upon all of the property to the amount for which each several piece of property is insured, taken in connection with the rate of premium under which it may be classified; except when the amount of such loss or losses does not exceed one-eighth of one per cent of the total amount of insurance in force in any county fire insurance company, then and in such event the directors of said company may, by resolution in writing, signed by two-thirds of said directors in meeting assembled, borrow in the name of said company and give said company's note or other evidence of indebtedness therefor, in an amount or amounts whose total shall not exceed one-eighth of one per cent of the total amount of insurance in force in said company. The term of said loan or loans shall not be for a greater period than twelve months nor shall the date of maturity be in excess of thirty days beyond the date of the annual meeting of said company; provided, further, that the board of directors may at their annual meeting levy an assessment not to exceed twenty-five cents on the one hundred dollars on first class insurance and a pro-rata amount on other classes, and said sum so raised shall constitute a reserve fund to be used in emergency cases only and another assessment for this fund shall not be made while this reserve fund remains intact. [Amendment approved April 24, 1917; Stats. 1917, p. 163.]

§ 16. Withdrawals. Any member of such company may withdraw therefrom by surrendering his policy for cancellation at any time while the organization continues the business for which it was organized, by giving notice in writing to the secretary thereof, and paying his share of all claims that may exist against such company; provided, that the company shall have power to cancel or terminate any policy by giving the insured five days' written notice to that effect, and returning to him any excess of premium he may have paid during the term of the policy over the cost of his insurance as measured by the rules or methods of standard fire insurance companies doing business in this state. [Amendment approved April 24, 1917; Stats. 1917, p. 164.]

§ 18½. Form of county fire insurance policy. The following is adopted as a standard form of county fire insurance company's policy for the state of California:

CALIFORNIA STANDARD FORM COUNTY FIRE INSURANCE POLICY.

No. —

Amount \$—

Rate —

No other insurance permitted except by agreement indorsed hereon or added hereto.

(Here insert name of company, and place of its main office in California, and name of the county in which incorporated or organized.)

By this policy of insurance the — of — county, in consideration of — dollars, and the obligation as described herein and in application, does accept as a member and insures — against loss or damage by fire during a term of — years, commencing at noon on the — day of —, one thousand nine hundred and —, and terminating at noon on the — day of —, one thousand nine hundred and —, to the amount of — dollars.

On the following property, to wit:

(Blank space for the attachment of forms.)

For a more particular description, and as forming a part of this policy, reference is had to application No. — on file in the office of this company.

This company will not be liable beyond the actual cash value of the interest of the insured in the property at the time of loss or damage nor exceeding what it would then cost the insured to repair or replace the same with material of like kind and quality; said cash value to be estimated without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating repair or reconstruction of buildings, and without compensation for loss resulting from interruption of business or manufacture.

This policy is made and accepted subject to the foregoing stipulations and conditions and those hereinafter stated, which are hereby specifically referred to and made a part of this policy, together with such other provisions, agreements or conditions as may be indorsed hereon or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except by writing indorsed hereon or added hereto, and no person unless duly authorized in writing shall be deemed the agent of this company.

The charter and by-laws of this company are to be resorted to and used to explain the rights and obligations of the parties hereto in all cases not herein otherwise especially provided for, and are hereby made a part of this policy. This policy is made and accepted upon the above expressed condition.

This policy shall not be valid until countersigned by the duly authorized secretary of the company at —, California.

In witness whereof, this company has executed and attested these presents (here insert name of company) by

— — —,
President.

Countersigned at —, California, this — day of —, one thousand nine hundred and —.

— — —,
Secretary.

STIPULATIONS AND CONDITIONS SPECIALLY REFERRED TO.

Stipulations and conditions. Property not covered. (a) This company shall not be liable for loss to accounts, bills, currency, evidence of debt or ownership of other documents, money, notes, or securities; nor (b) unless liability is specifically assumed hereon, for the loss of bullion, casts, curiosities, drawings, dies, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, business or store or office furniture or fixtures, sculptures, frescoes and decorations, or property held on storage or for repair.

Hazards not covered. This company shall not be liable for loss by (a) theft, or (b) neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when the property is endangered by fire; or (c) (unless fire ensues, and in that event the damage by fire only,) by explosion of any kind or lightning; or (d) by invasion, insurrection, riot, civil war, or commotion, or, (except as hereinafter provided,) by military or usurped power, or order of any civil authority, but the company will be liable, unless otherwise provided by indorsement hereon or added hereto, if the property is lost or damaged, by fire or otherwise, by civil authority or military or usurped power exercised to prevent the spread of fire not originating from a cause excepted hereunder and which fire otherwise probably would have caused the loss of or damage to the insured property.

Matters avoiding policy. This entire policy shall be void, (a) if the insured has concealed or misrepresented any material fact or circumstances concerning this insurance or the subject thereof; or (b) in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

Unless otherwise provided by agreement indorsed hereon or added hereto this entire policy shall be void, (a) if the insured now has or shall procure any other insurance, whether valid or not, on property covered in whole or in part by this policy, or (b) if the interest of the insured be other than unconditional and sole ownership, or (c) if the subject of insurance be a building on ground not owned by the insured in fee simple, or (d) if with the knowledge of the insured foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed, or (e) if this policy be assigned before a loss.

Matters suspending insurance. Unless otherwise provided by agreement indorsed hereon or added hereto this company shall not be liable for loss or damage occurring (a) while the hazard be materially increased by any means within the control of the insured; or (b) if the subject of insurance be a manufacturing establishment, while it is operated in whole or in part at night later than ten o'clock or while it ceases to be operated beyond the period of ten consecutive days; or (c) while mechanics or artisans are employed in building or altering or repairing the described premises for more than fifteen days at any one time; or (d) while illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or (e) while there be kept, used or allowed on the described premises (any usage or custom of trade or manufacture to the contrary notwithstanding), calcium carbide, phosphorus, dynamite, nitroglycerine, fireworks or other explosive; or exceeding one quart each

of benzine, gasoline, naphtha or ether; or more than twenty-five pounds of gunpowder; or (f) while a building herein described whether intended for occupation by owner or tenant is vacant or unoccupied beyond the period of ten (10) consecutive days; (g) while the interest in, title to or possession of the subject of insurance is changed excepting; (1) by death of the insured; (2) change of occupancy of building without material increase of hazard; and (3) transfer by one or more several copartners or co-owners to the others.

Such suspension shall not extend beyond the term of this policy nor create any right for refund of the whole or any portion of premium, nor affect the respective rights of cancellation.

Chattel mortgage. Unless otherwise provided by agreement in writing indorsed hereon or added hereto this company shall not be liable for loss or damage to any property insured hereunder while encumbered by a chattel mortgage, but the liability of the company upon other property hereby insured shall not be affected by such chattel mortgage.

Fallen building clause. Unless otherwise provided by agreement indorsed hereon or added hereto, if a building or any material part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

Removal when endangered by fire. Should any of said property be necessarily removed because of danger from fire, and there is no other insurance thereon, that part of this policy in excess of the value of the insured property remaining in the original location, or, if there is other insurance thereon, that part of this policy in excess of its proportion of the value of the insured property remaining in the original location, shall, for the ensuing five days only, cover the said removed property in its new location or locations.

Cancellation. This policy may be canceled and the insured as a member of this company may withdraw therefrom by the insured surrendering his policy for cancellation at any time while the company continues the business for which it was organized, by giving notice in writing to the secretary thereof and paying his share of all claims that may exist against this company; provided, that this company shall have power to cancel or terminate any policy by giving the insured five days written notice to that effect and returning to him any excess of premium he may have paid during the term of the policy, over the cost of his insurance as measured by the rate of standard fire insurance companies doing business in this state.

Adjustment of losses—Arbitration. The insured who may sustain loss or damage by fire shall immediately notify the president, or in his absence, the secretary of this company, stating the amount of damage or loss sustained or claimed and if not more than one thousand five hundred dollars then the president and secretary shall proceed to ascertain the amount of such loss or damage and adjust the same. If the claim for damage or loss be for an amount greater than one thousand five hundred dollars, then the president of this company, or in his absence, the vice-president, or in the absence of both the secretary thereof, shall forthwith convene the board of directors of said company, whose duty it shall be when convened, to appoint a committee of not less than three disinterested members of this company, to ascertain the amount of such

damage or loss. If in either case there is a failure of the parties to agree upon the amount of such damage or loss they may submit the question of the amount of such loss to arbitration, and in that event the president of the company shall appoint one disinterested person to act as an arbitrator, and the claimant or insured shall appoint another, and if such two arbitrators fail to agree upon the amount of such loss, then they shall select a third disinterested person to act with them and such arbitrators so appointed shall have full authority to examine witnesses and to do all other things necessary to the proper determination of the amount of loss sustained by the claimant, and shall make their award in writing to the president of the company and to the insured, and such award, so as aforesaid made, shall be final as to the amount of loss sustained. The pay of said committee shall be three dollars per day for each day's services so rendered and five cents for each mile necessarily traveled in the discharge of their duties, which shall be paid by the claimant unless the award of such committee shall exceed the sum offered by the company in liquidation of such loss or damage, in which case such expense shall be paid by the company.

Option of company in case of loss. This company may, at its option, take all or any part of the property for which insurance hereunder is claimed at its ascertained or appraised value, and may also, at its option, in satisfaction of its liability hereunder, repair, rebuild, or replace any building or structure or machine or machinery used therein, with other of like kind and quality, within a reasonable time, upon giving notice within twenty days of its intention so to do after the receipt by it of the preliminary proof of loss, or, if verified amendments have been requested, within twenty days after their receipt, or, within twenty days after the receipt of an affidavit that the insured is unable to furnish such amendments. There can be no abandonment to this company of any property.

Apportionment of loss. This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by, and expense of, removal from the premises endangered by fire, than the amount hereby insured bears to the entire insurance covering such property whether valid or not, or by solvent or insolvent insurers.

Assessment for deficiency. When the amount of any loss shall have been ascertained, which exceeds in amount the cash funds of the company, the president shall convene the directors of this company, who shall proceed in the manner as provided in section twelve of this act.

Notice of assessment. It shall be the duty of the secretary, whenever assessment shall have been made, to immediately notify every person holding a risk in this company, personally, by an agent, or by letter directed to his usual postoffice address, of the amount of such loss, and the sum due from him, as his share thereof, and of the time and to whom such payment is to be made; but such time shall not be less than thirty days, nor more than ninety days from date of such notice.

Action for neglect or refusal to pay assessments. An action may be brought against the member whose property is insured herein and this policy is automatically suspended if the insured shall not have paid, before it is delinquent, his portion of any assessment levied or other lia-

bility due this company for a period in excess of ninety days. The directors of this company who shall willfully refuse or neglect to perform the duties imposed upon them by law or the by-laws of the company, shall be liable in their individual capacity to the person sustaining such loss. An action may also be brought and maintained against this company by members thereof for losses sustained if payment is withheld after the amount of such losses have been determined and is due by the terms of the policy.

Nonwaiver by appraisal or examination. This company shall not be held to have waived any provision or condition of this policy of any forfeiture thereof, by assenting to the amount of the loss or damage or by any requirement, act or proceeding on its part relating to the appraisal or to any examination herein provided for.

Subrogation. If this company shall claim that the fire was caused by the act of any person or corporation, this company shall, upon payment of the loss be subrogated to the extent of such payment to all right of recovery by the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment.

Time for commencement of action. No suit or action on this policy for the recovery of any claim shall be sustained, until after full compliance by the insured with all of the foregoing requirements, nor unless begun within fifteen months next after the commencement of the fire.

Definitions. Wherever in this policy the word "insured" occurs, it shall be held to include the legal representatives of the insured in case of death, and wherever the word "loss" occurs, it shall be deemed the equivalent of "loss or damage," and wherever the words "the time of loss or damage" are used they shall be deemed the equivalent of "the time of the commencement of the fire."

There shall be printed on the outside fold of said policy in type not smaller than small pica the following words in this form:

READ THIS POLICY.

Insurance company is liable only for actual cash value.

Policy is void in case of any fraud, false swearing, misrepresentation or concealment about material facts.

Policy is void, unless otherwise agreed in writing, if—

1. It is assigned before loss;
2. Insured has or shall procure other insurance;
3. Any change occurs in location of property;
4. Insured building is on ground not owned in fee simple by the insured;
5. Insured is not sole and unconditional owner.

Policy is suspended unless otherwise agreed in writing, if—

6. Described building becomes vacant or unoccupied for ten days;
7. Mechanics are employed more than fifteen days in repairing same;
8. Property is or becomes encumbered by chattel mortgage;
9. Illuminating gas or vapor is generated in or adjacent to described building;
10. Explosives or prohibited quantities of gasoline, etc., (except the gasoline contained in automobiles and gas engine tanks), as are kept on

premises; and provided, also, that the insurance on livestock and automobiles shall cover wherever located at the time of the fire.

[PASTER.]

Insurance ceases if described building or any material part falls except as result of fire.

Policy does not cover certain enumerated personal property.

Note particularly duty of insured in case of loss; also provisions avoiding or suspending policy, including changes of ownership or possession.

DWELLING-HOUSE AND CONTENTS POLICY FORM.

§ — on the — dwelling-house and all its additions, foundations, porches, verandas and screens, including all permanent wall and ceiling decorations, frescoes, gas, steam, water, heating and lighting fixtures and connections, and all other permanent fixtures attached to and forming a part of the building, situate —, California.

§ — on household furniture, useful and ornamental, family wearing apparel, family stores and supplies, and all other personal effects of every kind and description (except accounts, bills, currency, evidences of debt or ownership, or other documents, money, notes, securities, bullion, drawings, dies, manuscripts, medals, models and patterns) including casts, curiosities, pictures, scientific apparatus and sculptures, the property of the insured or of any member of the insured's household, unless specifically insured, all contained in the above-described dwelling-house.

Loss, on building, if any, payable to —.

Claim for loss on any one picture, piece of statuary, curiosity, or work of art, shall not exceed the cost of same, and unless specifically insured, shall not exceed one hundred dollars.

The privilege for the within described dwelling to remain vacant or unoccupied is hereby increased to thirty (30) consecutive days.

Permission is granted for mechanics or artisans to make alterations or repairs to the within described building for more than fifteen (15) days at any one time, and to build additions, this policy to cover on and in same under the respective items hereof.

Permission is hereby granted (when not prohibited by local ordinance) for the use of gasoline stoves or lamps, it being warranted by the insured that the reservoir attached to each stove or lamp be filled during daylight only, and then only when the stove or lamp is not in use, and that no artificial light be permitted in the room when the reservoir is being filled, and that no gasoline, except that contained in the reservoir, shall be kept within the building. A breach of this warranty renders this permit null and void.

Attached to policy No. — of the —.

Dated —, 19—.

_____,
Secretary.

[PASTER.]

By special agreement indorsed on the policy or added thereto, the provisions regarding appraisement or apportionment of loss may be waived

and the valuations of all or any of the insured property in case of total loss may be agreed upon in advance of loss.

Said standard form of policy shall be plainly printed and no portion thereof shall be in type smaller than small pica and subheads shall be in type larger than pica, and the lines of the policy shall be numbered consecutively.

All mutual fire insurance policies on property in California shall be on said standard form, and except as herein provided, shall not contain additions thereto. No part of the standard form shall be omitted therefrom.

The blanks in said standard form shall be appropriately filled. The company may add to the standard form any matter relating to its financial condition, directors, officers, stockholders and history, and the address of its home office, and principal office in the state; also in red ink any provisions respecting any limitations of liability of the company, its stockholders or members which it is required or permitted by the law of the state or county of its organization to insert in its policies.

Clauses may be added to the standard form providing for and defining the rights, duties and obligations of mortgagees, assignees and other parties who have acquired or may acquire an interest in, right to or lien upon the insured property.

No clause shall be inserted or rider attached affecting the standard form liability of the insurer for loss or damage by fire occasioned either directly or indirectly by earthquake, hurricane, volcanic action or other disturbance of nature, unless the same shall be printed in red ink in type larger than small pica and at the head of the policy there shall be printed in red ink in large bold-faced type the words "This policy contains limitations of liability not permitted in the California standard form."

Clauses may be added to the standard form (a) covering property and risks not otherwise covered; (b) assuming greater liability than is otherwise imposed on the insurer; (c) granting insured permits and privileges not otherwise provided; (d) waivers of any of the matters, voiding the policy or suspending the insurance; (e) waivers of any of the requirements imposed on the insured after loss.

Except as herein otherwise provided clauses may be attached to the standard form by separate riders in type larger than pica imposing specified duties and obligations upon the insured and limiting the liability of the insurer.

Any insurer, or the agent countersigning or issuing a fire insurance policy covering in whole or in part property in California varying from the California standard form of policy except as herein provided is guilty of a misdemeanor but any policy so issued shall notwithstanding be binding upon the company issuing the same. [New section added May 26, 1917; Stats. 1917, p. 945.]

§ 19. Repealed. All laws and parts of laws in conflict with this act are hereby repealed. [Amendment approved May 26, 1917; Stats. 1917, p. 953.]

ACT 1670a.

An act to incorporate standard provisions in policies of accident and health insurance, to prevent discriminations in connection therewith, and to prescribe penalties for violations of the provisions hereof.

[Approved May 26, 1917. Stats. 1917, p. 957. In effect January 1, 1918.]

§ 1. Accident and health insurance policies approved by insurance commissioner. On and after the first day of January, 1918, no policy of insurance against loss or damage from the sickness, or the bodily injury or death of the insured by accident shall be issued or delivered to any person in this state until a copy of the form thereof and of the classification of risks, if more than one class of risks is written and the premium rates pertaining thereto have been filed with the commissioner of insurance; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing, the company, corporation, association, society or other insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the said commissioner in this regard shall be subject to review by any court of competent jurisdiction; provided, however, that nothing in this act shall be so construed as to give jurisdiction to any court not already having jurisdiction.

§ 2. What policy must contain. Contents of policy. Accident and Health insurance. No such policy shall be issued or delivered (1) unless the entire money and other considerations therefor are expressed in the policy; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) if the policy purports to insure more than one person; nor (4) unless every printed portion thereof and of any indorsements or attached papers shall be plainly printed in type of which the face shall be not smaller than ten-point; nor (5) unless a brief description thereof be printed on its first page and on its filing back in type of which the face shall be not smaller than fourteen point; nor (6) unless the exceptions of the policy be printed with the same prominence as the benefits to which they apply; provided, however, that any portion of such policy which purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold-face type and with greater prominence than any other portion of the text of the policy.

§ 3. Standard provisions. Every such policy so issued shall contain certain standard provisions, which shall be in the words and in the order hereinafter set forth and be preceded in every policy by the caption, "Standard provisions." In each such standard provision wherever the word "insurer" is used, there shall be substituted therefor "company" or "corporation" or "association" or "society" or such other word as will properly designate the insurer. Said standard provisions shall be:

(1) **Contract.** A standard provision relative to the contract which may be in either of the following two forms: form (A) to be used in policies which do not provide for reduction of indemnity on account of change of occupation, and form (B) to be used in policies which do so provide. If form (B) is used and the policy provides indemnity against loss from sickness, the words "or contracts sickness" may be inserted therein immediately after the words "in the event that the insured is injured."

(A) **Form (A).** 1. This policy includes the indorsements and attached papers, if any, and contains the entire contract of insurance. No reduction shall be made in any indemnity herein provided by reason of change in the occupation of the insured or by reason of his doing any act or thing pertaining to any other occupation.

(B) **Form (B).** 1. This policy includes the indorsements and attached papers, if any, and contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates in the event that the insured is injured after having changed his occupation to one classified by the insurer as more hazardous than that stated in the policy, or while he is doing any act or thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, in which event the insurer will pay only such portion of the indemnities provided in the policy as the premium paid would have purchased at the rate but within the limits so fixed by the insurer for such more hazardous occupation.

If the law of the state in which the insured resides at the time this policy is issued requires that prior to its issue a statement of the premium rates and classification of risks pertaining to it shall be filed with the state official having supervision of insurance in such state then the premium rates and classification of risks mentioned in this policy shall mean only such as have been last filed by the insurer in accordance with such law, but if such filing is not required by such law then they shall mean the insurer's premium rates and classification of risks last made effective by it in such state prior to the occurrence of the loss for which the insurer is liable.

(2) **Changes in contract.** A standard provision relative to changes in the contract, which shall be in the following form:

2. No statement made by the applicant for insurance not included herein shall avoid the policy or be used in any legal proceeding hereunder. No agent has authority to change this policy or to waive any of its provisions. No change in this policy shall be valid unless approved by an executive officer of the insurer and such approval be indorsed hereon.

(3) **Reinstatement of policy.** A standard provision relative to reinstatement of policy after lapse which may be in either of the three following forms: form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness; and form (C) to be used in policies which insure against loss from both accident and sickness.

(A) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the the insurer

or by any of its duly authorized agents shall reinstate the policy, but only to cover loss resulting from accidental injury thereafter sustained.

(B) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its authorized agents shall reinstate the policy but only to cover such sickness as may begin more than ten days after the date of such acceptance.

(C) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

(4) **Time of notice of claim.** A standard provision relative to time of notice of claim which may be in either of the three following forms: form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness, and form (C) to be used in policies which insure against loss from both accident and sickness. If form (A) or form (C) is used the insurer may at its option add thereto the following sentence: "In event of accidental death immediate notice thereof must be given to the insurer."

(A) 4. Written notice of injury on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury.

(B) 4. Written notice of sickness on which claim may be based must be given to the insurer within ten days after the commencement of the disability from such sickness.

(C) 4. Written notice of injury or of sickness on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury or within ten days after the commencement of disability from such sickness.

(5) **Sufficiency of notice of claim.** A standard provision relative to sufficiency of notice of claim which shall be in the following form and in which the insurer shall insert in the blank space such office and its location as it may desire to designate for such purpose of notice:

5. Such notice given by or in behalf of the insured or beneficiary, as the case may be, to the insurer at — or to any authorized agent of the insurer, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer. Failure to give notice within the time provided in this policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(6) **Forms for filing proof of loss.** A standard provision relative to furnishing forms for the convenience of the insured in submitting proof of loss as follows:

6. The insurer upon receipt of such notice, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not so furnished within fifteen days after the receipt of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof cov-

ering the occurrence, character and extent of the loss for which claim is made.

(7) **Filing proof of loss.** A standard provision relative to filing proof of loss which shall be in such one of the following forms as may be appropriate to the indemnities provided:

(A) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the date of the loss for which claim is made.

(B) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period of disability for which the company is liable.

(C) 7. Affirmative proof of loss must be furnished to the insurer at its said office in case of claim for loss of time from disability within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss, within ninety days after the date of such loss.

(8) **Examination of person insured.** A standard provision relative to examination of the person of the insured and relative to autopsy which shall be in the following form:

8. The insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim hereunder, and also the right and opportunity to make an autopsy in case of death where it is not forbidden by law.

(9) **Time within which payments made.** A standard provision relative the time within which payments other than those for loss of time on account of disability shall be made, which provision may be in either of the following two forms and which may be omitted from any policy providing only indemnity for loss of time on account of disability. The insurer shall insert in the blank space either the word "immediately" or appropriate language to designate such period of time, not more than sixty days, as it may desire; form (A) to be used in policies which do not provide indemnity for loss of time on account of disability and form (B) to be used in policies which do so provide.

(A) 9. All indemnities provided in this policy will be paid — after receipt of due proof.

(B) 9. All indemnities provided in this policy for loss other than that of time on account of disability will be paid — after receipt of due proof.

(10) **Periodical payments of indemnity.** A standard provision relative to periodical payments of indemnity for loss of time on account of disability, which provision shall be in the following form, and which may be omitted from any policy not providing for such indemnity. The insurer shall insert in the first blank space of the form, appropriate language to designate the proportion of accrued indemnity it may desire to pay, which proportion may be all or any part not less than one-half, and in the second blank space shall insert any period of time not exceeding sixty days:

10. Upon request of the insured and subject to due proof of loss — accrued indemnity for loss of time on account of disability will be paid

at the expiration of each — during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of due proof.

(11) **Indemnity payments.** A standard provision relative to indemnity payments which may be in either of the two following forms: form (A) to be used in policies which designate a beneficiary and form (B) to be used in policies which do not designate any beneficiary other than the insured:

(A) 11. Indemnity for loss of life of the insured is payable to the beneficiary if surviving the insured, and otherwise to the estate of the insured. All other indemnities of this policy are payable to the insured.

(B) 11. All the indemnities of this policy are payable to the insured.

(12) **Cancellation of policy.** A standard provision for cancellation of the policy at the instance of the insured which shall be in the following form:

12. If the insured shall at any time change his occupation to one classified by the insurer as less hazardous than that stated in the policy, the insurer, upon written request of the insured, and surrender of the policy, will cancel the same and will return to the insured the unearned premium.

(13) **Rights of beneficiary.** A standard provision relative to the rights of the beneficiary under the policy which shall be in the following form and which may be omitted from any policy not designating a beneficiary:

13. Consent of the beneficiary shall not be requisite to surrender or assignment of this policy, or to change of beneficiary, or to any other changes in the policy.

(14) **Time within which suit may be brought.** A standard provision limiting the time within which suit may be brought upon the policy as follows:

14. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of this policy, nor shall such action be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

(15) **Time limitations.** A standard provision relative to time limitations of the policy as follows:

15. If any time limitation of this policy with respect to giving notice of claim or furnishing proof of loss is less than that permitted by the law of the state in which the insured resides at the time this policy is issued, such limitation is hereby extended to agree with the minimum period permitted by such law.

§ 4. Optional standard provisions. No such policy shall be so issued or delivered which contains any provision (1) relative to cancellation at the instance of the insurer; or (2) limiting the amount of indemnity to a sum less than the amount stated in the policy and for which the premium has been paid; or, (3) providing for the deduction of any premium from the amount paid in settlement of claim; or, (4) relative to other insurance by the same insurer; or, (5) relative to the age limits of the policy; unless such provisions which are hereby designated as

optional standard provisions, shall be in the words and in the order in which they are hereafter set forth, but the insurer may at its option omit from the policy any such optional standard provision. Such optional standard provisions if inserted in the policy shall immediately succeed the standard provisions named in section three of this act.

(1) **Cancellation of policy.** An optional standard provision relative to cancellation of the policy at the instance of the insurer as follows:

16. The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to his last address, as shown by the records of the insurer, together with cash or the insurer's check for the unearned portion of the premiums actually paid by the insured, and such cancellation shall be without prejudice to any claim originating prior thereto.

(2) **Reduction of amount of indemnity.** An optional standard provision relative to reduction of the amount of indemnity to a sum less than that stated in the policy as follows:

17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as the said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined.

(3) **Deduction of premium.** An optional standard provision relative to deduction of premium upon settlement of claim as follows:

18. Upon the payment of claim hereunder any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(4) **Other insurance.** An optional standard provision relative to other insurance by the same insurer which shall be in such one of the following forms as may be appropriate to the indemnities provided, and in the blank spaces of which the insurer shall insert such upward limits of indemnity as are specified by the insurer's classification of risks, filed as required by this act.

(A) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity in excess of \$—, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(B) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss of time on account of disability in excess of \$— weekly, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(C) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith making the aggregate indemnity for loss other than that of time on account of disability in excess of \$—, or the aggregate indemnity for loss of time on account of disability in excess of \$— weekly the excess insurance of either kind shall be void and all premiums paid for such excess shall be returned to the insured.

(5) **Age limits.** An optional standard provision relative to the age limits of the policy which shall be in the following form and in the blank spaces of which the insurer shall insert such number of years as it may elect:

20. The insurance under this policy shall not cover any person under the age of — years nor over the age of — years. Any premium paid to the insurer for any period not covered by this policy will be returned unon request.

§ 5. **Contradictory provisions.** No such policy shall be so issued or delivered if it contains any provision contradictory, in whole or part, of any of the provisions hereinbefore in this act designated as "Standard provisions" or as "Optional standard provisions"; nor shall any indorsements or attached papers vary, alter, extend, be used as a substitute for, or in any way conflict with any of the said "Standard provisions" or the said "Optional standard provisions"; nor shall such policy be so issued or delivered if it contains any provisions purporting to make any portion of the charter, constitution or by-laws of the insurer a part of the policy unless such portion of the charter, constitution or by-laws shall be set forth in full in the policy, but this prohibition shall not be deemed to apply to any statement of rates or classification of risks filed with the commissioner of insurance in accordance with the provisions of this act.

§ 6. **False statement.** The falsity of any statement in the application for any policy covered by this act shall not bar the right to recovery thereunder unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer.

§ 7. **Rights of insurer in defense of claim.** The acknowledgment by any insurer of the receipt of notice given under any policy covered by this act, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

§ 8. **Alteration of application.** No alteration of any written application for insurance by erasure, insertion or otherwise, shall be made by any person other than the applicant without his written consent, and the making of any such alteration without the consent of the applicant shall be a misdemeanor. If such alteration shall be made by any officer of the insurer, or by any employee of the insurer with the insurer's knowledge or consent, then such act shall be deemed to have been performed by the insurer thereafter issuing the policy upon such altered application.

§ 9. **Policy in violation of act.** A policy issued in violation of this act shall be held valid but shall be construed as provided in this act and when any provision in such a policy is in conflict with any provision of this act the rights, duties and obligations of the insurer, the policyholder and the beneficiary shall be governed by the provisions of this act.

§ 10. **Policies issued by insurer not organized under laws of state.** The policies of insurance against accidental bodily injury or sickness

issued by an insurer not organized under the laws of this state may contain, when issued in this state, any provision which the law of the state, territory or district of the United States under which the insurer is organized, prescribes for insertion in such policies, and the policies of insurance against accidental bodily injury or sickness issued by an insurer organized under the laws of this state may contain, when issued or delivered in any other state, territory, district or country, any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this section to the contrary notwithstanding.

§ 11. Not applicable to workmen's compensation insurance, etc. (1) Nothing in this act, however, shall apply to or affect any policy or liability of workmen's compensation insurance or any general or blanket policy of insurance issued to any municipal corporation or department thereof or to any corporation, copartnership, association or individual employer, police or fire department, underwriters' corps, salvage bureau, or like associations or organizations, where the officers, members or employees or classes or departments thereof are insured for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise in consideration of a premium intended to cover the risks of all the persons insured under such policy.

(2) **Supplemental contracts.** Nothing in this act shall apply to or in any way affect contracts providing additional benefits for accidental death supplemental to contracts of life or endowment insurance nor where such supplemental contracts contain provisions which operate to safeguard such insurance against lapse or to provide a special surrender value therefor in the event that the insured shall be totally and permanently disabled by reason of accidental bodily injury or by sickness; provided, that no such supplemental contract shall be issued or delivered to any person in this state unless and until a copy of the form thereof has been submitted to and approved by the commissioner of insurance, under such reasonable rules and regulations as he shall make concerning the provisions in such contracts and their submission to and approval by him.

(3) **Fraternal societies.** Nothing in this act shall apply to or in any way affect fraternal benefit societies.

(4) **Railroad ticket policies.** The provisions of this act contained in clause (five) of section two and clauses two, three, eight and twelve of section three may be omitted from railroad ticket policies sold only at railroad stations, or at railroad ticket offices, by railroad employees.

§ 12. Penalty. Any company, corporation, association, society or other insurer or any officer or agent thereof, which or who issues or delivers to any person in this state any policy in willful violation of the provisions of this act shall be punished by a fine of not more than one hundred dollars for each offense and the commissioner of insurance may revoke the license of any company, corporation, association, society or other insurer of another state or country, or of the agent thereof, which or who willfully violates any provision of this act.

§ 13. "Indemnity." The term "indemnity," as used in this act, means benefits promised.

§ 14. Penalty for discrimination. No insurance corporation authorized in this state to issue or deliver insurance against loss or damage from sickness, or bodily injury or death by accident, nor any agent of such corporation, shall make or permit any discrimination between individuals of the same class in the amount of premiums, policy fees, or rates charged for any policy of accident or health insurance, or in the benefits payable thereunder or in any of the terms or conditions of such insurance contract, or in any other manner whatsoever. Any person or corporation violating any provision of this section shall be guilty of a misdemeanor.

§ 15. In effect, when. This act shall take effect on the first day of January, 1918. Any policy covered by this act the form of which has received the approval of the commissioner of insurance may be issued or delivered in this state on and after the said date.

ACT 1672c.

An act defining certain classes of contracts for the exchange of indemnity, prescribing regulations therefor and fixing a license fee. [Approved December 24, 1911. Stats. Ex. Sess. 1911, p. 111.]

Repealed May 26, 1917; Stats. 1917, p. 1170. See Act 1672k.

ACT 1672k.

An act providing for reciprocal and interexchanges of indemnities, prescribing regulations therefor and fixing a license fee, and repealing an act entitled "An act defining certain classes of contracts for the exchange of indemnity, prescribing regulations therefor and fixing a license fee," approved December 24, 1911.

[Approved May 26, 1917. Stats. 1917, p. 1170. In effect July 27, 1917.]

Amended 1919, p. 1271.

§ 1. Exchange of reciprocal or interinsurance contracts. Individuals, partnerships and corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or interinsurance contracts with each other, or with individuals, partnerships and corporations of other states, territories, districts and countries, providing insurance among themselves from any loss which may be insured against under other provisions of law, except life insurance.

§ 2. Execution of contracts. Such contracts may be executed by an attorney, agent or other representative herein designated as attorney, duly authorized and acting for such subscribers under powers of attorney, and such attorney may be a corporation. The principal office of such attorney shall be maintained at such place as is designated by the subscribers in the power of attorney. The power of attorney may further provide for the right of substitution and revocation and impose such restrictions upon the exercise of the power granted as may be agreed upon by the subscribers, and may further provide for the exercise of any right reserved to the subscribers, directly or through a

board or other body to be selected under such rules or regulations as the subscribers may adopt.

§ 3. Declaration filed with insurance commissioner. Such subscribers so contracting among themselves shall through their attorney, file with the insurance commissioner a declaration verified by the oath of such attorney, or where such attorney is a corporation, by the oath of the duly authorized officers thereof, setting forth:

(a) The name of the attorney and the name or designation under which such contracts are issued, which name or designation shall not be so similar to any name or designation adopted by any attorney or by any insurance organization in the United States writing the same class of insurance, prior to the adoption of such name or designation by the attorney, as to confuse or deceive.

(b) The location of the principal office.

(c) The kind or kinds of insurance to be effected.

(d) A copy of each form of policy, contract or agreement under or by which insurance is to be effected.

(e) A copy of the form of power of attorney under which such insurance is to be effected.

(f) That applications have been made for insurance upon at least one hundred separate risks aggregating not less than one million dollars represented by executed contracts or bona fide applications to become concurrently effective; or in case of employer's liability or workmen's compensation insurance, covering a total pay roll of not less than one million dollars.

(g) That there is in the possession of such attorney and available for the payment of losses, assets conforming to the requirements of section six hereof.

(h) A financial statement under oath in form hereinafter prescribed for the annual statement.

(i) The instrument authorizing service of process as provided for in this act.

(j) Certificate showing deposits of funds or securities.

§ 4. Instrument and bond filed by attorney. Concurrently with the filing of the declaration provided for by the terms of section three of this act, the attorney shall file with the insurance commissioner:

(a) **Instrument.** An instrument in writing executed by him for said subscribers, conditioned that upon the issuance of a certificate of authority provided for in this act, action may be brought in the county in which the property or person insured thereunder is located and service of process may be had upon the insurance commissioner in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney by registered mail addressed to the attorney at the principal office as fixed in the certificate filed, and shall return one copy with his admission of service. A judgment rendered in any such case where service of process has been so made shall be valid and binding against any and all subscribers as their interests appear and such judgment may be satis-

fied out of the funds in the possession of the attorney belonging to such subscribers or otherwise.

(b) **Bond.** A bond in favor of the people of the state of California executed by the said attorney, with two sureties to be approved by the insurance commissioner in the penal sum of twenty-five thousand dollars, conditioned that the attorney will faithfully perform the duties imposed upon him under the said powers of attorney and faithfully account for moneys handled by him thereunder; such bond may be sued upon by any subscriber suffering loss through violation of the conditions thereof and liability thereunder may be enforced by any individual subscriber or any number of subscribers, in one or the same action; provided, however, that where the power of attorney executed by the subscribers or the rules and regulations adopted by the association for the conduct of its business thereunder, provide for the bonding of the attorney, a certified copy of the bond executed in accordance with such powers of attorney or rules and regulations, shall be filed with the insurance commissioner in lieu of any other bond required under this act. [Amendment approved May 27, 1919; Stats. 1919, p. 1271.]

§ 5. Statement of indemnity. There shall be filed with the insurance commissioner by such attorney whenever the insurance commissioner shall so require, a statement under oath of such attorney showing the maximum amount of indemnity upon a single risk, and, except as to workmen's compensation insurance, no subscriber shall assume on any single risk an amount greater than ten per cent of the net worth of such subscriber where the liability assumed exceeds the amount of one premium deposit.

§ 6. Assets to be maintained. Net deposits. If deficiency in assets. Reserves of independent groups. There shall at all times be maintained as assets a sum in cash or securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred per cent of the net unearned premiums or deposits collected and credited to the accounts of subscribers, or assets equal to fifty per cent of the net annual premiums or deposits collected and credited to the accounts of the subscribers on policies having one year or less to run and pro rata on those for a longer period, in addition to which there shall be maintained as a reserve in cash or such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated on the basis and in the manner provided by law for the maintenance of similar reserves by companies insuring similar risks; provided, however, that all reserves on indemnity exchanged prior to July 1, 1919, shall be calculated according to the provision of law in force at the time said contracts were entered into.

Savings or credits, however, may be returned to the subscribers, irrespective as to the source from which the same accrue, whenever such returns do not constitute an impairment of the assets or reserves to be maintained as herein required; provided, however, that there shall be no discrimination in the making of such returns as between persons or places.

Net deposits shall be construed to mean (a) the advance payments of subscribers after deducting therefrom the amounts specifically pro-

vided in the subscribers' agreements for expense, or (b) in the event no such specific provision for expense be therein made, the advance payments of subscribers after deducting therefrom the reasonable expense incidental to the conduct of business not exceeding however twenty-five per cent of such advance payments.

If at any time the assets so held in cash or such securities, exclusive of loss reserves herein provided for, shall be less than required above, or be less than twenty-five thousand dollars in any exchange writing any kind of insurance, or, in any exchange writing common carrier liability insurance shall on or after the third anniversary of the date of the organization be less than fifty thousand dollars, the subscribers, or their attorney for them, shall make up the deficiency within thirty days after notice from the insurance commissioner so to do.

Where the subscribers are grouped, by industries, or otherwise, under any rule or agreement which exempts the funds of one group from liability, in whole or in part, for the payment of losses or expenses chargeable against another group, each independent group must maintain the reserve herein specified and comply with the requirements of subdivision (f) of section three hereof, relative to the number and amount of risks to be assumed. [Amendment approved May 27, 1919; Stats. 1919, p. 1272.]

§ 7. Report of financial condition. Examination by insurance commissioner. Such attorney shall, within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report, under oath, to the insurance commissioner for each calendar year, showing the financial condition of affairs at the office where such contracts are issued, and shall at any time furnish such additional information and reports as may be required; provided, however, that the attorney shall not be required to furnish the names and addresses of any subscribers except in case of an unpaid final judgment. The assets, business affairs and records of such organization, shall be subject to examination by the insurance commissioner at any reasonable time, and such examination shall be at the expense of the organization examined. The right of examination herein granted shall include the right to examine the records containing the names and addresses of the subscribers, but any information obtained therefrom shall be regarded as confidential and the disclosure thereof, except under order of court, shall constitute a breach of official duty. Where the principal office of the attorney is located in another state, the insurance commissioner may, in lieu of the examination provided for in this section, accept a certified copy of the report of examination made by the insurance department of the state where the principal office is located, or by the insurance department of any other state.

§ 8. Right of corporation to enter into insurance contracts. Any corporation now or hereafter organized under the laws of the state shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to enter into insurance contracts of the kind and character herein mentioned. The right to enter into such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as fully granted as the rights and powers expressly conferred.

§ 9. Certificate of authority. Upon compliance with the requirements of this act, and the payment of a fee of fifty dollars, the insurance commissioner shall issue a certificate of authority or a license to the attorney authorizing him to make such contracts of insurance, which license shall specify the kind or kinds of insurance to be effected and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. Such license shall be renewed annually upon a showing that the standard of solvency required herein has been maintained and all fees and taxes required have been paid. For such renewal a fee of ten dollars shall be paid. [Amendment approved May 27, 1919; Stata 1919, p. 1273.]

§ 10. Penalty. Any attorney who shall exchange any contracts of insurance of the kind and character specified in this act, or any attorney or representative of such attorney, who shall solicit or negotiate any applications for same without the attorney first complying with the foregoing provisions, shall be deemed guilty of a misdemeanor. For the purpose of organization, and upon issuance of permit by the insurance commissioner, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this act, but no attorney, agent or other person shall make any such contracts of insurance until all of the provisions of this act shall have been complied with.

§ 11. Revocation of certificate. In addition to the foregoing penalties and where not otherwise provided, the penalty for failure or refusal to comply with any or all of the terms and provisions of this act, upon the part of the attorney, shall be the refusal, suspension or revocation of certificate of authority on license by the insurance commissioner after due notice and opportunity for hearing has been given such attorney so that he may appear and show cause why such action should not be taken.

§ 12. Fees. Tax upon gross premiums. In lieu of all other taxes, licenses or fees whatever, state or local, such attorney shall pay annually on account of the transaction of such business in this state, the same fees as are paid by mutual companies transacting the same kind of business, and an annual tax upon the gross premiums or deposits, collected from subscribers in this state during the preceding calendar year, after deducting therefrom deposit returns or cancellations, consideration for reinsurance and all amounts returned to subscribers or credited to their accounts as savings; such tax to be computed at the same rate as fixed by law for the taxation of mutual companies transacting the same kind of business.

§ 13. Provisions inserted not inconsistent with law. The attorney may insert in any form of policy prescribed by the laws of this state any provisions or conditions required by the plan of reciprocal or inter-insurance; provided, that same shall not be inconsistent with or in conflict with any law of this state. Such policy in lieu of conforming to the language and form prescribed by such law shall be held to conform thereto in substance if such policy includes a provision or indorsement reciting that the policy shall be construed as if in the language and form

prescribed by such law. Any such indorsement shall first be filed with the insurance commissioner.

§ 14. (a) Not subject to insurance laws. Except as herein provided, the making of contracts as herein provided for and such other matters as are incident thereto shall not be subject to the laws of this state relating to insurance unless they are therein specifically mentioned. This section shall not be construed, however, as depriving the insurance department of the state of the right of examination of and supervision over reciprocal or interinsurance exchanges, their agents and brokers, or of the right to hold and conduct hearings in the manner and under the same procedure as provided by law in the case of mutual or other insurance companies but such right is hereby expressly recognized and confirmed, but agents or brokers of reciprocals need not be expressly licensed.

(b) Unlawful to give rebate. It shall be unlawful for any reciprocal or interinsurance exchange, its attorney in fact, agent or broker to give or offer a rebate to a subscriber, directly or indirectly. A rebate is hereby defined as an allowance, gift, setoff or payment directly or indirectly made or offered as an inducement to secure the exchange of indemnities, other than a savings or credit to be returned to a subscriber in accord with the provisions contained in the power of attorney or in the reciprocal or interinsurance contract executed by him. [Amendment approved May 27, 1919; Stats. 1919, p. 1273.]

§ 15. Repealed. All laws or parts of laws in conflict herewith are hereby repealed.

ACT 16721.

An act authorizing the governor to appoint a commission to investigate and advise the legislature concerning the adoption of a system of social insurance, and to make a report to the forty-third session of the legislature and making an appropriation therefor.

[Approved May 14, 1917. Stats. 1917, p. 468. In effect July 27, 1917.]

§ 1. Commission to investigate social insurance. The governor of the state of California is hereby authorized and requested to appoint a commission of seven persons, citizens of this state, to investigate and advise the legislature concerning the adoption of a system of social insurance. The commission shall report to the forty-third session of the legislature the details of any or all branches of a social insurance system it may deem advisable, and may recommend for adoption any measure or measures it deems expedient.

§ 2. Powers. The commission shall have power to subpoena witnesses and to enforce their attendance at any public hearings that may be held for the purpose of obtaining evidence of conditions bearing upon the establishment of any system of social insurance.

§ 3. Duty of persons, etc., to supply information. It shall be the duty of every person, firm or corporation employing labor in this state to supply the commission, at its request, with any and all information from the books, reports, contracts, pay-rolls, documents or papers of

such person, firm or corporation which the commission may require to carry out the purposes of this act.

§ 4. Traveling expenses. Secretary. The members of the commission shall serve without pay but shall be reimbursed for traveling expenses incurred in connection with the work of the commission. The commission shall have power to employ an executive secretary and expert, clerical and other assistants.

§ 5. Appropriation. Revolving fund. There is hereby appropriated out of the general fund, not otherwise appropriated, the sum of twenty-two thousand five hundred dollars, or any portion thereof, as may in the judgment of the commission be required for the purposes of this act. The sum of five hundred dollars of said money may be drawn from the state treasury upon approval of the state board of control without the submission of receipts, vouchers or itemized statements to be used by the commission as a cash revolving fund to facilitate its work.

ACT 1672m.

An act to provide for the establishment and maintenance by fire insurance corporations of guaranty surplus funds and special reserve funds and thereby limiting liability and to provide for the waiver by policy-holders of recourse against stockholders of such corporations.

[Approved May 31, 1917. Stats. 1917, p. 1378. In effect July 30, 1917.]

§ 1. Guaranty surplus fund and special reserve fund may be created. Limitation on amount of dividend. Sum deducted in estimating profits. Every domestic corporation having a capital stock issuing fire insurance policies may at its option create a guaranty surplus fund and a special reserve fund by the adoption of a resolution by its board of directors at a regular meeting, and by filing with the insurance commissioner a copy thereof, declaring their desire and intention to create such funds and to do business under this and the two following sections. The insurance commissioner shall thereupon make or cause to be made a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by it at the date of the examination, and the same may be equally divided between and set apart to constitute guaranty surplus and special reserve funds to the extent necessary to constitute such two funds. Said certificate shall be recorded in the office of the insurance commissioner. Thereafter all policies and renewals of policies issued by such corporation shall contain a provision that they are issued under and in pursuance of this act, referring to the same by the title of this act, and all such policies and renewals shall be subject to the provisions of this act, and a policy-holder, by accepting the policy, becomes bound thereby. After the passage and filing of such resolution, the corporation shall not make, declare or pay in any form any dividend upon its capital stock exceeding seven per centum per annum thereon, and upon the surplus funds to be formed thereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its capital stock; and until such funds shall together amount to a sum equal to its capital stock, the entire surplus profits of the corporation above such annual dividend of seven per

centum shall be equally divided between and be set apart to constitute such guaranty surplus and special reserve funds, which funds shall be held and used as hereinafter provided and not otherwise. Any such corporation which shall declare or pay any dividend contrary to the provisions herein contained, shall be deemed to have forfeited its charter. In estimating the profits of any such corporation for the purpose of making a division thereof between the guaranty surplus fund and the special reserve fund, until such funds shall together amount to a sum equal to its capital stock, there shall be deducted from the gross assets of the corporation, including for the purpose the amount of the guaranty surplus fund and the special reserve fund, the sum of the following items:

1. The amount of all outstanding claims.
2. An amount sufficient to meet the liability of the corporation for the unearned premiums upon its unexpired policies, which shall be at least equal to the unearned premiums on policies having one year or less to run, and a pro rata proportion of the premiums received on the policies having more than one year to run, and shall be known as the reinsurance liability.
3. The amount of its guaranty surplus fund and its special reserve fund.
4. The amount of its capital.
5. Interest at the rate of seven per centum per annum upon the amount of its capital and of such funds for whatever time shall have elapsed since the last preceding cash dividend. The balance shall constitute the net surplus of the corporation subject to the equal division between the funds as herein provided. When the corporation shall notify the insurance commissioner that it has fulfilled the requirements of this section, and that its guaranty surplus fund and its special reserve fund, taken together, equal its capital stock, he shall make an examination of the corporation and make a certificate of the result thereof; and thereafter such corporation may continue, out of any subsequent profits of its business, to add to such funds, either the whole or only a part thereof, but when any addition is made to the special reserve fund, an equal sum shall be carried to the guaranty surplus fund.

§ 2. Investment of funds. Waiver of recourse against stockholders. Such guaranty surplus fund shall be held and invested by such corporation in the same manner as its capital stock and surplus accumulations, and shall be liable and applicable in the same manner as the capital of the corporation to the payment generally of its losses. Such special reserve fund, until it shall amount to a sum equal to one-half of the capital stock, shall be invested in the same manner as the capital of the corporation, and any additional sum added to such fund shall be invested by the corporation in any securities in which the corporation is by law authorized to invest its capital or its surplus accumulations, and shall be deposited from time to time, as the same shall accumulate and be invested, with the insurance commissioner. Such special reserve fund shall be deemed a fund to protect such corporation and its policyholders other than claimants for losses already existing or then occurred in case of any extraordinary conflagration or conflagrations as here-

after mentioned, and shall not be regarded as any part or portion of the assets of the corporation so as to be liable for any claim for loss by fire or otherwise, except as herein provided.

No corporation, after it has declared its desire and intention, as provided in section one hereof, to create a guaranty surplus fund and a special reserve fund, shall have the right thereafter to insert in its policy a provision to the effect that the insured, by accepting the policy, waives recourse against the stockholders of the corporation, until such corporation has created, as herein provided, a guaranty surplus fund and a special reserve fund each in amount equal to one-half of the par value of its capital stock; but, when it has so done, then it may thereafter insert in any policy it may thereafter issue a provision in red ink to the effect that the insured, by accepting the policy, waives any recourse to its stockholders and agrees, in case of making any claim thereunder, to look solely to the assets and property of the corporation as and to the extent herein provided.

§ 3. In case of extensive conflagration. Corporation discharged from liability. Transfer of securities in special reserve fund. If guaranty surplus fund reduced. If capital impaired. When any extensive conflagration or conflagrations shall occur whereby the claims upon the corporation shall exceed the amount of its capital stock and of the guaranty surplus fund hereinbefore provided, the corporation shall notify the insurance commissioner of the fact, who shall then make or cause to be made, an examination of the corporation, and shall issue his certificate in duplicate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability, and all other assets. One of such certificates shall be given the corporation, and the other shall be recorded in the office of the insurance commissioner. Such special reserve fund shall be immediately held to protect all policy-holders of the corporation other than such as are claimants upon it at the time, or such as become claimants in consequence of such conflagration or conflagrations. The amount of such special reserve fund, and an amount equal to the unearned premiums of such corporation, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such corporation for the protection of policy-holders other than such claimants, and for the further conduct of its business. Such certificate of the insurance commissioner shall be binding and conclusive upon all parties interested in the corporation, whether stockholders, creditors or policy-holders. Upon the payment to the claimants for losses or otherwise, existing at the time of or caused by such general conflagration or conflagrations, of an amount to which they are respectively entitled in proportion to their several claims, of the full sum of the capital of the corporation and of its guaranty surplus fund, and of its assets, except only such special reserve fund and an amount of its assets equal to the liability of the corporation for unearned premiums, as certified by the insurance commissioner, such corporation shall be forever discharged from any and all further liability to such claimants and to each of them on any policy of insurance issued after the creation as above provided of the special reserve fund in amount equal to one-half of its capital stock. The insurance commissioner shall, after issuing such certificate, upon the demand of the corporation, transfer to it all such securities as shall have been deposited

with him by it as such special reserve fund. If the amount of such special reserve fund shall be less than fifty per centum of the full amount of the capital of the corporation, a requisition shall be issued by the insurance commissioner upon the stockholders to make up the capital to that proportion of its full amount. Any capital so impaired shall be so made up to at least the sum of two hundred thousand dollars. If the corporation, after such requisition, shall fail to make up its capital to at least such amount as herein directed such special reserve fund shall be held as security and liable for all losses occurring upon policies of such corporation after such conflagration or conflagrations. If any amount greater than a sum equal to one-half of its capital stock shall by such corporation, under the provisions of the two preceding sections, have been deposited, as aforesaid, with the insurance commissioner, he shall retain of such securities a sum equal to one-half of the amount he shall so hold thereof in excess of such one-half of the capital stock, and transfer the balance thereof to the corporation as herein provided. The amount so transferred to the corporation shall, from the time of such transfer, if not less than two hundred thousand dollars, constitute the capital stock of the corporation for the further conduct of its business as hereinbefore provided. The sum so retained by the insurance commissioner shall thenceforth constitute the special reserve fund of the corporation, to which additions may be made as herein provided, and shall be held in the same manner, for the same purposes and under the same conditions as the original special reserve fund of the corporation was held. The corporation shall in an annual statement to the insurance commissioner set forth the amount of such special reserve fund and of its guaranty surplus fund. If in consequence of the payment of losses by fires, or of the expenses of the business, or of the interest payable under the provisions hereof to stockholders, or from any cause, the guaranty surplus fund shall be reduced in amount below the amount of the special reserve fund, the directors of the corporation shall have the right, at their option, at the time of making any division of the net profits as herein provided, to carry a larger sum to the guaranty surplus fund than to the special reserve fund; but this privilege shall cease when the two funds are made equal in amount. The policy registers, insurance maps, books of record and other books in actual use by the corporation in its business, are not to be considered as assets, but shall be held by it for its use in the protection of its policy-holders not claimants for losses at the time of such general conflagration. If after the accumulation of such special reserve fund, it shall appear upon examination by the insurance commissioner that the capital of the corporation has, in the absence of any such extensive conflagration, become impaired, he shall order a call upon the stockholders to make up such impairment, and the board of directors may either comply with such order and require the necessary payments of the stockholders, or, at their option, they may apply for that purpose so much of such special reserve fund as will make such impairment good. No corporation doing business under this and the two preceding sections shall insure any larger amount upon any single risk than is permitted by law to a corporation possessing the same amount of capital irrespective of the funds hereinbefore provided for.

ACT 1672n.

An act relating to actions against an insurance carrier when the insured person is insolvent or bankrupt, or without property sufficient to satisfy execution on account of loss or damage insured against, and requiring policy to be exhibited in certain cases.

[Approved May 21, 1919. Stats. 1919, p. 776.]

§ 1. Action against insurance carrier when insured is insolvent. Exhibit of policy. No policy of insurance against loss or damage resulting from accident to, or injury suffered by another person and for which the person injured is liable other than a policy of insurance under the workmen's compensation, insurance and safety act of 1917 or any subsequent act on the same subject, or, against loss or damage to property caused by horses or other draught animals or any vehicle, and for which loss or damage the person insured is liable, shall be issued or delivered to any person in this state by any domestic or foreign insurance company, authorized to do business in this state, unless there shall be contained within such policy a provision that the insolvency or bankruptcy of the person insured shall not release the insurance carrier from the payment of damages for injury sustained or loss occasioned during the life of such policy and stating that in case judgment shall be secured against the insured in an action brought by the injured person or his heirs or personal representatives, in case death resulted from the accident, then an action may be brought against the company, on the policy and subject to its terms and limitations, by such injured person, his heirs or personal representatives as the case may be, to recover on said judgment. Upon any proceeding supplementary to execution, the judgment debtor may be required to exhibit any policy carried by him insuring against the loss or damage for which judgment shall have been obtained.

ACT 1672o.

An act to provide for proceedings against and liquidation of delinquent insurance corporations and associations.

[Approved April 30, 1919. Stats. 1919, p. 265.]

§ 1. Application of act. This act shall apply to all corporations and associations which are subject to examination by the insurance commissioner, or which are doing or attempting to do or representing that they are doing the business of insurance in this state, or which are in the process of organization intending to do such business therein; and the words "corporation" or "corporations" herein shall also include all such associations, as well as all voluntary or unincorporated associations; provided, however, that nothing herein contained shall be construed to affect or to relate to any fraternal benefit society as defined in the act entitled "An act for the regulation and control of fraternal benefit societies," approved May 1, 1911, as amended.

§ 2. Action by insurance commissioner for order to conduct business of domestic corporation. Whenever any domestic corporation (a) is insolvent; or (b) has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the insurance commissioner, or his deputy or examiner; or (c) has neglected or refused to observe an

order of the insurance commissioner to make good within the time prescribed by law any deficiency, whenever its capital, if it be a stock corporation, or its reserve, if it be a mutual corporation, shall have become impaired; or (d) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other corporation or association without having first obtained the written approval of the insurance commissioner; or (e) is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policy-holders, or to its creditors, or to the public; or (f) has willfully violated its charter or any law of the state; or (g) whenever any officer thereof has refused to be examined under oath touching its affairs; or (h) if such corporation be organized under Chapter VI, Division First, Part IV, Title II of the Civil Code, or as a corporation to carry on the business of mutual livestock insurance upon the assessment plan, its condition is found, after examination, to be such that it cannot meet the requirements for incorporation and authorization specified in the law relating thereto, the insurance commissioner may apply to the superior court, or any judge thereof, in the county in which the principal office of such corporation is located for an order directing such corporation to show cause why the insurance commissioner should not take possession of its property, and conduct its business, and for such other relief as the nature of the case and the interest of its policy-holders, creditors, and the public may require.

§ 3. Injunction by court. On such application, or at any time thereafter, such court may, in its discretion, issue an injunction restraining such corporation from the transaction of its business or disposition of its property until the further order of the court. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct such insurance commissioner, or his successor in office, forthwith to take possession of the property and conduct the business of such corporation, and retain such possession and conduct such business until, on the application either of the insurance commissioner, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the insurance commissioner to take possession has been removed and that the corporation can properly resume possession of its property and the conduct of its business.

§ 4. Liquidation by insurance commissioner. If, on a like application and order to show cause, and after a full hearing, the court shall order the liquidation of the business of such corporation, such liquidation shall be made by and under the direction of such insurance commissioner, and his successors in office, who may deal with the property and business of such corporation in their own names as insurance commissioners or in the name of the corporation, as the court may direct, and shall be vested by operation of law with title to all of the property, contracts and rights of action of such corporation as of the date of the order so directing them to liquidate. The filing or recording of such order in any county recorder's office of the state shall impart the same notice that a deed, bill of sale or other evidence of title duly

filed or recorded by such corporation would have imparted. The rights and liabilities of any such corporation, and of its creditors, policy-holders, stockholders and members, and of all other persons interested in its assets, shall, unless otherwise directed by the court, be fixed as of the date of the entry of the order directing the liquidation of such corporation in the office of the clerk of the county wherein such corporation had its principal office for the transaction of business upon the date of the institution of proceedings under this section.

§ 5. Action by insurance commissioner in case of foreign corporations. Whenever any of the grounds of jurisdiction over domestic corporations specified in subdivisions (a), (b), (c), (d), (e), (f) and (g) of section two of this act exist or arise with reference to any corporation incorporated by or existing under the government or laws of any country outside of the United States and authorized to transact the business of insurance and having assets in this state; or whenever any foreign corporation so authorized and having assets in this state has been placed in the hands of a receiver or had its property sequestered in its domiciliary state or country or in any other state or country, the insurance commissioner may apply to the superior court or any judge thereof in the county in which such corporation has its principal office for the transaction of business in this state, for an order directing such corporation to show cause why the insurance commissioner should not take possession of its property and conserve its assets for the benefit of its creditors, and for such other relief as the nature of the case and the interests of its policy-holders, creditors, stockholders or the public may require.

§ 6. Injunction by court. On such application, or at any time thereafter, such court may, in its discretion, issue an injunction restraining such corporation and its officers, agents and employees from the transaction of its business or disposition of its property until the further order of the court. On the return of such order to show cause, and after a full hearing the court shall either deny the application or direct the insurance commissioner forthwith to take possession of the property and conserve the assets of such corporation, and retain such possession until, on the application either of the insurance commissioner, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the insurance commissioner to take possession has been removed and that the corporation can properly resume possession of its property and conduct its business. If, on such application, the court shall direct the insurance commissioner to take possession of the property and conserve the assets of such corporation, the rights and duties of the said insurance commissioner with reference to such corporation and its said assets shall be those heretofore exercised by and imposed upon ancillary receivers of foreign corporations in this state.

§ 7. Appointment of deputies, etc. For the purposes of this act, the insurance commissioner shall have power to appoint, under his hand and official seal, one or more special deputy insurance commissioners, as his agent or agents, and to employ such counsel, clerks and assistants as may by him be deemed necessary, and give each of such persons such powers to assist him as he may consider wise. The compensation of

such special deputy insurance commissioners, counsel, clerks and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation shall be fixed by the insurance commissioner, subject to the approval of the court, and shall, on certificate of the insurance commissioner, be paid out of the funds or assets of such corporation. During the progress of any proceedings taken under this section, the insurance commissioner, his deputies or any examiner authorized by him and the special deputy insurance commissioner acting for the said insurance commissioner therein shall have all of the powers given to the insurance commissioner, his deputy or any examiner authorized by him, including the power to examine under oath the persons specified in such section, and to compel the production of books and papers as therein provided.

§ 8. Rules and regulations. For the purposes of this act, the insurance commissioner shall have power, subject to the approval of the court, to make and prescribe such rules and regulations as to him shall seem proper.

§ 9. Report to legislature on liquidated corporations. The insurance commissioner shall transmit to the legislature, in his biennial report, the names of the corporations so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policy-holders, creditors, stockholders and the public with his proceedings under this act; and, to that end, the special deputy insurance commissioner in charge of any such corporation shall file annually with the insurance commissioner a report of the affairs of such corporation.

§ 10. Commissioner has powers of receiver. In all cases arising under the provisions of this act where not otherwise provided the powers and duties of the insurance commissioner with relation to the property and assets and business of any corporation placed under his control shall be those heretofore exercised by and imposed upon receivers of corporations within this state.

§ 11. Service of papers. The order to show cause and the papers upon which the same is made in any proceeding instituted under the provisions of this act shall be served upon the corporation named in such order in the manner prescribed by law for personal service of summons upon a domestic corporation. When it is satisfactorily proved by affidavit that the officers of the corporation named in the said order to show cause, upon whom service is required to be made as above provided, or, if a Lloyds association or interinsurance exchange be named in the order to show cause, the duly designated attorney in fact, have departed from the state or keep themselves concealed therein with intent to avoid service, such order to show cause may provide for service thereof in such manner as the court or judge by whom the same is made, shall direct.

§ 12. Transfer of place of business to San Francisco. At any time after the commencement of proceedings under an order of liquidation made pursuant to this section, the said insurance commissioner may remove the principal office of the corporation in liquidation to the city and county of San Francisco. In event of such removal the court shall,

upon the application of the insurance commissioner, direct the clerk of the county wherein such proceeding was commenced to transmit all of the papers filed therein with such clerk to the clerk of the county of San Francisco, and the proceeding shall thereafter be conducted in the same manner as though it had been commenced in the city and county of San Francisco.

§ 13. Repealed. Option of commissioner. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed; provided, however, that it shall be optional with the insurance commissioner in any appropriate case to proceed in the manner herein provided or in accordance with the provisions of section six hundred four of the Political Code.

ACT 1673p.

An act regulating the appointment of the agents or employees of state banks and subsidiary corporations dominated or controlled by state banks as insurance agents and prohibiting the appointment of the agents or employees of state banks and subsidiary corporations dominated as controlled by state banks as general insurance agents or managerial agents or department managers of certain insurance companies.

[Approved May 27, 1919. Stats. 1919, p. 1285. In effect July 27, 1919.]

See note at end of statute.

§ 1. Agents of state banks not to act for insurance company. It shall be unlawful for any subsidiary corporation, agent or employee of any bank organized or existing under the laws of the state of California or the laws of any other state of the United States, or any person or corporation controlled or dominated by such bank to act as the general agent or managerial agent, or department manager, of any insurance company transacting business in the state of California.

§ 2. Insurance company not to appoint agent of bank. It shall be unlawful for any insurance company transacting business in the state of California to engage, appoint, maintain or employ any subsidiary corporation, agent or employee of any bank or any person or corporation controlled or dominated by any bank, as the general agent or managerial agent or branch manager or department manager of such insurance company.

§ 3. Application to act as local agent. No subsidiary corporation dominated or controlled by any bank, or any agent or employees of such bank shall be permitted to act as the local agent of any insurance company, except as follows:

Such agent or employee of such bank or such subsidiary corporation dominated or controlled by such bank shall file an application in writing with the insurance commissioner of the state of California, stating in said application that the applicant desires to become such insurance agent. Upon the filing of said application, the insurance commissioner of the state of California shall forthwith fix a time for the hearing of said application.

§ 4. Hearing. License. If at the hearing of said petition the said insurance commissioner shall find that the appointment of applicant is

not inimical to the best interests of the insured of the state of California, then he shall make a finding to that effect. Thereupon, the said insurance commissioner shall transmit such findings to the superintendent of banks of the state of California, and if the superintendent of banks of the state of California shall find that the granting of the license to such applicant is not inconsistent with the proper conduct of such bank, he may so find and thereupon transmit his findings to the state insurance commissioner, who shall thereupon grant to such applicant a license to act as local insurance agent.

§ 5. Exceptions. Nothing in this act shall be construed to apply or to refer to or affect the appointment of any life insurance agents, or health and accident insurance agents, title insurance agents, or county mutual insurance agents and nothing in this act shall be construed to apply or refer to or affect the appointment of any insurance agent in or for a place, the population of which does not exceed five thousand persons, as shown by the last preceding federal census or any subsequent census compiled and certified under any laws of this state.

§ 6. Suspension of certificate of authority. When any insurance company shall violate the provisions of this act, the said insurance commissioner shall have the power to suspend the certificate of authority of such insurance company for a period not to exceed one year.

§ 7. Penalty. Any person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor.

NOTE.—The taking effect of this act has been delayed by the filing of a referendum petition. The act will be voted on at the general election in November, 1920, or at any special election which may be called by the Governor prior to such general election.

TITLE 280.

INTEREST.

ACT 1675.

An act, to be known as the usury law, relating to the rate of interest which may be charged for the loan or forbearance of money, goods or things in actions, or on accounts after demand, or on judgments, providing penalties for the violation of the provisions hereof, and repealing sections one thousand nine hundred seventeen, one thousand nine hundred eighteen, one thousand nine hundred nineteen, and one thousand nine hundred twenty of the Civil Code and all acts and parts of acts in conflict with this act.

This act was an initiative measure submitted and approved at the general election November 5, 1918. See Stats. 1919, lxxxiii.

§ 1. The rate of interest upon the loan or forbearance of any money, goods or things in action or on accounts after demand or judgments rendered in any court of this state, shall be seven dollars upon the one hundred dollars for one year and at that rate for a greater or less sum or for a longer or a shorter time; but it shall be competent for parties to contract for the payment and receipt of a rate of interest not exceeding twelve dollars on the one hundred dollars for one year and not exceeding that rate for a greater or less sum or for a longer or shorter

time, in which case such rate exceeding seven dollars on one hundred dollars shall be clearly expressed in writing.

§ 2. No person, company, association or corporation shall directly or indirectly take or receive in money, goods or things in action, or in any other manner whatsoever, any greater sum or any greater value for the loan or forbearance of money, goods or things in action than at the rate of twelve dollars upon one hundred dollars for one year; and in the computation of interest upon any bond, note, or other instrument or agreement, interest shall not be compounded, nor shall the interest thereon be construed to bear interest unless an agreement to that effect is clearly expressed in writing and signed by the party to be charged therewith. Any agreement or contract of any nature in conflict with the provisions of this section shall be null and void as to any agreement or stipulation therein contained to pay interest and no action at law to recover interest in any sum shall be maintained and the debt cannot be declared due until the full period of time it was contracted for has elapsed.

§ 3. Every person, company, association or corporation, who for any loan or forbearance of money, goods or things in action shall have paid or delivered any greater sum or value than is allowed to be received under the preceding sections, one and two, may either in person or his or its personal representative, recover in an action at law against the person, company, association or corporation who shall have taken or received the same, or his or its personal representative, treble the amount of the money so paid or value delivered in violation of said sections, providing such action shall be brought within one year after such payment or delivery. And any person, company, association or corporation, who shall ask, demand, receive, take, accept or charge more than twelve per centum per annum upon the sum of money actually loaned for the forbearance, use or loan thereof, when the repayment of the money loaned shall be secured by a mortgage, trust deed, bill of sale, assignment, pledge, receipt or other evidence of debt, except corporation bonds, and municipal and other public bonds, upon property, real or personal or by assignment of wages, or ask, demand, receive, take, accept or charge more than an amount equal to five per cent so actually loaned and secured in all sums of one thousand dollars or less, and three per cent on all sums over one thousand dollars in full for all examinations, views, fees, appraisals, commissions, renewals made within one year from date of loan and charges of any kind or description whatsoever, except abstracts or certificates of title charges made under the Torrens land law or otherwise, in the procuring, making and transacting of the business connected with such loans, or who shall ask, demand, receive, take, accept or charge any fee, bonus or commission whatsoever for the use or loan or the procuring of such loan of any sum of money for a shorter period than six months when said loan is not secured by a mortgage or pledge upon real estate, or shall violate the provisions of sections one and two of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment not more than six months, or by both such fine and imprisonment, and for each subsequent offense and conviction shall be punished by a fine not less than

one hundred dollars nor more than five hundred dollars and by imprisonment not less than six months nor more than one year. The penalties herein provided for the violation of this section and said sections one and two shall apply to and be imposed upon each member of any unincorporated company, association, or of any copartnership and upon each officer and director of a corporation who shall violate either of said sections.

§ 4. Sections one thousand nine hundred seventeen, one thousand nine hundred eighteen, one thousand nine hundred nineteen and one thousand nine hundred twenty of the Civil Code and all acts and parts of acts in conflict with this act are hereby repealed.

§ 5. This act whenever cited, referred to, or amended may be designated simply as the "usury law."

TITLE 262.

INTOXICATING LIQUORS.

ACT 1696b.

An act enforcing the provisions of article eighteen of the constitution of the United States; prohibiting the manufacture, sale, storage, service, gift, transportation, importation or exportation of intoxicating liquors for beverage purposes; regulating all other traffic in such liquors; and providing penalties for violations hereof.

[Approved April 15, 1919. Stats. 1919, p. 92. In effect—see Section 16.]

See note at end of statute.

§ 1. **Intent of act.** This entire act shall be deemed to be an exercise of the power granted by article eighteen of the constitution of the United States and of the police power of the state for the protection of the public health, peace, safety, and morals of the people of the state, and all of its provisions shall be liberally construed for the accomplishment of these purposes.

§ 2. **Definitions.** The words "intoxicating liquors" or "intoxicating liquor," wherever used in this act, shall be construed to include any distilled, malt, spirituous, vinous, fermented or alcoholic liquor, which contains more than one-half of one per cent by volume of alcohol, and all alcoholic liquids and compounds whether proprietary, patented or not, which are potable or capable of being used as a beverage, and which contain more than one-half of one per cent by volume of alcohol.

For the purposes of this act a wholesale druggist is one who sells drugs at wholesale and not to the general public.

A retail druggist is a registered pharmacist, authorized to practice in this state, conducting a regular retail business in drugs and who sells to the general public.

§ 3. **Interpretation of words.** In the interpretation of this act words of the singular number shall be deemed to include their plurals, and words of the masculine gender shall be deemed to include the feminine and neuter, as the case may be.

The word "person," wherever used in this act, shall be construed to mean and include natural persons, firms, copartnerships, corporations,

clubs, and all associations or combinations of persons, whether acting by themselves or by a servant, agent or employee.

§ 4. Manufacture, etc., of intoxicating liquor. It shall be unlawful for any person, directly or indirectly, to manufacture, receive, sell, serve, give away, transport, or otherwise dispose of any intoxicating liquor within the state of California, or to import any such liquor into or to export any such liquor from said state, except as provided herein.

§ 5. Possession. It shall be unlawful for any person, while on any street, alley, park, road, or highway, or in any car, aeroplane, boat, motor, or other vehicle or means of transportation, or in any club, hotel, hall, theater, store, or other public or semi-public place, to have on his person or in his possession any intoxicating liquor, except as provided herein.

§ 6. Storage. It shall be unlawful for any person to have, keep, or store any intoxicating liquor in any public or semi-public place, except as provided herein.

§ 7. Orders for sale. It shall be unlawful for any person to solicit, take or receive any order for intoxicating liquor, or to give information how such liquors may be obtained or where such liquors are; except that persons holding valid permits to manufacture or sell intoxicating liquors for nonbeverage purposes, may accept orders for such liquors on the premises where they may be legally sold, and representatives of such manufacturers and of wholesale druggists may take orders for such liquors from persons holding valid permits to purchase same.

§ 8. Advertisements. It shall be unlawful for any person to advertise any intoxicating liquor by means of any sign or billboard, or by circular, poster, price list, newspaper, periodical, or otherwise, or to advertise the manufacture, sale, keeping for sale, or furnishing of such liquors, or the person from whom, or the place where, or the price at which, or the method by which any such liquors may be obtained; provided, that manufacturers and wholesale druggists, holding valid permits under this act, may send price lists to those to whom they may legally sell such liquors.

It shall be unlawful to permit any sign or billboard, painted, erected or otherwise constructed after the thirtieth day of June, 1919, containing any advertisement, rendered unlawful by this section, to remain upon one's premises, or to circulate or distribute any circulars, price list or other advertisement rendered unlawful by this section, and it shall be the duty of every peace officer to remove and destroy any such advertisement when it comes to his notice or upon demand of any citizen.

§ 9. Nothing in this act shall be construed as rendering unlawful:

(a) **Manufacture for nonbeverage purposes.** The manufacture of intoxicating liquors for nonbeverage purposes by any person holding a valid permit so to do, obtained as herein provided.

(b) **Storage for nonbeverage purposes.** The keeping or storing of intoxicating liquors on the premises where lawfully manufactured or in any place where such liquors may legally be sold, or in cellars, vaults

or warehouses owned or leased by persons holding valid permits to manufacture, keep or sell such liquors for nonbeverage purposes, or the keeping of wine for sacramental purposes in any church or in the residence of, the pastor or priest of any church, or the distributing and use of wine at any sacramental service.

(c) **Sale and delivery by wholesale druggists. Statement on container. Removal of statement from container.** The sale and delivery of intoxicating liquors, by those lawfully manufacturing the same or by wholesale druggists holding valid permits so to do, to other manufacturers of such liquors or to other wholesale druggists or to retail druggists holding valid permits under this act; provided, the person so selling such liquors shall keep a record of all liquors so sold in which shall be entered the date of the sale, the kind of liquor sold, the quantity of each kind, and the name and address of the person to whom sold, such record to be open to public inspection; provided, however, that where spirituous liquors are sold the records required to be kept by the United States Internal Revenue Department shall be sufficient record; and provided, further, that the person so selling such liquor shall securely fasten to the container holding it a legibly written or printed statement, in English, signed by said person and giving the following information: Kind and quantity of contents, by whom sold (giving name and address), to whom sold (giving name and address), and date of sale.

It shall be unlawful for any person to remove such statement from such container, until said container and contents have been delivered to the purchaser at the address stated in such statement, and it shall be unlawful to empty all or part of the contents from any such container anywhere except at the address stated in aforesaid statement, and when the contents of any such package have been emptied from it, said statement shall immediately be removed and destroyed.

(d) **Sale of wine for sacramental purposes. Record of sale. Statement on container. Removal of statement from container.** The sale or furnishing of wine for sacramental purposes by the manufacturer of the same or by retail druggists, holding valid permits so to do obtained under this act; provided, such wine is furnished only to a regularly ordained priest or minister or upon the written order of the local official board or governing body of a religious organization, and that the person furnishing such wine shall keep a record in which shall be entered the date of the furnishing, the quantity furnished and the signature of the person obtaining the same, such record to be open to public inspection; and provided, further, that the person so furnishing such wine shall securely fasten to the container holding it a legibly written or printed statement, in English, signed by said person and giving the following information: Kind and quantity of contents, by whom furnished (giving name and address), to whom furnished (giving name and address), date of furnishing, and a statement that it was furnished for sacramental purposes.

It shall be unlawful for any person to remove from any container holding wine obtained for sacramental purposes the statement provided for in this section or to use all or part of said wine for any purpose other than sacramental purposes.

(e) **Dispensing by retail druggists on prescription. Prescription to be fastened to container. Removal of prescription from container.** The dispensing of intoxicating liquors by retail druggists, holding valid permits so to do, for medicinal purposes only, upon a prescription issued, signed and dated by a duly licensed physician regularly practicing his profession; provided, that the name of the person applying for the prescription, and the name and address of the person for whose use the prescription is made shall be inserted therein by the physician issuing the same at the time the prescription is made or given, and that not more than one sale or furnishing is made upon such prescription, that not more than eight ounces of spirituous liquor, and not more than sixteen ounces of vinous or malt liquor is sold on any one prescription, and that all such prescriptions are kept on file at the place of business of said druggist, open to public inspection; and provided, further, that said druggist shall paste upon or securely fasten to the container holding such liquor a legibly written or printed copy of the prescription on which such liquor was furnished.

It shall be unlawful for any person to remove said copy of such prescription from said container until all of the liquor has been removed therefrom, and it shall be unlawful to empty all or part of said liquor from said container until it has been delivered at the address mentioned in said prescription or to use said liquor for any purpose other than the medicinal purpose for which it was furnished.

(f) **Sale of ethyl alcohol. Statement on container.** The sale and delivery by any person, holding a valid permit so to do obtained as herein provided, of ethyl alcohol to manufacturers of toilet, medicinal, antiseptic, culinary, or other nonbeverage preparations, or to the superintendent or authorized officer of a hospital, museum or laboratory or of an art, educational or public institution; provided, such manufacturer, superintendent or other person has a valid permit, obtained as herein provided, to receive and possess such alcohol; and provided, further, that the person selling such alcohol shall keep a record of all such sales in which shall be entered the date of the sale, kind and quantity of liquor sold, and the name and address of the person to whom sold; such record to be open to public inspection; and provided, further, that the person selling such alcohol shall securely fasten to the container holding it a legibly written or printed statement in English, signed by said person, and giving the following information: Kind and quantity of contents, by whom sold (giving name and address), to whom sold (giving name and address), purpose for which sold and date of sale.

When any container is emptied the aforesaid statement shall forthwith be removed therefrom and destroyed. It shall be unlawful for any person to remove aforesaid statement from such container until all of the alcohol has been removed therefrom, and it shall be unlawful to empty all or part of said alcohol from said container at any place other than the address of the purchaser as given in said statement, or for any purpose other than that for which it was sold.

(g) **Manufacture and sale of flavoring extracts, etc. Not to be sold as beverages.** The manufacture and sale of such preparations as flavoring extracts, essences, tinctures and perfumes, which do not contain more alcohol than is necessary for legitimate purposes of extraction, solution or preservation, and of remedies which do not contain more

alcohol than is necessary for extraction, solution or preservation and which do contain drugs in sufficient quantities to medicate the compound; provided, that when any of the aforesaid preparations are manufactured in California, they shall be manufactured only by persons holding valid permits to keep alcohol for nonbeverage purposes, and such preparations, whether made in California or imported, shall be sold only for lawful purposes and not as beverages.

(b) **Intoxicating liquor in private homes.** The keeping of any intoxicating liquor obtained before this act goes into effect at a time when and place where such liquor can be legally sold by any person at his home and the serving of same to members of his family or to guests, as an act of hospitality, when nothing of value or representative of value is received in return therefor, and when such home is not a place of public resort.

(i) **Transportation for nonbeverage purposes. Statement on container.** The transportation out of or into the state of California of intoxicating liquor for nonbeverage purposes when such liquor is shipped or received by a person holding a valid permit, obtained as herein provided, to manufacture, sell or receive such liquors; and provided, there is securely fastened to the container holding such liquor a legibly written or printed statement in English, signed by the shipper and giving the following information: Kind and quantity of liquor therein, by whom sold (giving name and address), to whom sold (giving name and address), purpose for which sold and date of sale.

It shall be unlawful to remove aforesaid statement from said container while in transit within the state of California.

§ 10. Removal of statement from container. Display of statement. It shall be unlawful for any person to carry or transport any intoxicating liquor within, into or out of the state of California without having on the outside of the container holding such liquors the written or printed statement required in the various paragraphs of section nine of this act, and said statement must be so attached that the words thereon may at all times be easily seen and read.

§ 11. Permit for manufacture, sale, etc. Permits to sell intoxicating liquor for nonbeverage purposes, subject to the limitations and provisions herein provided, shall be issued by the state board of pharmacy of California to wholesale and retail druggists.

Permits to manufacture, import, sell and export intoxicating liquor for nonbeverage purposes, subject to the limitations and provisions herein provided, shall be issued by the state board of pharmacy to such persons as make sufficient showing that they have a legitimate demand, under this act, for intoxicating liquors for nonbeverage purposes.

Permits to buy and keep alcohol for nonbeverage purposes shall be issued by the state board of pharmacy to manufacturers of toilet, medicinal, antiseptic, culinary or other nonbeverage preparations, and to the superintendent or authorized officer of any hospital, museum or laboratory or of any art, educational or public institution.

§ 12. Application for permit. Any person desiring to obtain a permit as provided herein, shall file written application with the state board of pharmacy, giving his name and address, nature of his business or offi-

cial position and full statement of grounds on which application is made. With each such application shall be sent a filing fee of five dollars, which shall be deposited in a special fund to be known as the "prohibition enforcement fund," which fund is hereby created for the payment of all expenses of said board in administering this act in the manner provided herein.

The state board of pharmacy shall issue a permit when it is shown by applicant for such permit that he has a legitimate demand for intoxicating liquors and that he will observe all laws relating to the sale of such liquors. Such permits shall be for two years; provided, that any such permit may be revoked by the state board of pharmacy, if after a hearing, notice of which has been given to the holder of such permit, said board shall be satisfied that said holder has not observed the law relating to sale of intoxicating liquor. When any such permit shall have been revoked, it shall be discretionary with the state board of pharmacy whether or not any new permit shall thereafter be issued to the holder of the permit revoked.

§ 13. Penalties. Any person holding a permit, obtained as herein provided, who manufactures, sells or furnishes intoxicating liquor in violation of this act shall, for a first offense, be fined not more than one thousand dollars and for a second offense shall be fined not less than two hundred dollars nor more than two thousand dollars and be imprisoned in the county jail for a term not exceeding six months; for a third and each subsequent offense he shall be fined not less than five hundred dollars nor more than five thousand dollars and be imprisoned in the state prison for a term not exceeding two years.

Any other person violating this act shall, for a first offense, be fined not more than six hundred dollars; for a second offense not less than two hundred dollars nor more than one thousand dollars and be imprisoned in the county jail for a term not exceeding six months; for a third and each subsequent offense he shall be fined not less than three hundred dollars nor more than one thousand dollars and be imprisoned in the state prison for a term not exceeding one year.

§ 14. Place of prosecution. In case of an unlawful sale where a shipment or delivery of intoxicating liquor is made by a common or other carrier, the sale or delivery thereof shall be deemed to be made in the county wherein the delivery is made by such carrier to the consignee, his agent or employee. A prosecution for such sale or delivery may likewise be had in the county wherein the sale is made or from which the shipment is made or in any county through which the shipment is made.

§ 15. Local or national jurisdiction. Nothing in this act shall be construed as limiting the power of any city or county, or city and county, to prohibit the manufacture, or sale of intoxicating liquors for beverage purposes within its corporate limits; neither shall anything in this act be construed as authorizing anything prohibited by any act of Congress, now in force or hereafter adopted, relating to the liquor traffic.

§ 16. Time of taking effect. This act shall take effect and be in force on the same day as the provisions of article eighteen of the constitution of the United States, prohibiting the manufacture, sale, trans-

portation, importation or exportation of intoxicating liquors for beverage purposes, take effect.

NOTE.—The taking effect of this act has been delayed by the filing of a referendum petition. The act will be voted on at the general election to be held in November, 1920, or at any special election which may be called by the Governor prior to such general election.

TITLE 264.

INVESTMENT COMPANIES.

ACT 1700.

An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a state corporation department and the office of commissioner of corporations.

[Approved May 18, 1917. Stats. 1917, p. 673. In effect July 27, 1917.]

Amended 1919, p. 231.

§ 1. **Title.** This act shall be known as the "corporate securities act."

§ 2. **Words defined.** Words used in this act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter, and in the neuter, the masculine and feminine; the singular number includes the plural, and the plural, the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation"; the word "county" includes "city and county"; and "territory" includes "district." The following words have in this act the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "department" means the "state corporation department" created by this act.

2. The word "commissioner" means the "commissioner of corporations."

3. **"Company."** The word "company" includes all domestic and foreign, private corporations, associations, joint stock companies, and partnerships, of every kind, and also trustees, as hereinafter defined; excepting therefrom:

(a) All national banking associations and other corporations organized and existing under and by virtue of the acts of the congress of the United States;

(b) All public utilities subject to the jurisdiction, control, and regulation of the railroad commission of this state;

(c) All corporations now or hereafter organized under the laws of this state for the purpose of conducting the business of banking within this state and all corporations transacting insurance business within this state;

(d) All corporations, associations, or societies transacting business under the supervision, examination, and license of the bureau of building and loan supervision; and

(e) Every corporation organized under the laws of this state exclusively for the purposes provided in any of the following titles, to wit: **XIa, XII, XIIa, XIV, XXI, XXII**, of Part IV, Division First, of the Civil Code, and in accordance with the provisions of such titles.

4. **"Trust."** The word "trust" as used in this act includes all voluntary trusts, as the same are defined in the Civil Code, expressly created by or declared in an instrument in writing, other than a will or a judicial writ, order, decree, or judgment, to carry on any business or to secure the payment or repayment of money.

5. The word "trustee," except as hereinafter used in subdivision nine of this section, includes only persons or companies executing trusts as hereinbefore defined.

6. **"Security."** The word "security" includes:

(a) All shares or other interests or rights into which the capital, capital stock, or property of companies or rights of stockholders or members thereof are divided, including all treasury shares and shares of their own capital stock purchased or otherwise acquired by companies upon delinquent assessment sales or in any other lawful manner, and all certificates and other instruments issued by them or their authority, evidencing or representing such shares, interests, or rights;

(b) All bonds, debentures, and evidences of indebtedness issued by any company; and

(c) Any instrument issued or offered to the public by any company, evidencing or representing any right to participate or share in the profits or earnings or the distribution of assets of any business carried on for profit; excepting therefrom the following:

(1) Bills of exchange and promissory notes not offered to the public by the drawer, maker, or underwriter thereof, and all mortgages and deeds of trust of property situated in this state, executed to secure the payment thereof; and

(2) Any security listed in any standard manual of information, as to which the commissioner shall first make and file his written finding to the effect that such security is fully and accurately described in such manual and that a sale thereof will not, in his opinion, work a fraud upon the purchaser thereof; provided, that if such finding shall thereafter be vacated or set aside, such security shall not thereafter be deemed to be included within this exception.

7. **"Sale."** A "sale," within the meaning of this act, includes every contract by which, for a pecuniary consideration, called a price, one transfers to another an interest in property, and also an exchange, a pledge, a hypothecation, and any transfer in trust or otherwise as security for the performance of an obligation, and also any issue of any security by a company; and the word "sell," as used in this act, includes every act by which such sale is made.

8. **"Agent."** The word "agent" as used in this act means and includes every person or company employed or appointed by a company or a broker who shall, within this state, either as an employee or otherwise, for a compensation, sell, offer for sale, negotiate for the sale of, or take subscriptions for any security of any company of its own issue offered for sale by it.

9. "Broker." The word "broker" as used in this act includes every person or company, other than an agent, who shall, in this state, engage, either wholly or in part, in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security or securities issued by others, or of underwriting any issue of securities or of purchasing such securities with the purpose of reselling them or of offering them for sale to the public for a commission or at a profit; excepting therefrom the following:

(a) Any owner of any security who is not the issuer or an underwriter thereof, who sells or exchanges the same for his own account; provided, that such sale or exchange is not made in the course of repeated and successive transactions of like or similar character by him;

(b) Any trustee of a trust created by or declared in a will or a judicial writ, order, decree or judgment, who, in such capacity, lawfully disposes of any property;

(c) Any company transacting a banking or insurance business in this state, selling a security for an owner thereof or a broker, other than an underwriter thereof, at a commission of not more than two per cent of the par or face value thereof; provided, such sale is not made in the course of repeated and successive transactions of like or similar character by such company;

(d) One, not the issuer, who disposes of securities to a broker or to a purchaser who, as a part of his regular business, purchases such securities;

(e) Any pledge holder selling, in good faith and not for the purpose of avoiding the provisions of this act, and in the ordinary course of business, a security pledged with him as security for a bona fide debt.

10. "Actual fraud." The words "actual fraud," as used in this act, are defined in section one thousand five hundred seventy-two of the Civil Code. [Amendment approved May 2, 1919; Stats. 1919, p. 231.]

§ 3. Permit to sell securities. Application. Commissioner appointed attorney. No company shall sell, except upon a sale for a delinquent assessment made in accordance with the provisions of Article II of Chapter II of Title I of Part IV of Division First of the Civil Code; or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the commissioner a permit authorizing it so to do. Such application shall be in writing, shall be verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed in the office of the commissioner. In such application the applicant shall set forth the names and addresses of its officers, the location of its office, an itemized account of its financial condition, the amount and character of its assets and liabilities, a detailed statement of the plan upon which it proposes to transact business, a copy of any security it proposes to issue, a copy of any contract it proposes to make concerning the same, a copy of any prospectus or advertisement, or other description of such securities, then prepared by or for it for distribution or publication, and such additional information concerning the company, its condition and affairs as the commissioner may require. If the applicant is a partnership or an unincorporated association or joint stock company, it shall file with its application a copy of its articles of partnership or association,

and all other papers pertaining to its organization. If the applicant is a trustee, it shall file with its application a copy of all instruments by which the trust is created and in which it is accepted, acknowledged, or declared. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors or stockholders or members relating to or affecting the issue of such securities, and also a copy of its articles of incorporation and of its by-laws and of any amendments thereto. If the applicant is a corporation or association organized under the laws of any other state, territory, or government, it shall also file with its application a certificate, executed by the proper officer of such state, territory, or government not more than thirty days before the filing of such application, showing that such applicant is authorized to transact business in such state, territory, or government; and also, in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it may be served, with the same effect as if said corporation or association were organized or created under the laws of this state and had been lawfully served with process therein.

§ 4. Examination of application. Permit issued. Permit to sell security. Upon the filing of such application, it shall be the duty of the commissioner to examine it and the other papers and documents filed therewith, and he may, if he deems it advisable, make or have made a detailed examination, audit, and investigation of the applicant and its affairs. If he finds that the proposed plan of business of the applicant is not unfair, unjust, or inequitable, that it intends to fairly and honestly transact its business, and that the securities that it proposes to issue and the methods to be used by it in issuing or disposing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the commissioner shall issue to the applicant a permit authorizing it to issue and dispose of securities, as therein provided, in this state, in such amounts and for such considerations and upon such terms and conditions as the commissioner may in said permit provide. Otherwise, he shall deny the application and refuse such permit and notify the applicant in writing of his decision. Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or indorsement of the securities permitted to be issued. The commissioner may impose such conditions as he may deem necessary to the issue of such securities, and shall have the power to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit, and may, from time to time for cause, amend, alter, or revoke any permit issued by him, or temporarily suspend the rights of the applicant under such permit.

§ 5. Certificate of agent or broker. Fee. No person or company shall act as agent or broker until such person or company shall have first applied for and secured from the commissioner a certificate, then in effect, authorizing such person or company so to do. Every such certificate shall expire on the thirty-first day of December next after its issuance, unless sooner revoked. To secure such certificate, the appli-

cant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. In such application, the applicant shall set forth, in addition to such other information as may be required by the commissioner:

1. The name and address of the applicant, and, if it be a corporation, association, or joint stock company, the name and address of each of its managing officers and agents, and, if it be a partnership, the name and address of each of the partners;

2. A succinct statement of facts showing that the applicant, and its managing officers and agents, if it be a corporation, or members, if it be a partnership, have a good business reputation;

3. If the applicant is a broker, the general plan and character of the business of the applicant.

For filing such application, the applicant shall pay a fee as hereinafter provided. If the applicant is a corporation or association organized under the laws of any other state, territory, or government, it shall file with its application a copy of its articles of incorporation or association, together with a certificate executed by the proper officer of such state, territory, or government not more than thirty days before the filing of such application, showing that such applicant is authorized to transact business in such state, territory, or government, and also, in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it, arising out of or founded upon the actual fraud of such applicant in the sale of securities within this state, may be served, with the same effect as if said corporation or association were organized or created under the laws of this state and had been lawfully served with process therein.

§ 6. Certificate issued. The commissioner shall examine such application, and shall make such further investigation of the applicant and its affairs as he shall deem advisable. If, from such examination, the commissioner shall be satisfied of the good business reputation of the applicant and of its officers or members, if any, he shall issue such certificate. Otherwise, he shall refuse the same and deny the application and notify the applicant of his decision. The commissioner may at any time revoke any broker's or agent's certificate issued by him if he shall find that the holder thereof is of bad business repute, or has violated any provisions of this act, or has engaged, or is about to engage in any fraudulent transaction.

§ 7. Advertisements submitted to commissioner. No person, partnership, association, or corporation, other than a broker holding a broker's certificate, then in effect, shall issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any security, to be issued by any company, that such person, partnership, association, or corporation desires or proposes to sell, until the company proposing to issue such security shall have first secured from the commissioner a permit authorizing it to issue or sell such security; nor shall any company, broker, or agent, or any other person, issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any security sold or offered for sale by it, unless the name of the company,

broker, agent, or person issuing, circulating, or publishing the same shall be subscribed thereto, and a true copy thereof shall have been first filed in the office of the commissioner, or deposited in a United States postoffice, properly inclosed in a sealed envelope, addressed to the commissioner at Sacramento, California, with the postage duly prepaid thereon; nor shall any company, broker, or agent, or any other person, issue, circulate, or publish any such advertisement, pamphlet, prospectus, or circular after notice in writing given to it by the commissioner that, in his opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

§ 8. Report by company on sale of securities. Every company authorized by the commissioner to sell securities shall thereafter, at such times as it may be required by the commissioner, make and file in the office of the commissioner a report, setting forth, in such form as the commissioner may prescribe, the securities sold by it under the authority of any permit issued by him, the proceeds derived therefrom, the disposition of such proceeds, and such other information concerning its property, officers, or affairs, relating to or affecting the value of such securities, as the commissioner may require.

§ 9. Statement by broker on sale of securities. Every broker shall, at such times as it may be required by the commissioner, make and file in the office of the commissioner a true and correct statement concerning any security sold or offered for sale by such broker, showing the name and location of the principal office of the issuer of such security; the names of its managing officers, if it is a corporation, or of its members, if it is a partnership; its assets, liabilities, and issued capital stock, at the close of its fiscal year then last ended, or at a later date; its gross income, expenses, and fixed charges for the year next preceding such date, or for such time as such issuer of such security has transacted business, if for less than one year, and the approximate price at which such broker has sold or proposes to sell such security, together with such other information, of which the broker may have knowledge, as the commissioner may require.

§ 10. Papers open to public inspection. All papers, documents, reports, and other instruments in writing filed with the commissioner under this act shall be open to public inspection; provided, that if, in his judgment, the public welfare or the welfare of any company, broker, or agent demands that any portion of such information be not made public, he may, in his discretion, withhold such information from public inspection for such time as in his judgment is necessary. The commissioner may at any time give, issue, or make public any information concerning any company or any contracts, stocks, bonds, or other securities sold or offered for sale within this state, if in his judgment the giving, issuing, or publishing of the same will be of public interest or advantage or will tend to prevent the fraudulent sale of such securities.

§ 11. Review of orders, etc., of commissioner. Every order, decision, permit or other official act of the commissioner shall be subject to review, in accordance with the provisions of Chapter I of Title I of Part III of the Code of Civil Procedure; and any party aggrieved by any such order, decision, or permit of the commissioner may appeal therefrom to the

superior court of the county of Sacramento, by serving upon the commissioner a notice of such appeal, a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision, and the payment of the fee therefor, within sixty days after the making of any such order, permit, or decision. Thereupon, the commissioner shall, within ten days, make and certify such transcript, and the appellant shall, within five days thereafter, file the same and the notice of appeal with the clerk of said court. Upon the hearing of such appeal, the burden of proof shall lie upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the commissioner from which the appeal is taken, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in making such order, decision, or permit.

§ 12. Securities void. Every security issued by any company, without a permit of the commissioner authorizing the same then in effect, shall be void, and every security issued by any company, with the authorization of the commissioner but not conforming in its provisions to the provisions, if any, which it is required by the permit of the commissioner to contain, shall be void.

§ 13. Penalty for company violating act. Every company which shall directly or indirectly issue or cause to be issued any security contrary to the provisions of this act, or of the constitution of this state, or in nonconformity with a permit of the commissioner authorizing the same, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes, if any, specified in such permit, or to any purpose specified in such permit in excess of any amount limited in such permit to be used for such purpose, shall be guilty of a public offense and shall be punishable by a fine not exceeding ten thousand dollars.

§ 14. Penalty for officers, etc. Every officer, agent, or employee of any company, and every other person, who knowingly authorizes, directs, or aids in the issue or sale of, or issues or executes, or sells, or causes or assists in causing to be issued, executed, or sold, any security, in nonconformity with a permit of the commissioner then in effect authorizing such issue, or contrary to the provisions of this act, or of the constitution of this state, or who, in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him or his authority, knowingly makes any false statement or representation, or who, with knowledge of its falsity, files or causes to be filed in the office of the commissioner any false statement or representation concerning such company or the property which it then holds or proposes to acquire, or concerning its officers or its financial condition or other affairs, or concerning its proposed plan of business, or who, with knowledge of the falsity of any such statement or representation, issues, executes, or sells, or causes to be issued, executed, or sold, any security, without first informing the commissioner of the falsity of such statement in writing, or who, directly or indirectly, knowingly applies, or causes or assists in causing to be applied, the proceeds, or any part thereof, from the sale of any security to any purpose contrary to the

provisions of the permit authorizing the issue of such security, or to any purpose specified in such permit in excess of any amount limited in such permit to be used for such purpose, or who, with knowledge that any security has been issued or executed in violation of any of the provisions of this act, sells or offers the same for sale, or who, with knowledge that any advertisement, pamphlet, prospectus, or circular concerning any security contains any statement that is false or misleading, or otherwise likely to deceive a reader thereof issues, circulates, or publishes the same, or shall cause the same to be issued, circulated, or published, or who, in any other respect, willfully violates or fails to comply with any of the provisions of this act, or who, in any other respect, willfully violates or fails, omits, or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement, or any part or provision thereof, of the commissioner under the provisions of this act, is guilty of a public offense and shall be punished by imprisonment in the state prison not exceeding five years, or in a county jail not exceeding two years, or by a fine not exceeding five thousand dollars, or by both such fine and imprisonment.

§ 15. State corporation department created. There is hereby created a state corporation department. The chief officer of such department shall be the commissioner of corporations. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

§ 16. Clerks and deputies. Duty of attorney general. The commissioner shall employ such clerks and deputies as he may need to discharge in proper manner the duties imposed upon him by law. The attorney general shall render to the commissioner opinions upon all questions of law, relating to the construction or interpretation of this act or arising in the administration thereof, that may be submitted to him by the commissioner, and shall act as the attorney for the commissioner in all actions and proceedings brought by or against him under or pursuant to any of the provisions of this act. Neither the commissioner nor any of his clerks or deputies shall be interested in any company which shall have applied for or secured a permit to sell securities, or in any broker, or agent as a director, stockholder, officer, member, agent, or employee. Such clerks and deputies shall perform such duties as the commissioner shall assign to them. He shall fix the compensation of such clerks and deputies, which compensation shall be paid monthly, on the certificate of the commissioner and on the warrant of the controller, out of the state treasury. Each deputy shall, within fifteen days after his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state.

§ 17. Powers of commissioner. The commissioner shall at all times have the power to administer oaths and to make an examination or in

vestigation of the books, records, accounts, and other papers, and of the business of any company, broker, or agent permitted or authorized by him to sell securities, to make dividends, to create debts, to divide, withdraw, or pay to the stockholders, or any of them, any part of its capital stock, or to increase or reduce its capital stock. In any examination, audit, or investigation made or hearing conducted by him, he shall have the power to take the testimony of any witness and to issue subpoenas requiring the attendance upon such examination, audit, investigation, or hearing in any part of the state of witnesses and the production of books, documents, and other things under their control, and in any such case to take or cause to be taken the deposition of any witness residing within or without the state. All of the provisions of Chapter II of Title III of Part IV of the Code of Civil Procedure, relating to the means of production of evidence out of court, shall be applicable to any examination, investigation, or hearing under this act. No person shall be excused from testifying or from producing any book, document, or other thing under his control upon any such examination, audit, investigation, or hearing upon the ground that his testimony, or the book, document, or other thing required of him, may tend to incriminate him, or may have a tendency to subject him to punishment for a felony, or to a penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which he shall have been so compelled to testify under oath, or to produce such documentary or other evidence; provided, that no person so testifying shall be exempt from prosecution or punishment for perjury if committed by him in his testimony. The authority to make or conduct any such examination, audit, investigation, or hearing, including the authority to administer oaths, and to subpoena witnesses and take their testimony, may be delegated by the commissioner to any deputy or examiner appointed by him for that purpose. Such appointment shall be made by an instrument in writing, signed by the commissioner under his official seal, and upon such examination, audit, investigation, or hearing, the same shall be produced by such deputy or examiner at any time upon demand therefor.

§ 18. Service of process. In any action or proceeding commenced or prosecuted in this state against any corporation or association which shall have appointed the commissioner its attorney, as provided in section three of this act, and in any action or proceeding commenced or prosecuted in this state, arising out of or founded upon the actual fraud of any corporation or association which shall have appointed the commissioner its attorney, as provided in section five of this act, service of process may be made upon the commissioner. In any such case, the commissioner shall forthwith forward by mail, postage prepaid, to the person designated by such corporation or association by an instrument in writing duly executed by it and filed with the commissioner, at the address stated in such instrument, or, if no such designation has been made, to the secretary of such corporation or association at its last known post-office address, a copy of such process; whereupon, and upon the payment of the fee herein provided for, service of such process upon such company shall be deemed to be complete and to be personal service upon such corporation or association, with the same effect as if said corporation or association were organized or incorporated under the laws of

this state and had been lawfully served with process therein. The certificate of the commissioner, under his official seal, of such service, shall be competent and sufficient proof thereof.

§ 19. Offices. The commissioner shall have his principal office in the city of Sacramento, and may establish branch offices in the city and county of San Francisco, and in the city of Los Angeles, and he shall from time to time obtain the necessary furniture, stationery, fuel, light, and other proper conveniences for the transaction of the business of the department; the expenses of which shall be paid out of the state treasury on the certificate of the commissioner and the warrant of the controller.

§ 20. Fees. "Corporation commission fund." The commissioner shall charge and collect the following fees:

1. For filing any application for a permit to issue securities, ten dollars, plus—

One twentieth of one per cent of the amount of any excess of the aggregate value of the securities sought to be issued over twenty thousand dollars and not exceeding fifty thousand dollars;

One twenty-fifth of one per cent of such amount in excess of fifty thousand dollars and not exceeding one hundred thousand dollars;

One fiftieth of one per cent of such amount in excess of one hundred thousand dollars and not exceeding five hundred thousand dollars; and

One one-hundredth of one per cent of such amount in excess of five hundred thousand dollars.

The value of such securities shall be deemed to be their par or face value, if they have a par or face value; otherwise, the price at which the company proposes to sell or issue the same, or the value, as alleged in the application, of the consideration (if other than money) to be received in exchange therefor.

2. For filing any application for a permit or other authority to make dividends, create debts, or to divide, withdraw, increase, reduce or pay to the stockholders or any of them the capital stock, or any part thereof, the same amount that would otherwise be chargeable or collectible if such application were for a permit to issue securities; provided, that in any such case the value shall be determined by the amount of dividends made, debts created, or capital stock divided, withdrawn, increased, reduced, or paid.

3. For filing any application for a broker's certificate, five dollars.

4. For filing application for an agent's certificate, one dollar.

5. For any examination, audit, or investigation, ten dollars per day or fraction thereof, if made by the commissioner, or the actual amount of the salary or other compensation, not exceeding ten dollars per day, paid to any deputy or other employee of the commissioner, if made by a deputy or other employee, for each day or fraction thereof that such commissioner, deputy, or other employee shall necessarily be absent from his office for the purpose of making such examination, audit, or investigation, plus the actual amount of traveling expenses reasonably incurred in the performance of such work.

6. For copies of papers and records not required to be certified or otherwise authenticated by the commissioner, ten cents for each folio.

7. For certified copies of official documents, orders, and other papers filed in his office; for making and mailing copies of process served upon

him under the provisions of section eighteen of this act, and for transcripts on appeal, fifteen cents for each folio and one dollar for each certificate under seal affixed thereto.

8. For certificate of service and mailing of process served upon the commissioner under the provisions of sections eighteen of this act, two dollars.

No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution; but the commissioner may fix a reasonable charge for publications issued under his authority.

All fees charged and collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the state to the credit of a fund to be known as the "corporation commission fund," which fund is hereby created.

§ 21. Appropriated for use of commissioner. Revolving fund. All moneys which shall be paid into the state treasury and credited to the "corporation commission fund" are hereby appropriated to be used by the commissioner in carrying out the provisions of this act; and the controller shall draw his warrant on said fund from time to time in favor of the commissioner for the amounts expended under his direction, and the treasurer shall pay the same. The commissioner may, with the consent of the board of control, withdraw from said fund a sum not exceeding one thousand dollars, to be used as a revolving fund where cash advances are necessary. The commissioner must account for the sum withdrawn for said revolving fund at any time upon demand of the board of control.

§ 22. Seal. The commissioner shall adopt a seal bearing the following inscription: "Commissioner of Corporations State of California." The seal shall be affixed to all writs, orders, permits, and certificates issued by him, and to such other instruments as he shall direct. All courts shall take judicial notice of said seal.

§ 23. Copies of orders, etc. The commissioner may execute in duplicate any order, finding, or permit issued by him, and each of such parts shall be deemed to be an original. An original of every such order, finding, or permit shall be retained and preserved by him in his office. Copies of all documents, orders, and permits made, executed, or issued by the commissioner, and of all papers filed in his office, when certified by the commissioner under his official seal, shall be received in evidence in all cases in like manner and with the same effect as the originals. Any order or permit issued by the commissioner, or a copy thereof certified by the commissioner under his official seal, to be a true copy of the original order or permit, may be recorded in the office of the county recorder of the county in which is located the principal place of business of the company affected thereby or in which is situated any property of such company, and such record shall impart notice of such order or permit, and of all its provisions, to all persons. A certificate under the seal of the commissioner that any such order or permit has not been amended, altered, revoked, or suspended may also be recorded in the same offices and with like effect.

§ 24. Official reports prima facie evidence. Every official report made by the commissioner, and every report, duly verified, made to him by any deputy, clerk, or other person employed by him, of any examination, audit, or investigation made by him or under his direction, and copies of such reports, certified by the commissioner, shall be prima facie evidence of the facts therein stated for all purposes in any action or proceeding wherein any company, broker, agent, or the commissioner is a party.

§ 25. Subscription for shares prior to incorporation. Election of officers prior to issuing shares. Neither this act nor any provision hereof shall be deemed to prohibit subscriptions for shares of a corporation made prior to the incorporation thereof and set forth in its articles of incorporation; but such subscriptions shall be deemed to have been made and accepted upon the condition that such corporation, when incorporated, shall with reasonable diligence apply for and secure from the commissioner a permit authorizing the issue of the shares so subscribed for, in accordance with such subscriptions. The directors or trustees named in the articles of incorporation may, prior to the issue of any shares, organize by the election of a president, who must be one of their number, a secretary and a treasurer; and such directors, or a majority of them, or such president and secretary may, in the name of and in behalf of the corporation, present an application to the commissioner as herein provided.

§ 26. Acts continued. Decisions, etc., continued in force. Appeals not affected. Examination, etc., continued to final determination. This act, in so far as it does not add to, take from, or alter an act entitled "An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor," approved May 28, 1913, as amended by an act entitled "An act to amend section three of an act entitled 'An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor,' approved May 28, 1913," approved June 3, 1915, shall be construed as a continuation thereof.

All decisions, orders, rules, findings, certificates, or permits heretofore made or issued, and acts done by the commissioner, shall continue in force and have the same effect as if they had been lawfully made, issued, or done under the provisions of this act.

This act shall not affect any appeal pending from any decision of the commissioner, or any proceeding to which he, in his official capacity, is a party; but the same may be prosecuted or defended with the same effect as if this act had not been passed. Any examination, audit, or investigation undertaken, commenced, or prosecuted prior to the taking effect of this act may be conducted to a final determination in the same manner and with the same effect as if it had been undertaken, commenced, or prosecuted under the provisions of this act, and in the manner herein provided. No action or proceeding, either civil or criminal, or cause of action arising under any law of this state shall abate by reason of the passage of this act, but actions or proceedings may be commenced

and prosecuted upon such causes in the same manner and with the same effect as if this act had not been passed.

§ 27. Foreign and interstate commerce. Neither this act nor any provision hereof shall apply to or be construed as a regulation of commerce with foreign nations or among the several states, except in so far as the same may be permitted under the provisions of the constitution and the acts of the congress of the United States.

§ 28. Constitutionality. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

§ 29. Repealed. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

TITLE 266.

IRRIGATION.

ACT 1723j.

An act to authorize irrigation districts to co-operate and contract with the United States under the provisions of the federal reclamation laws for a water supply, or the construction, operation or maintenance of works, including drainage works, or for the assumption by the district of indebtedness to the United States on account of district lands; and to provide the manner and method of payments to the United States under such contract, and for the apportionment of assessments, and levy thereof, upon the lands of the district to secure revenue for such payments, and to provide for the judicial review and determination of the validity of the proceedings in connection with such contract.

[Approved May 5, 1917. Stats. 1917, p. 243. In effect July 27, 1917.]

§ 1. Irrigation districts may co-operate with the United States. In addition to the powers with which irrigation districts have been vested under the act approved March 31, 1897, and acts amendatory thereof or supplementary thereto and acts of or to which said act is amendatory or supplementary, irrigation districts heretofore or hereafter organized under said acts shall have the following powers: To co-operate and contract with the United States under the federal reclamation act of June 17, 1902, and all acts amendatory thereof or supplementary thereto, or any other act of congress heretofore or hereafter enacted authorizing or permitting such co-operation, for purposes of construction of works, whether for irrigation or drainage, or both, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States on account of district lands.

§ 2. Power of board of directors. Transfer of books. Appointment as fiscal agent. The board of directors shall generally perform all such acts as shall be necessary to carry out the enlarged powers in this act

enumerated. Said board may enter into any obligation or contract with the United States for the aforesaid purposes, and may provide therein for the delivery and distribution of water for the lands of such district under the aforesaid acts of congress and the rules and regulations established thereunder. The contract may provide for the conveyance to the United States as partial consideration for the privileges obtained by the district under said contract, of water rights or other property of the district; and in case contract has been or may hereafter be made with the United States as herein provided, bonds of the district may be transferred to, or deposited with the United States, if so provided by said contract and authorized as hereinafter set forth, at not less than ninety-five per cent of their par value, to the amount to be paid by the district to United States or any part thereof; the interests, or principal, or both, on said bonds to be raised by assessment and levy as hereinafter prescribed, and to be regularly paid to the United States and applied as provided in said contract. Bonds transferred to or deposited with the United States may call for the payment of such interest not exceeding six per cent per annum, may be of such denomination, and may call for the repayment of the principal at such times as may be agreed upon between the board and the secretary of the interior. The contract with the United States may likewise call for the payment of the amount or amounts to be paid by the district to the United States or any part thereof at such times and in such installments and with such interest charges not exceeding the aforesaid rate as may be agreed upon, and for assessment and levy therefor as hereinafter provided. Moreover the board may accept on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collection of moneys for or on behalf of the United States in connection with any federal reclamation project, whereupon the district shall be authorized so to act and to assume the duties and liabilities incident to such action, and the said board shall have full power to do any and all things required by the federal statutes now or hereafter enacted in connection therewith, and all things required by the rules and regulations now or that may hereafter be established by any department of the federal government in regard thereto. Districts co-operating with the United States may rent or lease water to private lands, entrymen, or municipalities in the neighborhood of the district, in pursuance of contract with the United States.

§ 3. Election on proposal to enter contract. Notice. Ballots. Any proposal to enter into a contract with the United States for the repayment of construction moneys, the cost of a water supply or the acquisition of property, and to issue bonds, if any be proposed, shall be voted upon at an election wherein proceedings shall be had in so far as applicable in the manner provided in the case of the ordinary issuance of district bonds. Said proposal, with such plans and estimates of cost as have been made in connection therewith, shall be submitted to the state engineer for his examination and report, and the proceedings in that regard shall be in accord with section thirty of the act approved March 31, 1897, as amended, in so far as the same may be applicable. Notice of the election herein provided for shall contain in addition to the information required in the case of ordinary bond election a statement of the maximum amount of money to be payable to the United States for

construction purposes, cost of water supply and acquisition of property, exclusive of penalties and interest, together with a general statement of the property, if any, to be conveyed by the district as hereinabove provided. The ballots at such election shall contain a brief statement of the general purpose of said contract and the amount of the obligation to be assumed, as aforesaid, with the words "Contract—Yes" and "Contract—No," or "Contract and bonds—Yes" and "Contracts and Bonds—No," as the case may be. The board of directors may submit any such contract or proposed contract and bond issue if any, to the superior court of the county wherein is located the office of said board to determine the validity thereof and the authority of the board to enter into such contract, and the authority for and validity of the issuance and deposit or transfer of said bonds; whereupon the same proceedings shall be had as in the ordinary case of the judicial determination of the validity of bonds and with like effect.

§ 4. Distribution of water. All water, the right to the use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the acts of congress applicable thereto, the rules and regulations of the secretary of the interior thereunder, and the provisions of said contract, and provision may be made in the contract between the district and the United States for the refusal of water service to any or all lands which may become delinquent in the payment of any assessment levied for the purpose of carrying out any contract between the district and the United States.

§ 5. Rights of way conveyed. Any rights of way or other property owned or acquired by the district may be conveyed by the board to the United States in so far as the same may be needed for the construction, operation and maintenance of works by the United States for the benefit of the district under any contract that may be entered into with the United States pursuant to this act.

§ 6. Payments by annual assessments. All payments due or to become due to the United States under any contract between the district and the United States, including such payments of interest and principal on bonds as may be required in connection with a deposit or transfer thereof to the United States, shall be paid, unless otherwise provided by contract, by revenue derived from annual assessments, apportioned as hereinafter prescribed, and levies thereof, upon such real property within the district as may be assessable for district purposes under the laws of the state, and such real property shall be and remain liable to be assessed and levied upon for such payments as herein provided. It shall be the duty of the board of directors annually to levy an assessment sufficient to raise the money necessary to meet all payments when due as provided in the contract. All money collected in pursuance of such contract by assessments and levies, or otherwise, shall be paid into the district treasury and held in a fund to be known as the "United States contract fund," to be used for payments due to the United States under any such contract. Public lands of the United States within any district shall be subject to assessment for all purposes of this act to the extent provided for by the act of congress approved August 11, 1916, entitled "An act to promote reclamation of arid lands," or any other

law which may hereafter be enacted by congress in the same relation, upon full compliance therewith by the district. Nothing in this act contained shall be construed to relieve the district from obligation to pay as a district in case of default of any land, unless so provided by the said contract between the district and the United States.

§ 7. Apportionment of assessment. The assessment required in any year to meet the payment due to the United States for all purposes under the contract as in this act provided may be apportioned in accordance with the benefits, and in the ascertainment of such benefits there shall be taken into account the provisions of the contract between the United States and the district, the federal laws applicable thereto, and the notices and regulations issued in pursuance of said laws, and in case such contract is for the assumption by the district as principal or guarantor of indebtedness to the United States theretofore existing on account of district lands, there shall be further taken into account the provisions of existing contracts carrying such indebtedness and the amounts of such liens as may be released in pursuance of the contract between the United States and the district.

§ 8. Change in boundaries. Where contract shall have been entered into between the United States and any irrigation district the district shall not be dissolved, nor shall the boundaries be changed, except upon written consent of the secretary of the interior filed with the official records of the district. If such consent be given and lands be excluded, the areas excluded shall be free from all liens and charges for payments to become due to the United States.

§ 9. Acts in force. The provisions of the general irrigation district act, approved March 31, 1897, and acts amendatory thereof or supplemental thereto, shall be and remain in force as regards irrigation districts in this act referred to except in so far as herein modified expressly or by necessary implication; and nothing in this act shall be so construed as to affect irrigation district operations not related to co-operation with the United States. However, the provisions of section fifty-three of said act, approved March 31, 1897, shall not apply in case of any contract between an irrigation district and the United States.

ACT 1725e.

An act to recognize and declare valid all proceedings in Carmichael irrigation district. [Approved March 20, 1917. Stats. 1917, p. 12. In effect July 27, 1917.]

ACT 1725f.

An act to recognize and declare valid all proceedings in Happy Valley irrigation district. [Approved May 23, 1917. Stats. 1917, p. 906. In effect July 27, 1917.]

ACT 1725g.

An act to recognize and declare valid the Paradise irrigation district, and all proceedings in relation thereto and to the organization thereof. [Approved March 20, 1917. Stats. 1917, p. 13. In effect July 27, 1917.]

ACT 1725h.

An act to recognize and declare valid the Stratford irrigation district, and all proceedings in relation thereto and to the organization thereof. [Approved March 20, 1917. Stats. 1917, p. 14. In effect July 27, 1917.]

ACT 1725i.

An act to recognize and declare valid the Terra Bella irrigation district, and all proceedings in relation thereto and to the organization thereof. [Approved March 20, 1917. Stats. 1917, p. 14. In effect July 27, 1917.]

ACT 1725j.

An act to recognize and declare valid the Lindsay-Strathmore irrigation district, and all proceedings in relation thereto and to the organization thereof. [Approved March 20, 1917. Stats. 1917, p. 15. In effect July 27, 1917.]

ACT 1725k.

An act recognizing and declaring valid the West Side irrigation district and approving and declaring valid all proceedings on formation and organization of said district. [Approved March 20, 1917. Stats. 1917, p. 15. In effect July 27, 1917.]

ACT 1725l.

An act to recognize and declare valid all proceedings in Baxter creek irrigation district. [Approved May 4, 1917. Stats. 1917, p. 227. In effect July 27, 1917.]

ACT 1725m.

An act validating the formation and organization of Los Angeles County Drainage District Improvement No. 1 under the provisions of an act of the legislature of the state of California, approved March 21, 1903, as amended May 7, 1915, and entitled as amended "An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in the communities in which they lie, providing for the issuance of bonds and levying of assessments on lands benefited, to pay the costs and expenses thereof." [Approved May 4, 1917. Stats. 1917, p. 227. In effect July 27, 1917.]

ACT 1725n.

An act to recognize and declare valid all the proceedings in Princeton-Codora-Glenn irrigation district. [Approved May 4, 1917. Stats. 1917, p. 228. In effect July 27, 1917.]

ACT 1725o.

An act to recognize and declare valid all proceedings in Tranquillity irrigation district. [Approved April 21, 1919. Stats. 1919, p. 124. In effect July 22, 1919.]

ACT 1725p.

An act to recognize and declare valid all proceedings in Red Rock creek irrigation district. [Approved April 21, 1919. Stats. 1919, p. 124. In effect July 22, 1919.]

ACT 1725r.

An act to recognize and declare valid all proceedings in Fair Oaks irrigation district. [Approved April 8, 1919. Stats. 1919, p. 37.]

ACT 1726.

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

[Approved March 31, 1897. Stats. 1897, p. 254.]

Amended 1901, p. 815; 1905, p. 27; 1909, pp. 12, 46, 429, 461, 998, 1062, 1075; 1911, pp. 509, 1111; 1911 (Extra Session), pp. 135, 139, 248; 1913, pp. 59, 781, 993; 1915, pp. 836, 1291, 1326, 1367; 1917, pp. 751, 915; 1919, pp. 473, 660, 714.

The amendments of 1917 and 1919 follow:

See note at end of statute.

§ 1. Majority of owners may organize irrigation district. Petitioners must hold twenty per cent in value of land. Evidence of title. Holder of undivided interest. A majority in number of the holders of title or evidence of title to lands susceptible of irrigation from a common source and by the same system of works, including pumping from subsurface or other waters, such holders of title or evidence of title representing a majority in value of said lands, may propose the organization of an irrigation district, under the provisions of this act; or the organization of such an irrigation district may be proposed by not less than five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing in the proposed district or the holder of title or evidence of title to land therein; provided, that the said petitioners must include the holders of title or evidence of title to not less than twenty per cent in value of the lands included within the proposed district. The lands proposed to be included within any such irrigation district need not consist of contiguous parcels. Any holder of land under a possessory right acquired by entry or purchase from the United States or the state of California shall be deemed to be a holder of evidence of title to said land within the meaning of this act. The county assessment-roll of the county in which any lands included within such proposed irrigation district are situated, which assessment-roll has been last equalized at the time of the first publication of said petition as provided in section two of this act, shall be conclusive evidence as to the value of said lands and the holders of title or evidence of title to said lands. If any parcel of land is assessed on any assessment-roll to unknown or fictitiously named owners, or to unnamed owners in addition to any owner or owners named thereon, said parcel of land shall be deemed, for any of the purposes of this act, to have but one owner in addition to any owner or owners whose true name or names may be pur-

ported to be given on such assessment-roll. The holder of title or evidence of title to an undivided interest in any land affected by any of the provisions of this act may sign any petition provided for in this act, and such undivided interest shall be counted and valued as though it were a separate interest, and if the assessment-roll shall fail to indicate the extent of any such undivided interest, the holders of title or evidence of title whose undivided interests in any land are not specifically defined shall be deemed to have equal shares therein. Guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature and of the fact of place of residence of any petitioners under this act. [Amendment approved May 16, 1919; Stats. 1919, p. 714.]

This section was also amended in 1917. See Stats. 1917, p. 751.

§ 2. Petition to organize irrigation district. Publication. Hearing. Investigation of state engineer. Report that project is not feasible. Final hearing. Changes in boundaries. In order to propose the organization of an irrigation district, a petition signed by the requisite majority of holders of title or evidence of title to lands within the proposed district or by at least five hundred petitioners, as provided in section one of this act, shall be presented to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated. Said petition shall set forth generally the boundaries of the proposed district and also shall state generally the source or sources (which may be in the alternative) from which said lands are proposed to be irrigated, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments, and must be accompanied with a good and sufficient undertaking, to be approved by the board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board and shall be published for at least two weeks before the time at which the same is to be presented in some newspaper of general circulation printed and published in the county where said petition is presented together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When contained upon more than one instrument, one copy only of such petition need be published, but the names attached to all of said instruments must appear in such publication. On or before the day on which said petition is presented to said board of supervisors, a copy of said petition shall be filed in the office of the state engineer. Signatures to the petition may be withdrawn at any time before the publication is commenced as in this section required, by

filing a declaration, signed by the petitioner, with the board of supervisors before which the petition is to be presented, stating that it is the intention of the petitioner to withdraw therefrom, which declaration shall be acknowledged in the same manner as conveyances of real estate are required to be acknowledged. When said petition is presented, said board of supervisors shall hear the same and shall proceed to determine whether or not said petition complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevant testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not exceeding two weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, and no lack of signatures thereto, or to the petition as published, shall vitiate any proceedings thereon; provided, such petition or petitions have a sufficient number of qualified signatures attached thereto. The determination of the board shall be expressed by resolution. If it shall determine that any of the requirements hereinbefore set forth have not been complied with, the matter shall be dismissed, but without prejudice to the right of the proper number of persons to present a new petition covering the same matter or to present the same petition with additional signatures, if such additional signatures are necessary to comply with the requirements of this act. If the board of supervisors shall determine that the petitioners have complied with the requirements hereinbefore set forth, it shall cause a copy of the resolution so declaring to be forwarded to the state engineer. Upon receiving a copy of said resolution, the state engineer shall make or cause to be made such preliminary investigation as may be practicable, with a view to determining the feasibility of the project proposed to be undertaken. He shall report as soon as practicable, but at all events within ninety days from the date of the adoption of the said resolution, in writing, on the matter to the board of supervisors from which the copy of said resolution was received, except that upon receiving a written request from the state engineer, the board of supervisors may at any meeting before the expiration of said ninety days grant to the state engineer not more than ninety days additional time in which to make said report. If the state engineer shall report within the time specified herein that the supply of water available for the use of the proposed district, or that may be acquired by any practicable means, including the condemnation of existing rights, is not sufficient or that the project is not feasible for any other reason or reasons, the hearing of the matter shall be continued for not more than two months and shall then be dismissed unless the board of supervisors shall be petitioned in writing by three-fourths of the holders of title or evidence of title to land within said proposed district to grant said petition; provided, that if the board of supervisors is not so petitioned, it may modify the plans for the proposed district in accordance with recommendations by the state engineer. If after receiving an adverse report from the state engineer the board of supervisors shall be petitioned as aforesaid or shall decide to modify the plans for the proposed district in accordance with recommendations by the state engineer, it shall, at the time to which the hearing of said matter shall have been continued, set a time for the final hearing thereof. If the continuance of the matter is not compelled by an adverse report as aforesaid, the

board of supervisors, at its first regular meeting after the receipt of a report from the state engineer, or at the first regular meeting after the expiration of the time allowed for the making of such report if no such report has been received, shall set a time for a final hearing of the matter. In any case the time set for the final hearing as aforesaid shall not be less than one week from the meeting at which said time was set; provided, that notice of the time of such final hearing shall be given by registered mail to such party as shall have been designated for that purpose by the petitioners, or by publication for at least three days in one daily newspaper published in the county in which the lands within the proposed district, or the greater portion thereof are situated. A failure to give such last-mentioned notice, however, shall not affect the validity of subsequent proceedings. On a final hearing herein provided for, the board may adjourn from time to time, but at no time for a longer period than three days until a determination of the matter is reached. On said final hearing said board shall make such changes in the proposed boundaries as it may deem advisable and shall define and establish such boundaries, but said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from any of the sources proposed, unless said board shall decide to modify the plan for such proposed district, as herein provided, nor shall any lands which will not, in the judgment of said board, be benefited by irrigation by means of said systems or works be included within such proposed district. Lands already irrigated and riparian lands may be included in the district if in the judgment of the board of supervisors such land will be benefited, or if the water used thereon or the rights to the use of water thereon should, in the judgment of the board of supervisors, be taken or acquired for the district. Any person whose lands are susceptible of irrigation from any of the proposed sources may, upon his application, in the discretion of said board, have such lands included within said proposed district. [Amendment approved May 16, 1919; Stats. 1919, p. 715.]

This section was also amended in 1917. See Stats. 1917, p. 752.

§ 2a. Duty of state engineer. The state engineer shall have authority, and it shall be his duty, to give information so far as may be practicable to persons contemplating the organization of irrigation districts under the provisions of this act. Whenever the department of engineering shall deem it in the public interest that preliminary surveys and field investigations of proposed irrigation district projects shall be made at the expense of the state, the state engineer shall make such surveys and field investigations of such proposed irrigation district projects, and, pending the completion of such surveys and investigation, the state water commission shall have authority to withhold from appropriation any unappropriated waters likely to be needed therefor. [New section added May 19, 1917; Stats. 1917, p. 755.]

§ 9. Canvass of votes. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that a majority of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes, declare the territory duly organized as an irrigation district, under the name theretofore designated, and

shall declare the persons receiving respectively the highest number of votes at said election to be duly elected. [Amendment approved May 16, 1919; Stats. 1919, p. 718.]

§ 14. Board of directors, monthly meetings. Special meetings. Quorum. The board of directors shall hold a regular meeting on the first Tuesday of each month at the place selected as the office of the board; provided, that the board may, by resolution duly entered upon its minutes, fix any other time as the time for its regular monthly meeting, but no change in the time of holding regular meetings of the board shall be made until after the resolution proposing such change has been published once a week for two successive weeks in a newspaper published in the county in which the office of the district is kept. Such special meetings of the board of directors may be held as may be required for the proper transaction of the business of the district, but a special meeting must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must by the secretary be given to each director not joining in the order. The order must specify the business to be transacted, and no other business than that specified in the order may be transacted at such special meeting, unless all the members are present and consent to the consideration of any business not specified in said order. All meetings of the board must be public and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote, except a motion to adjourn or a motion to adjourn to a stated time, there shall be a concurrence of at least the number constituting a quorum. A smaller number of directors than a quorum may adjourn from day to day. All records of the board shall be open to public inspection during business hours. Whenever any act is required to be done or proceeding taken by this act, or by an act supplemental or amendatory thereto, on the first Tuesday in any month, such act may be done or proceeding had upon the day specified in the resolution hereinbefore referred to as the time for the regular meeting of the board of directors; provided, also, that when a day other than the first Tuesday in the month shall have been specified as the time for the regular meeting of the board of directors, thereafter the newly elected officers of the district shall take office at noon on the day fixed for the regular monthly meeting of said board in March and said board shall meet for reorganization and the transaction of any other business of the district in the afternoon of said day. [Amendment approved May 19, 1917; Stats. 1917, p. 755.]

§ 14a. Publication of financial condition. The board of directors at their regular monthly meeting in January of each year shall render and immediately thereafter cause to be published a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some newspaper, published in the county where the office of the board of directors of such district is situated. [New section added May 19, 1917; Stats. 1917, p. 756.]

§ 15. Powers of directors. The board of directors shall have the power and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. Said board shall also have the right to acquire, by purchase, lease, contract, condemnation, or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair and improvements of said canal, or canals, and works, whether in this or in other states or in a foreign nation, including canals, and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances, and also where necessary or convenient to said ends to acquire and hold the stock of other corporations domestic or foreign owning waters, canals, waterworks, franchises, concessions or rights. Said board may enter into, and do any acts necessary or proper for the performance of, any agreements with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might lawfully be acquired or owned by the irrigation district, and may acquire the right to store water in any reservoirs or to carry water through any canal, ditch or conduit not owned or controlled by the district, and may grant to any owner or lessee of the right to the use of any water the right to store such water in any reservoir of the district or to carry such water through any canal, ditch or conduit of the district. [Amendment approved May 16, 1919; Stats. 1919, p. 661.]

§ 15a. Limit on purchase. Petition of owners. [New section added May 19, 1917; Stats. 1917, p. 757. Repealed 1919, p. 661.]

§ 15b. Dams. Conveyances. The board of directors of any irrigation district may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each land owner in said district for irrigation and domestic purposes; provided, that where, within irrigation districts mutual water companies have been organized to furnish water to certain specified lands within said districts, the board of directors of such districts are hereby authorized and empowered to contract for the delivery of water for such lands as lie within the boundary of said water companies, through said mutual water companies only. The said board is hereby authorized and empowered to take conveyances, leases, contracts or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law and in equity necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect

or preserve any and all rights, privileges and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits or proceedings, the said board may sue, appear and defend in person or by attorneys, and in the name of such irrigation district. [New section added May 19, 1917; Stats. 1917, p. 758.]

§ 15c. Rules for use of water. It shall be the duty of the board of directors of any irrigation district to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. [New section added May 19, 1917; Stats. 1917, p. 758.]

§ 15d. Change election precincts. Lease canals. The board of directors, when they deem it advisable for the best interests of the district, and the convenience of the electors thereof, may at any time, but not less than sixty days before an election to be held in the district, change the boundaries of the divisions or election precincts of the district or of both; provided, such changes shall be made to keep each division as nearly equal in area and population as may be practicable. Such change of boundaries of the divisions and precincts must be shown on the minutes of the board. The board of directors of any irrigation district now or that may hereafter be organized in the state, shall also have the power, and such board is hereby vested with the authority, to lease the system of canals and works in the district, or any part thereof, whenever such leasing may be for the benefit of the district; provided, that when the directors of any irrigation district contemplate the leasing of the canals and works of such district, they shall give notice of such contemplation by publishing the same in some newspaper published in the county in which such irrigation district lies, at least three weeks prior to the making of the lease, and such lease shall be made to the highest bidder. But such board shall have the right to reject any and all bids. Such lease shall in no way interfere with any rights that may have been established by law, at the time such lease is made; and, further provided, that the board of directors shall require a good and sufficient bond to secure faithful performance of the lease by the lessees.

NOTE.—Section 15½ of the act was renumbered as § 15d and amended May 19, 1917. Stats. 1917, p. 758.

§ 15½. [See § 15d and note.]

§ 16. Condemnation proceedings. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three of the Code of Civil Procedure of the state of California, and all pleadings, proceedings, and process in said title provided shall be applicable to the condemnation proceedings hereunder. [Amendment approved May 19, 1917; Stats. 1917, p. 759.]

§ 18. Apportionment of water. It is hereby expressly provided, that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner upon the basis of the ratio which the last

assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; and any land owner may assign the right to the whole or any portion of the waters so apportioned to him; provided, that when any rates of toll and charges for the use of water are fixed by the board of directors, as provided in section fifty-five of this act, the water for the use of which such rates of toll and charges have been fixed shall be distributed equitably, as may be provided by the board of directors, among those offering to make the required payment therefor; and provided, further, that if an irrigation district has contracted to deliver, and is delivering, water to mutual water companies for distribution to territory served thereby, the water shall be apportioned on such a basis as the board of directors shall find to be just and equitable and for the best interests of all parties concerned. [Amendment approved May 16, 1919; Stats. 1919, p. 661.]

§ 19. Irrigation district officers to be elected. An election, which shall be known as the general irrigation district election, shall be held in each irrigation district on the first Wednesday in February in each odd-numbered year, at which a successor shall be chosen to each officer whose term shall expire in March next thereafter. The person receiving the highest number of votes for each office to be filled at such election shall be elected thereto. The elective officers of an irrigation district shall be as many directors as there are divisions in the district, and an assessor, a collector and a treasurer; provided, that if any two or more offices shall have been consolidated as provided in section seven or section twenty-seven hereof, only one person shall be elected to fill such consolidated offices. The term of office of each elective officer of an irrigation district elected at or after the general irrigation district election in one thousand nine hundred nineteen shall be four years, or until his successor is elected and has qualified. [Amendment approved May 19, 1917; Stats. 1917, p. 759.]

§ 19a. Official bonds. Within ten days after receiving their certificates of election hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount of the collector's bond not to be less than five thousand dollars. Each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary

of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers and the premiums thereon may be paid by the district; provided, that in case any district organized under this title is appointed fiscal agent of the United States or by the United States in connection with any federal reclamation project, each of said officers shall execute a further and additional official bond in such sum as the secretary of the interior may require, conditioned for the faithful discharge of the duties of his office and the faithful discharge by the district of its duties as fiscal or other agent of the United States under any such appointment or authorization, and any such bond may be sued upon by the United States or any person injured by the failure of such officer or the district to fully, promptly and completely perform their respective duties. [New section added May 19, 1917; Stats 1917, p. 760.]

§ 19b. If election be not held. If an election is not held as herein provided, then upon the filing of a petition with the secretary of the board of directors of such district, signed by ten per cent of the electors residing within the boundaries of any such irrigation district, requesting that a special election be called for the election of such officers, the directors of such district shall thereupon call a special election thereof for the election of such officers, such election to be held within not less than fifteen, nor more than thirty days after the filing of such petition. [New section added May 19, 1917; Stats. 1917, p. 760.]

§ 20. Beginning of term. Organization. At noon of the first Tuesday in March next following their election, except as provided in section fourteen of this act, the officers who shall have been elected at the preceding general irrigation district election shall enter upon the duties of their respective offices. On the first Tuesday in March next following each election, the directors shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 26. Qualification of director. A director shall be a resident and freeholder of the irrigation district and a resident of the division which he is elected to represent. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 28. Number of directors. In any district the board of directors thereof must upon a presentation of the petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors. [Amendment approved May 19, 1917; Stats. 1917, p. 761.]

§ 30. Estimate of money needed for improvement. Interest on bonds may be included in estimate. For the purpose of constructing or purchasing necessary irrigation canals and works, and acquiring the necessary property and rights therefor, and for the purpose of acquiring waters, water rights, reservoirs, reservoir sites, and other property necessary for the purposes of said district, and otherwise carrying out the provisions of this act, or any other act under which said district is or may be authorized to acquire property or construct works, the

board of directors of any such district must, as soon after such district has been organized as may be practicable, and also whenever thereafter the board of directors shall find that the construction fund raised by the last previous bond issue is insufficient, or that the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. For the purpose of ascertaining the amount of money necessary to be raised for such purposes, or any of them, said board shall cause such surveys, examinations, drawings and plans to be made as shall furnish the proper basis for said estimate. Said surveys, examinations, drawings and plans, and the estimate based thereon may provide that the works necessary for a completed project shall be constructed progressively during a period of years. In the estimate of the amount of money necessary to be raised by the first issue of bonds in any district, the board of directors may include a sum sufficient to pay the interest on all of such bonds for three years or less. All such surveys, examinations, drawings and plans shall be made under the direction of a competent irrigation engineer and shall be certified by him. [Amendment approved May 16, 1919; Stats. 1919, p. 662.]

This section was also amended in 1917. See Stats. 1917, p. 761.

§ 30a. Report submitted to commission. Report of commission. The board of directors shall then submit a copy of the said estimate and the said engineer's report to the commission authorized by law to approve bonds of irrigation districts for certification as legal investments for savings banks and for the other purposes specified in the act creating said commission. Said commission shall forthwith examine said report and any data in its possession or in the possession of said district and shall make such additional surveys and examinations at the expense of the district as it may deem proper or practicable, and as soon as practicable thereafter shall make to the board of directors of said district a report which shall contain such matters as, in the judgment of the said commission, may be desirable; provided, that it may state generally the conclusions of said commission regarding the supply of water available for the project, the nature of the soil proposed to be irrigated as to its fertility and susceptibility to irrigation, the probable amount of water needed for its irrigation and the probable need of drainage, the cost of works, water rights and other property necessary for a complete and satisfactory project, the proper dates of maturity for the bonds proposed to be issued and whether in its opinion it is advisable to proceed with the proposed bond issue. If the estimate of the amount of said bond issue shall have included any amount for the payment of interest on the bonds of such issue, as provided in section thirty of this act, and such estimate for the payment of interest, or any part thereof, is approved by the commission in said report, it shall be lawful for the board of directors, if the issuance of such bonds is thereafter authorized by vote of the electors of the district, to use for the payment of interest on any bonds of such issue so much of the proceeds of the sale of said bonds as may have been approved for that purpose in said report of the commission. [Amendment approved May 16, 1919; Stats. 1919, p. 662.]

This section was added in 1917. See Stats. 1917, p. 762.

§ 30b. Report to board of directors. Order of amount of bonds. If after such examination and investigation the said commission shall deem it advisable that the said plans be modified or that the amount of the bonds proposed to be issued be changed, or that certain conditions should be prescribed to insure the success of the project, or that in its opinion it is not advisable to proceed with the proposed bond issue, it shall so state in its report to the board of directors. After receiving said report, or if no report is received within ninety days after the submission of said estimate and engineer's report to said commission, said board of directors, if it shall determine and shall declare by resolution that the proposed plan of works or some modified plan recommended by said commission is satisfactory and that the said project or said modified plan is feasible, shall make an order determining the amount of bonds that should be issued in order to raise the money necessary therefor; and provided, further, that if any district shall issue bonds to carry out any plans approved by said irrigation district bond commission as herein provided it shall be unlawful for said district to make any material change in said plans thereafter without the consent of said commission. [Amendment approved May 16, 1919; Stats. 1919, p. 663.]

This section was added in 1917. See Stats. 1917, p. 762.

§ 30c. Special election for bond issue. After the making of the order specified in section thirty b of this act said board of directors may call a special election, at which shall be submitted to the electors of such district possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount determined in said order of said board shall be issued, and said board must call such an election and submit said question upon receipt of a petition signed by a majority of the holders of title or evidence of title to lands within the district, representing, also, a majority in value of said lands, or by at least five hundred petitioners, each petitioner to the number of at least five hundred to be an elector residing within the district or a holder of title or evidence of title to lands therein, provided that said petitioners shall include the holders of title or evidence of title to not less than twenty per cent in value of said lands. In determining the value of any lands within an irrigation district and the holders of title or evidence of title to such lands for the purpose of determining the sufficiency of any petition required by this act after the organization of the district, the assessment-roll of the district last equalized at the time of the presentation of such petition shall be conclusive evidence, but if no assessment-roll of the district has theretofore been equalized, then the county assessment-roll of the county within which any land within the district is situated, which county assessment-roll has been last equalized at the time of the presentation of such petition, shall be conclusive evidence of such facts for such land. [Amendment approved May 16, 1919; Stats. 1919, p. 664.]

This section was added in 1917. See Stats. 1917, p. 762.

§ 30d. Notice. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days and also by publication of such notice in some newspaper published in the county where the office of the board of

directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same if the election shall have been otherwise fairly conducted. [New section added May 19, 1917; Stats. 1917, p. 762.]

§ 30e. Questions on ballot. Ballots. At said election questions as to the issuance of bonds may be submitted separately on the same ballot if estimates of the cost of the respective projects have been made and the irrigation district bond commission has reported thereon and the respective propositions have been stated in the notices of the election. At such election the ballots shall contain a general statement of the proposition or propositions to be voted on, including the amount of bonds proposed to be issued for each purpose, but no informality in such statement shall vitiate the election. Each proposition shall be followed by the words "Yes" and "No," on separate lines, with a small inclosed space after each of said words. The electors shall vote for or against any proposition by stamping a cross (X) in the voting space after the word "Yes" or "No" respectively. On the ballot shall be printed the following under the heading "Instructions to voters": "To vote for a proposition, stamp a cross (X) in the voting space after the word 'Yes' following the proposition. To vote against a proposition, stamp a cross (X) in the voting space after the word 'No' following the proposition." If two-thirds of the votes cast for and against any proposition are for "Yes," the board of directors shall cause bonds in the amount specified in such proposition to be issued; provided, that if said election shall have been called after the presentation of a petition therefor as provided in section thirty c of this act, the board of directors shall cause bonds in the amount specified in any proposition to be issued if a majority of the votes cast for and against said proposition are for "Yes." If the number of votes for any proposition is less than the number required herein to authorize the issuance of the bonds provided for therein, the result of the vote on said proposition shall be entered of record, but said proposition may be again submitted to the electors of the district at a special election upon the presentation to the board of directors of a petition therefor signed as provided in section thirty c of this act. [Amendment approved May 16, 1919; Stats. 1919, p. 664.]

This section was added in 1917. See Stats. 1917, p. 763.

§ 31. Form of bonds. Interest. Life of bonds. May be paid at end of other periods. Subject to the provisions of this act, the board of directors shall prescribe the form of the bonds issued by the district and of the interest coupons to be attached thereto. An issue of bonds is hereby defined to be all the bonds issued in accordance with a proposal approved by the electors of the district. Each issue of the bonds of a district shall be numbered consecutively as authorized, and the bonds of each issue shall be numbered consecutively. The board of directors shall fix the date of said bonds, or may divide any issue into

two or more divisions and fix different dates for the bonds of each respective division. The date of any bond must be subsequent to the election at which its issuance was authorized and prior to its delivery to a purchaser from the district. The date of issue of any bond authorized under this act or heretofore or hereafter issued in pursuance of this act shall be deemed to be the apparent date of the said bond appearing on the face thereof. Each bond shall be signed by the president and secretary of the board of directors of the district, who may be in office at the date of said bond or at any time thereafter prior to the delivery of said bond to the purchaser thereof from the district, and the seal of the district shall be impressed on each bond. The interest coupons shall also bear the signature of the secretary of the board of directors or a facsimile of such signature. The board of directors shall fix the denominations of said bonds, which shall not be less than one hundred dollars nor more than one thousand dollars. Said bonds shall bear interest at a rate to be fixed by the board of directors, but the rate shall not exceed six per centum per annum. The interest shall be payable on the first day of January and the first day of July of each year. The board of directors shall also designate the place or places at which said bonds or any of them and the interest thereon shall be payable. Each issue or each division of any issue of said bonds shall be payable in gold coin of the United States in twenty series as follows, to wit: At the expiration of twenty-one years from the date of any issue or any division of any issue of said bonds, two per centum of the whole amount of such issue or division; at the expiration of twenty-two years from said date, two per centum of the whole amount of such issue or division; at the expiration of twenty-three years from said date, three per centum of the whole amount of such issue or division; at the expiration of twenty-four years from said date, three per centum of the whole amount of such issue or division; at the expiration of twenty-five years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-six years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-seven years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-eight years from said date, four per centum of the whole amount of such issue or division; at the expiration of twenty-nine years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-one years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-two years from said date, five per centum of the whole amount of such issue or division; at the expiration of thirty-three years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-four years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-five years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-six years from said date, six per centum of the whole amount of such issue or division; at the expiration of thirty-seven years from said date, seven per centum of the whole amount of such issue or division; at the expiration of thirty-eight years from said date, seven per centum of the whole amount of such issue or division; at the expiration of thirty-nine years

from said date, eight per centum of the whole amount of such issue or division; at the expiration of forty years from said date, eight per centum of the whole amount of such issue or division; provided, that if any bonds are not dated on the first day of January or the first day of July, they shall nevertheless be made payable on the first day of January or the first day of July next preceding the date on which they would become payable according to the foregoing schedule. Bonds of any issue may be made payable at the ends of other periods than are specified herein and the number of series may be more or less than twenty if the number of series and the length of the respective periods at the ends of which the respective amounts of bonds shall be made payable have been specified in the notice of the election at which the issuance of such bonds was authorized, or on the recommendation of the irrigation district bond commission, but in any event the bonds shall all be made payable on the first day of January or the first day of July next preceding the ends of the respective periods specified, unless said bonds are dated on the first day of January or the first day of July, and in no case shall the maturity of any bond be more than forty years from the date thereof, nor shall more than eight per centum of the total amount of any issue or division be made payable in any one year if the number of series is made more than twenty. Each bond shall be made payable at a given time for its full face value and not for a percentage thereof. [Amendment approved May 16, 1919; Stats. 1919, p. 666.]

§ 32a. Date payable. [New section added May 19, 1917; Stats. 1917, p. 764. Repealed 1919; Stats. 1919, p. 667.]

§ 33. Paid by annual assessment. Said bonds and the interest thereon shall be paid from revenue derived from an annual assessment upon the land within the district; and all the land within the district shall be and remain liable to be assessed for such payments as hereinafter provided. [Amendment approved May 19, 1917; Stats. 1917, p. 764.]

§ 35. Duty of assessor. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real estate in the district, to the persons who own, claim or have possession or control thereof, at its full cash value, as follows: He must prepare an assessment-book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head: (1) the name of the person to whom the property is assessed, if the name is not known to the assessor, the property shall be assessed to "unknown owners"; (2) land by township, range, section or fractional section, and when such land is not congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres and locality; (3) city and town lots, naming the city or town and the number and block, according to the system of numbering in such city or town; (4) the cash value of real estate, other than city or town lots; (5) the cash value of city and town lots; (6) the total value of all property assessed; (7) the total value of all property after equalization by the board of directors; (8) such other things as the board of directors may require. Improvements on any lands or town lots within such districts shall be exempt from taxation for any of the purposes mentioned in this act. Any property which may have escaped the payment of any assess-

ment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for in such current year. The term "improvements" as used in this section includes trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description erected or being erected upon said lands or city or town lots. [Amendment approved May 19, 1917; Stats. 1917, p. 764.]

§ 39. Assessment for interest on bonds of irrigation district. Rentals, etc. Contracts for power or fuel. Unpaid warrants. The board of directors shall then, within fifteen days after the close of its session as a board of equalization, levy an assessment upon the lands within the district in an amount sufficient to raise the interest due or that will become due on all outstanding bonds of the district on the first day of the next ensuing January and the first day of the next ensuing July, or that the board of directors believes will become due on either or both of said dates, on bonds authorized but not sold; also sufficient to pay the principal of all bonds of the district that have matured or that will mature before the close of the next ensuing calendar year; also sufficient to pay in full all sums due or that will become due from the district before the time for levying the next annual assessment, on account of rentals, or charges for lands, water or water rights acquired by said district under lease or contract; also sufficient to pay in full all sums due or that will become due from the district, before the time for levying the next annual assessment, on account of contracts entered into by the district for power or fuel used or to be used for the pumping of water for the irrigation of land within the district; provided, the payment of the cost of such power or fuel has not been provided for by the levying of tolls or charges for the use of water or otherwise; also sufficient to pay in full the amount of all unpaid warrants of the district issued in accordance with this act and the amount of any other contracts or obligation of the district which shall have been reduced to judgment; also sufficient to raise such amount not exceeding two per centum of the aggregate value of the lands within the district according to the latest duly equalized assessment-roll thereof, as the board of directors shall determine may be needed to be raised by assessment for any of the purposes of this act. [Amendment approved May 11, 1919; Stats. 1919, p. 472.]

This section was also amended in 1917. See Stats. 1917, p. 765.

§ 39a. Duty of secretary. The secretary of the board must compute and enter in a separate column of the assessment-book the respective sums in dollars and cents to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds. [New section added May 19, 1917; Stats. 1917, p. 765.]

§ 39b. Neglect to make assessment. Neglect of collector. If as the result of the neglect or refusal of the board of directors to cause such assessment and levies to be made as in this act provided, then the duly equalized assessment made by the county assessor of the county or each of the respective counties in which the district is situated shall be the basis of assessment for the district, and the board of supervisors of the

county in which the office of the board of directors of said district is situated shall cause an assessment-roll of said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors and all expenses incident thereto shall be borne by such district and may be collected by suit at law, which shall be commenced by the district attorney of the county whose board of supervisors caused said assessment-roll to be prepared, unless the amount of such expenses shall be paid within sixty days from the time when proper demand shall have been made therefor. In case of the neglect or refusal of the collector or treasurer of any irrigation district to perform the duties imposed by law, then the tax collector and the treasurer of the county in which the office of the board of directors of such district is situated must respectively perform such duties and shall be accountable therefor upon their official bonds; but, in case any county tax collector shall collect any assessment for any irrigation district, he shall pay the same to the county treasurer, who shall place such money in special fund to the credit of the district and shall disburse the same to the proper persons for the purposes for which such assessments have been levied and shall not pay any part thereof to the treasurer of said district until said county treasurer shall be satisfied that all of the valid obligations for which such assessments were levied and for which payment has been demanded have been paid. [New section added May 19, 1917; Stats. 1917, p. 765.]

§ 39c. Duty of district attorney. It shall be the duty of the district attorney of each county in which the office of any irrigation district is located to ascertain each year whether the duties relating to the levying and collection of assessments, as in this act provided, have been performed, and if he shall learn that the board of directors or any official of any such irrigation district has neglected or refused to perform any such duty, said district attorney shall so notify the board of supervisors or the county official required by this act to perform such duty in such case, and, unless such board of supervisors or such county official shall proceed to the performance of such duty within thirty days after the receipt of such notice the district attorney shall take such action in court as may be necessary to compel the performance of such duty, and said district attorney shall give such notice to other officials, and shall take such action, as may be necessary to secure the performance in their proper sequence of the other duties relating to the levying and collection of assessments, as in this act provided, that for the enforcement of the levying and collection of any assessment hereafter required to be levied and collected for the payment of any debt hereafter incurred, in case complaint shall be made to the attorney general of the state of California that the district attorney of any county has not performed any duty devolving upon him by the provisions of this section, or that he is not proceeding with due diligence or in the proper manner in the performance of any such duty, the attorney general shall make an investigation, and if it shall be found that such charge or charges are true, said attorney general shall take such measures as may be necessary to enforce the performance of the duties relating to the levying and collection of assessments, as in this act provided. [New section added May 19, 1917; Stats. 1917, p. 766.]

§ 39d. Extension of time. If as the result of the neglect or refusal of any official or officials to perform any duty relating to the levying and collection of assessments, as in this act provided, it shall be impossible for such duty to be performed within the time required and such duty shall subsequently be performed, then the time within which all duties consequent upon the performance of such duty shall be performed shall be extended so as to allow the elapsing of the intervals required by this act to elapse between the performance of such duties, and the assessments herein provided for shall not become delinquent for at least thirty days after the first publication of the notice that such assessments are due and payable, as provided in section forty-one of this act. [New section added May 19, 1917; Stats. 1917, p. 767.]

§ 39e. Assessment of land omitted. In the event any land within said district subject to assessment for the purposes of the district has not been assessed by the county assessor or does not appear upon the county assessment-roll adopted by said board of supervisors as the basis of assessment for the district, the land so omitted belonging to any person, association, corporation, or municipality shall be forthwith assessed by the county assessor upon an order of the board of supervisors and a description of the property so omitted shall be written in the roll prepared for the purpose of district assessments. In such case, before any assessment is levied, the board of supervisors must meet and equalize said assessment with that of the assessment of other lands in said district. The same notice shall be given by the board of supervisors of such meeting for the purpose of equalizing the assessment to be made as herein directed as is provided in this act to be given by the board of directors of an irrigation district when the said board is to meet for the purpose of equalizing assessments. All the powers and duties respecting the collection of all assessment on possession of, claim to, or right to the possession of land now provided in sections three thousand eight hundred twenty, three thousand eight hundred twenty-one, three thousand eight hundred twenty-two, three thousand eight hundred twenty-three, three thousand eight hundred twenty-four, three thousand eight hundred twenty-five and three thousand eight hundred twenty-nine of the Political Code, as regards county assessors shall apply, so far as applicable to irrigation district assessors. [New section added May 19, 1917; Stats. 1917, p. 767.]

§ 39f. Unpaid tolls part of assessment. Whenever any tolls and charges for the use of water have been fixed by the board of directors, it shall be lawful to make the same payable in advance, and in case any such tolls or charges remain unpaid at the time hereinbefore specified for levying the annual assessment the amount due for such tolls and charges may be added to and become a part of the assessment levied upon the land upon which the water for which such tolls or charges are unpaid was used. [New section added May 19, 1917; Stats. 1917, p. 768.]

§ 40. Assessment lien, when. The assessment upon land is a lien against the property assessed from and after the first Monday in March for any year. [Amendment approved May 19, 1917; Stats. 1917, p. 768.]

§ 52. Redemption of bonds. Proposals for redemption of bonds. Investment in United States or state bonds. Upon presentation of any

matured bond or any matured interest coupon of any bond of the district, the treasurer shall pay the same from the bond fund. If funds are not available for the payment of any such matured bond or interest coupon, it shall draw interest at the rate of seven per cent per annum from the date of its presentation for payment until notice is given that funds are available for its payment, and it shall be stamped and provision made for its payment as in the case of a warrant for the payment of which funds are not available on its presentation. Whenever the bond fund contains ten thousand dollars in excess of the amount necessary to pay all bonds and interest coupons of the district that have matured or that will mature before the time when any part of the next annual assessment to be levied in the district will become delinquent, the board of directors may advertise, in the manner hereinbefore provided for the sale of bonds, for the receipt of sealed proposals for the delivery to the district for redemption of any of its bonds not due. Said advertisement shall state the amount which may be used for the redemption of such bonds. Any such proposals shall be opened by the board in open meeting at the time named in said advertisement, and the offer or offers of such bonds at the lowest rate or rates shall be accepted, provided that no bonds shall be redeemed at more than the par value thereof except by unanimous vote of the directors. In case two or more proposals are equal and there is not sufficient money available to accept them all, the lowest numbered bonds shall have the preference. In case not enough bonds are offered for redemption at prices which the board of directors accepts, the board may invest any money available for redemption of bonds in bonds of the United States or of the state of California and shall hold the bonds so purchased as part of the bond fund until such time as the board may determine that it is for the best interests of the district that such bonds or any of them be sold. In case of the sale of any such bonds, the proceeds of the sale shall be deposited in the bond fund. [Amendment approved May 16, 1919; Stats. 1919, p. 667.]

§ 53. Construction of works. Contracts for emergency works. Bond of contractor. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice, by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals or may proceed to construct the work under their own superintendence; provided, that in case of emergency or urgent necessity for the construction, extension or repair works for irrigation or drainage, the board of di-

rectors, by unanimous vote of those present at any regular or special meeting, may award contracts therefor without advertising for bids, but the cost of such work shall not exceed five hundred dollars and such additional amount as shall be equal to five cents for each acre of land in the district. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board. [Amendment approved May 16, 1919; Stats. 1919, p. 668.]

§ 53a. Investigations by state engineer. During the construction of any irrigation works to be paid for out of the proceeds of any bond issue which has been certified by the state irrigation district bond commission as provided in the act creating said commission, the state engineer shall have access to all plans, specifications, and records of such construction, and shall from time to time make such investigations and such reports to the board of directors of the district as he shall deem to be in the interest of the public or of the district. [New section added May 19, 1917; Stats. 1917, p. 768.]

§ 59. Directors may call election on question of special assessment. **Levy of assessment.** The board of directors may at any time call a special election and submit to the qualified electors of the district the question whether a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes of this act or of any act supplementary hereto. Such election must be called upon the notice prescribed, and the same shall be held and the result thereof determined and declared in all respects in conformity with the provisions of section thirty d of this act. The notice must specify the amount of money proposed to be raised, and the purpose or purposes for which it is intended to be used, and it may state that said assessment shall be levied in two or three annual installments and specify the amount of the installment to be levied in each year. At the special election the ballots shall contain the words "Assessment—Yes" or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall, at the time of the annual levy hereunder, levy a sum sufficient to raise the amount voted, or, if the notice of election shall have provided for levying said assessment in annual installments, the board of directors shall, at the time of the annual levy in each of the years specified in said notice, levy such assessment as shall raise the amount of the installment provided in said notice to be raised in said year; provided, however, that in case of an unexpected emergency by which the flow of water in the canal or other supply is interrupted, the amount of the indebtedness, incurred in the repair of the works of said district, caused by such interruption, not to exceed in any one year forty thousand dollars, may also, in addition to the assessments hereinbefore provided for, be levied by the adoption of a resolution by at least four-fifths of the members of the board of directors, at the time of the levying of the annual as-

assessment provided for in this act, without the submission of the question of such levy to a vote, as in this section hereinbefore provided. [Amendment approved May 16, 1919; Stats. 1919, p. 668.]

This section was also amended in 1917. See Stats. 1917, p. 768.

§ 60. Rate of assessments. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment-roll for the current year, and then dividing the sum to be raised by the remainder of such aggregate assessed value. Special assessments shall be computed and entered by the secretary and collected as a part of the regular assessment levied hereunder, and, when collected, shall be paid into the district treasury for the purpose or purposes specified in the notices calling the respective elections at which they were voted. [Amendment approved May 16, 1919; Stats. 1919, p. 669.]

§ 61b. Directors may purchase irrigation works. The board of directors of irrigation districts may acquire, by purchase or condemnation, the irrigation system, canals and works through which lands in such districts have been or may be supplied with water for irrigation, and may exchange bonds of such irrigation district for such system or canals or works or for any portion thereof, or for any interest therein or for the capital stock of any corporation owning such system or any portion thereof, upon such terms and conditions as the said board of directors may deem best. [Amendment approved May 19, 1917; Stats. 1917, p. 769.]

§ 64. Navigation and vested rights not affected. [Repealed May 24, 1917; Stats. 1917, p. 915.]

§ 67a. Unexpended money. Whenever an object for which money has been specifically provided by assessment or by bond issue has been accomplished and any money provided therefor remains unexpended, the same shall in the discretion of the board of directors be transferred to the general fund and thereafter be available for any of the purposes of this act. [Amendment approved May 19, 1917; Stats. 1917, p. 769.]

§ 112. Title. This act may be referred to in any action, proceeding or legislative enactment as "the California irrigation district act." [Amendment approved May 16, 1919; Stats. 1919, p. 669.]

This section was added in 1917. See Stats. 1917, p. 769.

NOTE.—The going into effect of sections 1, 2 and 9 of the above act as amended in 1919 (Stats. 1919, p. 714), has been delayed by the filing of a referendum petition. They will be voted on at the general election held in November, 1920, or at any special election called by the Governor prior to the general election.

ACT 1732b.

An act relating to bonds of irrigation districts, providing under what circumstances such bonds shall be legal investments for funds of banks, insurance companies and trust companies, trust funds, state school funds and any money or funds which may now or hereafter

be invested in bonds of cities, cities and counties, counties, school districts or municipalities, and providing under what circumstances the use of bonds of irrigation districts as security for the performance of any act may be authorized.

[Approved June 13, 1913. Stats. 1913, p. 778.]

Amended 1915, p. 692; 1917, p. 582; 1919, p. 1207.

The amendments of 1917 and 1919 follow:

§ 3a. Provisions directory. The provisions of section two of this act as to the points upon which said commission shall report are directory merely and the board may authorize such certification when in their opinion, subject to the provisions otherwise contained in this act, their findings justify such action. [New section added May 17, 1917; Stats. 1917, p. 583.]

§ 3b. No expenditures without consent of commission. Whenever the bonds of any irrigation district have been certified, as provided in this act, no expenditure of any kind shall be made from the construction fund of such district without the consent of the commission provided for in this act and no obligation shall be incurred chargeable against such fund without previous authorization of the commission nor shall any expense of any kind be incurred in excess of money actually provided by levy of assessment or otherwise. [New section added May 17, 1917; Stats. 1917, p. 583.]

§ 3c. Certification of irrigation district bonds by commission. Whenever the surveys, examinations, drawings and plans of an irrigation district, and the estimate of cost based thereon, shall provide that the works necessary for a completed project shall be constructed progressively over a period of years in accordance with section thirty of the California irrigation district act, and in accordance with a plan or schedule adopted by resolution of the board of directors of the district, it shall not be necessary for the commission to certify at one time all of the bonds that have been voted for the said completed project; but such bonds may be certified from time to time as needed by the district. If the commission shall certify all of the bonds necessary for the said completed project, even if said project is to be constructed progressively over a period of years in accordance with the aforesaid resolution of the board of directors, the bonds so voted and certified shall only be sold after prior written approval of the commission. [New section added May 25, 1919; Stats. 1919, p. 1207.]

ACT 1732i.

An act to be known as "the California irrigation act" providing for co-operation between the state of California and the United States and independent proceedings in the storage and diversion of water, the distribution thereof for irrigation, the manufacture of power and for domestic purposes; creating an irrigation board to form water districts, make contracts, construct reservoirs, divert and distribute water, generate, lease and sell electric current, lease water power, levy assessments, issue bonds of water districts; providing for the management, control and supervision of such water districts and of

the works constructed pursuant to this act; directing the state department of engineering relative to such works; authorizing irrigation districts to reorganize under this act and generally providing a policy relating to storage, diversion and use of water, and adopting a plan for providing revenues therefor. [Approved June 4, 1915. Stats. 1915, p. 1173.]

Amended 1917, p. 1068; repealed May 16, 1919 (Stats. 1919, p. 672).

See post, Act 1732m.

ACT 1732j.

An act authorizing and empowering irrigation and reclamation districts to enter into contracts with the United States Reclamation Service for the reclamation of lands within such district under the provisions of the so-called "twenty year extension act."

[Approved May 21, 1917. Stats. 1917, p. 781. In effect July 27, 1917.]

§ 1. Irrigation and reclamation districts may contract with United States Reclamation Service. The board of trustees, or directors of any irrigation or reclamation district now organized under the provisions of the laws of the state of California, or of any irrigation or reclamation district hereafter organized under the laws of the state of California, may, in their discretion, whenever it is determined by such board that it is for the best interests of such districts, enter into a contract with the proper officers of the United States Reclamation Service for the reclamation, either by drainage or irrigation of lands within the boundaries of such district, or by preventing high water from overflowing the same, under the provisions of an act of congress approved August 13, 1914, entitled "An act extending the period of payment under reclamation projects, and for other purposes," which act is commonly known as the twenty-year extension act, and from and after the execution of such contract, the amount of indebtedness created thereby shall be and become a lien upon the lands to be benefited by such reclamation work.

§ 2. Payment of amounts due. The board of trustees or directors of any irrigation or reclamation district above mentioned, shall provide by a resolution duly adopted at a regular meeting, or special meeting of such board called for the purpose, for the payments of the amounts to become due under the contract with the United States, according to the provisions of such contract, by assessment upon the lands, in such district, which are to be benefited by such work, such assessment to be collected by the tax collector of the county within which such lands are situated, the same as other taxes are collected, or by any other officer authorized by law to collect assessments within said district.

ACT 1732k.

An act defining a private irrigation plant and mutual water company and providing the conditions under which the owner of a private irrigation plant or a mutual water company may deliver water to others or others than its stockholders or members without becoming a public utility, and limiting such authority to the time the United

States is a party to war or to a state of war; and declaring this act to be an urgency measure.

[Approved May 5, 1917. Stats. 1917, p. 281. In effect immediately.]

§ 1. "Private irrigation plant." (a) The term "private irrigation plant," when used in this act, shall be construed to mean a water system which is not operated by a mutual water company as herein defined or by a public utility as defined in the public utilities act, approved December 23, 1911, and acts amendatory thereof, or in the act entitled "An act providing for the regulation of water companies, defining their powers and duties, defining the powers and duties of the railroad commission with reference thereto, and defining the conditions under which such water companies became subject to the provisions of the public utilities act and the railroad commission of the state of California," approved April 25, 1913.

(b) **"Mutual water company."** The term "mutual water company," when used in this act, means any private corporation or association organized for the purpose of delivering water solely to its stockholders or members at cost.

§ 2. Water may be delivered to other than stockholders, when. Statement filed with railroad commission. For the sole purpose of increasing the output of agricultural products in this state during the time the United States is a party to war or to a state of war, the owner of any private irrigation plant or any mutual water company may at its option deliver water to others or others than its stockholders or members, with or without compensation, without becoming a public utility subject to the jurisdiction of the railroad commission of the state of California; provided, that no delivery of water to others than stockholders or members shall be authorized until the orders for water of all stockholders or members made in accordance with the constitution, by-laws, rules or regulations of such mutual water company have been filled, and provided, further, that the temporary service herein authorized shall not be construed as granting any right to render or receive such service more than six months after such war need has ceased; and provided, further, that after June first, one thousand nine hundred seventeen, no such temporary service of water shall be made unless a statement is first filed with the railroad commission stating the private irrigation plant or mutual water company rendering such service, the party receiving such service, the lands irrigated and the rate, if any, charged for such service.

§ 3. Urgency measure. This act is hereby declared to be an urgency measure, and under the provisions of section 1 of article four of the constitution of the state of California shall take effect immediately. The facts constituting such urgency are as follows: The United States is now in a state of war and there is a shortage of crops in this state and throughout the nation generally. It is therefore necessary for the immediate preservation of public safety that this act take effect immediately so that the use of water in the irrigated area and the resulting crop returns of the state may be increased to the maximum output without delay.

ACT 1732 1.

An act to provide for co-operation in acquisition, construction and management of irrigation and drainage works between irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for organization and government of irrigation districts and to provide for the acquisition thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, and contiguous or adjoining districts in or organized under the laws of other states.

[Approved May 23, 1917. Stats. 1917, p. 905. In effect July 27, 1917.]

§ 1. Irrigation districts may co-operate with districts in adjoining states. It shall be lawful for irrigation districts organized or existing under or by virtue of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and also to provide for the distribution of water for irrigation purposes," approved March 31, 1897, to enter into agreements with irrigation districts in adjoining states for the joint construction, acquisition, management and control of diverting, impounding or distributing works for irrigation or draining the lands within the boundaries of their respective districts.

§ 2. Contracts. Such agreements may be evidenced by written contracts executed on behalf of their respective boards of directors or trustees, or by resolutions entered upon their respective minutes. Such contracts or certified copies thereof and certified copies of such resolutions shall be recorded in the office of the county recorder in each county in which is situated any of the lands of said districts or any of the reservoir sites or other real property owned by said districts or acquired under the provisions of this act.

§ 3. Ownership of property. Such agreements may provide for joint or several ownership or ownership in common of the property, necessary or convenient for the purposes of this act and may provide for the terms and conditions under which or the respective proportions in which such property shall be held. Any rights or disputes arising out of or from said agreements may be tried before and enforced by any court of competent jurisdiction in the state.

§ 4. Meetings held in adjoining state legal. Any meeting of the board of directors of any such district, held in conjunction with the board of directors of the co-operating district, in such district in the adjoining state, if duly and regularly called as required by law or if regularly adjourned to, shall be as lawful and valid as if held at the office of the board of directors of such district in this state.

§ 5. Lawful to divert water from state. It shall be lawful, for the purposes of such co-operative action to divert water from this state for impounding in the adjoining state or otherwise for distribution to the lands of the co-operating districts regardless of the state in which such lands are situated or to divert water from such adjoining state for im-

pounding or otherwise for distribution to the lands of such co-operating districts in this or the adjoining state.

§ 6. Districts may hold property in adjoining state. So far as may be necessary for fully carrying out the purposes of this act such co-operating district in the adjoining state may hold title to property, in this state and such co-operating district in this state may hold title to property in the adjoining state.

ACT 1732m.

An act to be known as "the California irrigation act" providing for co-operation between the state of California and the United States, and independent proceedings, in the storage and diversion of water, the distribution thereof for irrigation and other beneficial uses and purposes, the generation and manufacture of electric power; creating an irrigation board, and providing for the formation of irrigation districts and conservation districts, and the conversion of irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized for the purpose of promoting irrigation, reclamation and drainage, into irrigation districts under this act; and empowering said irrigation board to make and approve contracts and agreements, to construct reservoirs and other works, divert, distribute and sell water and lease and sell water rights, and generate, lease and sell electric power, to apportion to the constituent units of conservation districts the water and electric power to be produced and generated by conservation district works, to levy assessments, and issue bonds of irrigation districts and conservation districts; providing for the management, control and supervision of such irrigation districts and conservation districts and of the works constructed pursuant to this act; directing the state department of engineering relative to such works; and generally providing a policy relating to the storage, diversion and use of water and the manufacture or generation of electric power, and adopting a plan for providing revenues therefor; and repealing the California irrigation act approved June 4, 1915, and chapter 646 of the statutes of 1917, approved May 28, 1917, amendatory thereof.

[Approved May 16, 1919; Stats. 1919, p. 672.]

§ 1. Irrigation board created. Office. Officers. Compensation. Amounts paid by conservation districts. There is created a board to be known as the "irrigation board," which shall consist of three members, and shall constitute a body corporate and politic for the purpose of exercising the powers and performing the acts herein mentioned, and which shall have the power to sue and to be sued. Within thirty days of the date upon which this act takes effect the governor shall appoint the members of said board and the members so appointed shall serve for four years and until their successors have been appointed; provided, that the members of said board heretofore appointed under the California irrigation act approved June 4, 1915, shall serve out the terms for which they were appointed. Their successors shall be appointed, and all vacancies shall be filled by appointment in like manner. The office

of the irrigation board shall be at the city of Sacramento; a branch office may be maintained in the city and county of San Francisco.

The irrigation board shall elect one of its members as president, and shall employ a secretary and such attorneys, engineers, superintendents, inspectors and other assistants as it may require, and shall fix the terms of their employment and compensation. Each member of the irrigation board shall receive as compensation the sum of ten dollars per day for each day employed by such member in the performance of duties under this act, and shall receive actual traveling expenses while engaged in such duties. All such salaries, compensation and expenses shall be payable out of any funds under the control of the irrigation board applicable to such payments. Where a conservation district has been formed, as hereinafter provided, the irrigation board shall apportion and certify to each district therein or component unit thereof, and to each private corporation, mutual ditch company and mutual water company admitted to the benefits of such conservation district, an amount for its share of the general cost and expense of the maintenance and operation of the irrigation board in connection with such district, or component unit, or private corporation or mutual ditch company, or mutual water company, for the ensuing or previous year, and also such additional amounts as are necessary for the purpose of defraying the cost of all administrative, engineering and other legal expenses necessary for laying out the plans therefor, and such amounts shall be paid by each of such districts, or component units, to the state treasurer, and shall be deposited in a fund to be held and paid out for the account of said conservation district in the same manner as hereinafter provided for the funds of said conservation district.

§ 2. Interest of state in water storage paramount. It is hereby declared that the state of California has a paramount interest in the storage and diversion of water, the irrigation of land and the production of electric power; that such storage, irrigation and production of electric power will make productive vast quantities of land that are comparatively unproductive and will increase production, property valuations and population in the state, make profitable the cultivation of small tracts and promote subdivision of larger tracts, and will promote the welfare and prosperity of all the people. The powers herein conferred upon the irrigation board are hereby declared to be police and regulatory powers and are necessary to the accomplishment of a purpose that is indispensable to the public interests.

§ 3. Powers of irrigation board. The irrigation board shall have power to make, or cause to be made, examinations and surveys, to make or adopt plans, and estimate, or cause to be estimated, the cost of all projects for the storage or diversion of water within the state of California, the distribution of said water, and the generation of electric power in connection with such storage, and the sale and distribution of such power, and to make and enter into contracts for the construction and maintenance of works for such projects and the supervision and administration thereof. The irrigation board shall also have power to confer and make agreements with any authorized department, board or officer of the United States government, or with any irrigation district, reclamation district, or drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage,

or with any water, power, irrigation or other company, or corporation, or association, or person, or persons, with reference to such projects and concerning examinations, surveys, works and plans in connection therewith. Any plan finally approved by the irrigation board (and when in any case the approval of any authorized department, board or officer of the United States government is necessary, it is also approved by such authorized department, board or officer) shall be the official plan approved by the state of California and authorized by it for the project involved therein, but such plan may be modified or changed from time to time thereafter in like manner as originally adopted or approved.

§ 4. State engineering department to make surveys. The state department of engineering, or such engineer or engineers as may be appointed by the irrigation board, shall make such surveys, examinations, reports, plans and estimates as may be required by the board, either with or without the co-operation of the United States or any department thereof, whenever said board has under its control money available with which to pay the expenses in connection therewith. All such work and all supervision of construction shall be performed under such contracts and regulations as may be made or approved by the irrigation board or agreed upon between said board and the United States.

§ 5. Petition to organize irrigation district. Defects in petition. Evidence of title. Hearing. Notice of hearing. Objections to creation of districts. Order creating district. Approval of state engineer. Directors. Determining legality of district. Whenever the holders of title, or evidence of title, or of possessory rights to lands entered under the laws of the United States, or of the state of California, representing one-half or more of any body of land susceptible of irrigation (excepting lands embraced within the limits of incorporated cities or towns) desire to form an irrigation district under the provisions of this act, for the irrigation of said land, they may present to the irrigation board a petition signed by them, or their authorized agents, which petition shall set forth generally the boundaries of the proposed district, a description of the lands by legal subdivisions or other boundaries, the county in which they are situated, the number of acres in the proposed district, and in each tract with the names (if known) of the owners thereof, and designating as unsold any lands not reduced to private ownership; and also shall state generally the source or sources from which said lands are proposed to be irrigated, and the proposed name of the district, and shall pray that the territory within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition may consist of any number of separate instruments; and guardians, executors, administrators or other persons holding property in a trust capacity under appointment of court may sign any petition provided for in this act, when authorized by an order of court, which order may be made without notice. A certificate of acknowledgment taken before a notary public or justice of the peace of any state, or an affidavit by any person in the presence of whom such petition was signed, shall be sufficient evidence of the genuineness of such signature, and of the fact of residence of any petitioner and any fact going to the qualifications of any petitioner under this act.

No defect in the contents of the petition or in the title to or form of the notice or signatures, or the lack of signatures shall vitiate any proceedings thereon; provided, such petition or petitions have a sufficient number of qualified signatures attached thereto.

The certificate of the county assessor of the county wherein the lands described in the petition are situated that the titles and possessory rights of the respective signers thereto are as appear on the county assessment-roll or rolls last equalized at the time of filing the petition, or of the register of the United States land office of the district in which said lands are situated, or of the surveyor-general of the state of California, shall be sufficient evidence of the title or possessory right of any signer hereto, and where as to any tract the assessor is unable to make such certificate for the reason that it is assessed to an unknown owner or the assessment-roll does not purport to give the true name or gives the names of a portion only of the owners, the actual owners of such property shall be considered the owners for all the purposes of this act and owners of undivided interests may sign for such interest.

The petition must be verified by the affidavit of one of the petitioners, and shall be filed with the irrigation board. Upon the receipt of such petition the irrigation board, or such person as said board may authorize to act in such cases, shall designate a time and place for the hearing of said petition, which date shall be not less than twenty days nor more than thirty days from the date of the filing of the petition with the board. The secretary of the irrigation board shall cause notice of said hearing to be published at least once a week for two successive weeks, prior to the time of said hearing, in a newspaper of general circulation printed and published in each of the counties in which any of the lands intended to be embraced within such proposed irrigation district are situated. Such notice shall designate the time and place when and where said petition will be heard, and shall set forth the exterior boundaries of said proposed district.

At the time and place designated, in said notice, any person owning land within the said proposed irrigation district, may appear and present written objections to the creation of such district. The irrigation board shall hear and receive such evidence as may be offered in support of the petition and in support of said written objections. The irrigation board may continue said hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had. Upon the final hearing of said matter, the irrigation board shall make an order approving said petition as originally presented, or as modified by such order, excluding from the district such lands as in the judgment of the irrigation board should be excluded, and upon the filing of such order with the irrigation board such irrigation district shall be deemed to be created. Upon application by any person whose lands are susceptible of irrigation from any of the proposed sources, the irrigation board, in its discretion, may order such lands included within said proposed district. The order shall describe the exterior boundaries of the district, as determined by the irrigation board, and also the exterior boundaries of any lands excluded therefrom, and shall be indorsed upon or attached to the petition, and be signed by the president and attested by the secretary of the irrigation board. A copy of the order creating such irrigation district, certified by such secretary, shall be filed in the office of the secretary of state, and a similarly certified copy of such

order, together with a map showing the exterior boundaries of the district, and indicating the lands excluded therefrom, shall be filed in the office of the county recorder of each of the counties in which any of the lands within the said district are situated, and a properly certified copy of such order, together with the maps attached thereto, shall be received in all of the courts of this state as prima facie evidence of the organization of such district and of the boundaries thereof. Before the irrigation board makes such order, it may require that the project and proposed works be approved by the state engineer, or by such engineer or engineers as shall be designated by the irrigation board.

Each irrigation district created under the provisions of this act shall have a board of directors composed of owners of land within the district, elected by the owners of land in such district in the manner provided for the election of trustees of reclamation districts in section three thousand four hundred ninety-one of the Political Code of the state of California, except that such elections shall be called by and returns thereof made to the board of supervisors of the county in which the greater portion of the lands of the district are situated. Each such district shall have a board consisting of five directors; provided, that if so requested in the petition for the formation of said district, the irrigation board may order that there shall be only three directors. After the approval of the petition and the election of directors for the district, the directors shall adopt rules, not inconsistent with the laws of the state, for the government and control of the affairs of the district, which rules may be amended at any time by said board of directors.

The board of directors of any irrigation district created under this act may commence a proceeding in the superior court of any county, wherein a portion of the district is situated, to determine the legality of the existence of said district. The complaint in said proceeding shall describe the district by name and the exterior boundaries thereof, and shall contain a prayer that such district be adjudged a legal irrigation district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four successive weeks in a newspaper of general circulation published in each county where any part of such district is situated. Within thirty days after the last publication of said summons, any person who may be interested may appear and answer said complaint, in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed, the court must render judgment as prayed for in the complaint. If any answer shall be filed within said period, the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has, for five years prior to the commencement of such proceeding, been performing its functions as an irrigation district under this act in good faith. The proceeding under this section is hereby declared to be a proceeding in rem, and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California.

§ 6. Converting districts into irrigation districts. Hearing. Order of irrigation board. Any irrigation district formed under the provisions of any other law or statute of this state, and any reclamation district or drainage district (excluding from any such district the area embraced within the limits of any incorporated city or town) susceptible

of irrigation from any project adopted or approved by the irrigation board, may become an irrigation district under the provisions of this act upon presenting to the irrigation board a consent thereto signed by the holders of title, or evidence of title, of more than half of the lands embraced in said district (excepting lands within incorporated cities or towns). Upon the filing of such consent, the irrigation board shall fix a date for a hearing of the matter involved in such consent. The secretary of the irrigation board shall publish a notice of such hearing once a week for four successive weeks preceding the date fixed therefor in a newspaper of general circulation published in each of the counties in which any portion of said district is situated. At the time and place designated in said notice the irrigation board shall hear and receive such evidence as may be offered in support of the proposal to convert such district into an irrigation district under the provisions of this act and in support of any written objection thereto filed with the irrigation board. The irrigation board may continue said hearing from time to time, by order entered upon its minutes, to the end that a full hearing may be had. Upon the final hearing of said matter, the irrigation board shall make its order, providing that said district (excluding therefrom the territory embraced in incorporated cities or towns) shall thereafter be an irrigation district subject to all of the provisions of this act, or, in its discretion, said irrigation board may decline to make such order. If the irrigation board shall make an order converting such district into an irrigation district, all of the lands therein (except lands lying within the boundaries of incorporated cities or towns), shall become, and shall thereafter be, subject to all of the provisions of this act.

§ 6a. Powers of board of directors. Action nullified by irrigation board. Compensation. The board of directors of an irrigation district created under this act shall have power to elect one of its members president thereof; and, subject to the approval of the irrigation board, to employ engineers and others to survey, plan, locate and estimate the cost of the works necessary for the improvement of the lands of the district by irrigation, reclamation and drainage and thereafter subject to the approval of the irrigation board, to modify or change such original plan or plans, or adopt new supplemental or additional plan or plans; to acquire by purchase, condemnation or other legal means, necessary property and rights of way, and the right to take material for the construction of all necessary works, including dams, canals, drains, sluices, bulkheads, water-gates, embankments, levees and pumping plants, and to construct, maintain and keep in repair all works requisite and necessary to that end, and to do all other acts and things necessary or required for the irrigation, reclamation and drainage of the lands embraced in the district, and to carry out the purposes of this act. All of the acts and proceedings of such board of directors, however, shall be recorded in the minutes of said board, and copies thereof, certified by the secretary of said board as recorded, shall, within ten days after the passage or adoption of the same, be filed with the secretary of the irrigation board, and the irrigation board, within twenty days after such filing may, by order filed with its secretary, reject and nullify the action of the board of directors of such irrigation district, and upon the filing of a certified copy of such order of rejection or

nullification with the secretary of such irrigation district, the said order of said irrigation district board shall be invalid and unenforceable for any purpose; but if such action of such irrigation district board shall not be so rejected or nullified within the period above provided, the same shall be and remain in full force and effect. The irrigation board may confirm and ratify any action of said irrigation district board at any time, and upon such confirmation and ratification such act or order of said irrigation district board shall be valid and effective for all purposes. The several members of the board of directors shall each be entitled to receive for actual and necessary services performed and for expenses incurred by them, respectively, for and in the interest of the district, such compensation as the irrigation board may determine to be just and reasonable, which shall constitute an indebtedness of the district, to be paid in the same manner and out of the same fund as other debts of the district; provided, that no warrant or order drawn for such purpose shall be valid until approved by the irrigation board.

§ 6b. Conservation districts. Formation proceedings on. Right of private corporation, etc., to share in benefits. Petition to be included in. Proceedings to determine legality of district. The irrigation board shall have power to consolidate into single districts in the manner and for the purposes provided in this act, irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, which consolidated districts shall be known, and are herein referred to, as conservation districts; and, the purpose of the formation of such districts being primarily to provide for and promote the irrigation of the lands therein and in connection therewith and incidental thereto the reclamation and drainage of such lands, the legislature hereby expressly declares that every such conservation district, formed as herein provided, is and shall be an irrigation district within the meaning of section thirteen of article eleven of the constitution of the state of California, and within the meaning of every other provision of said constitution relating to irrigation districts. Such conservation districts shall be composed of two or more units all or any of which units may be irrigation districts, formed under the provisions of this or any other act or statute of this state, reclamation districts, drainage districts, or other political districts of the state organized to promote irrigation, reclamation or drainage, now or hereafter to be formed. The territory embraced within such units need not be contiguous in order to be embraced within the same conservation district, provided all or a portion of the territory embraced within said respective units is susceptible of irrigation from the works proposed to be constructed by said conservation district. Any private corporation engaged in the distribution of water to the public, for irrigation or other beneficial uses, or in the generation of hydro-electric power for sale to the public, and any mutual ditch company or mutual water company organized for the purpose of distributing water to the members or stockholders thereof, which private corporation, mutual ditch company or mutual water company is receiving or entitled to receive water from the same stream or streams for the storage or diversion of whose waters it is proposed to construct the works of said conservation district, shall have the right, upon payment of its proportion of the cost of constructing, operating and maintaining

such works, to share in all of the benefits resulting from such construction, operation and maintenance, including its proportionate share of the water to be conserved thereby and the power to be generated and produced in connection therewith; provided, that nothing herein contained shall be deemed to confer upon said irrigation board, or upon any conservation district formed under the provisions of this act, the right to impair, or deprive any person, firm or corporation of any vested right in or to the waters of any stream or streams proposed to be stored or diverted by said conservation district, without due process of law.

Upon presentation to it of a petition signed by the respective governing boards of two or more of said units praying for the formation of a conservation district, the irrigation board shall fix a time and place for the hearing of such petition. The secretary of the irrigation board shall cause notice of said hearing to be given by publication once a week for four successive weeks in a newspaper of general circulation published in each county wherein any part of said petitioning districts are situated, and also by mailing a written notice of such hearing to the governing boards of such other districts or political subdivisions of the state and to such private corporations, mutual ditch companies and mutual water companies as may be designated by the irrigation board. At the time fixed by the irrigation board for such hearing, or at such other time to which the hearing may be adjourned, the irrigation board shall hear and receive evidence in support of any objections which may be filed in opposition thereto, and shall also receive applications from other districts to become a part of such conservation district and from private corporations, mutual ditch companies or mutual water companies to participate in the benefits of such conservation district. If there shall be presented at such hearing a written objection or objections signed by the owners of more than one-half of the lands in any such unit district the signing of such petition by the governing board of such unit district shall be deemed to be nullified and the irrigation board shall have no power to include such unit district within the proposed conservation district.

The irrigation board shall include as a part of such conservation district the territory embraced within any district unit applying to be made part of the conservation district, which applying district shall be lawfully receiving or entitled to receive water from the same stream or streams whose waters are proposed to be stored or diverted by such conservation district, and shall admit to beneficial participation in said conservation district such private corporations, mutual ditch companies or mutual water companies likewise lawfully receiving or entitled to receive water and applying to the irrigation board to be admitted to such participation. The application of any unit district or private corporation, mutual ditch company or mutual water company, not so lawfully receiving or entitled to receive water, to be included as a part of said conservation district or to be permitted to share in the benefits thereof, may be approved or rejected by the irrigation board in its discretion. Upon the final hearing of said matter, the irrigation board shall make an order approving said petition, as originally presented, or as modified by such order. Such order shall describe said conservation district by exterior boundaries when the lands therein lie in one body, or by naming the unit districts embraced therein when said lands do

not lie in one body, and shall also designate the private corporations, mutual ditch companies or mutual water companies, entitled to participate in the benefits of the works proposed to be constructed by said conservation district. Upon the filing of such order with the irrigation board such conservation district shall be deemed to be created. A certified copy of the order creating such conservation district shall be filed in the office of the secretary of state, and a certified copy thereof, together with a map showing the boundaries of the district, shall be filed in the office of the county recorder of each of the counties in which any of the lands within the said district are situated. A properly certified copy of such order, together with the map attached thereto, shall be received in all the courts of this state as *prima facie* evidence of the organization of such district in compliance with the provisions of this act, and of the boundaries thereof.

After the formation of a conservation district as herein provided, any irrigation district, reclamation district, drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, theretofore existing and which was entitled to become a part of and unit in such conservation district at the time of its formation, and any such district or political subdivision of the state thereafter formed, any portion of the lands in which are receiving or entitled to receive water from the same stream or streams for the storage or diversion of whose waters said conservation district was formed, may, at any time prior to the making by the irrigation board of the order approving the apportionment as provided in section ten of this act, but not thereafter, file with the irrigation board a petition to be made a part of and unit in such conservation district. And any private corporation, mutual ditch company or mutual water company existing at the time of the formation of such conservation district, and at that time entitled to be admitted to participation in the benefits resulting from the construction of the works of such conservation district and any such private corporation, mutual water company or mutual ditch company thereafter organized and receiving or entitled to receive water from such stream or streams, may, at any time prior to the making by the irrigation board of the order approving the apportionment as provided in section ten of this act, but not thereafter, file with the irrigation board a petition to be admitted to such participation. Upon the filing of any such petition, within the time hereinbefore limited, the irrigation board shall fix a time and place for the hearing thereof and give such notice of said hearing and cause such proceedings to be had and taken at such hearing and such order to be made and filed, and certified copies of such order to be filed, as in the case of a hearing upon a petition, for the original formation of a conservation district, and the right of such petitioning district or political subdivision to become a part of and unit in such conservation district or of such private corporation, mutual water company or mutual ditch company to be admitted to participation in the benefits resulting from the construction of the works thereof, shall be determined in the same manner as if such district or political subdivision or private corporation or mutual water company or mutual ditch company had presented its petition or application at the hearing of the petition for the original formation of such conservation district.

The irrigation board, or the governing body of any irrigation district, reclamation district, drainage district, or other political subdivision of the state organized to promote irrigation, reclamation or drainage, constituting a unit of said conservation district, or any private corporation, or mutual water company or mutual ditch company admitted to participation in the benefits of such conservation district, may commence a proceeding in the superior court of any county wherein a portion of said conservation district is situated to determine the legality of the existence of said conservation district. The complaint in said proceeding shall describe the district by name, and the exterior boundaries thereof, when the lands therein lie in one body, or by naming the unit districts embraced therein when said lands do not lie in one body, and shall contain a prayer that such district be adjudged a legal conservation district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four successive weeks in a newspaper of general circulation published in each county wherein any part of such district is situated. Within thirty days after the last publication of said summons any person who may be interested may appear and answer said complaint in which answer the facts relied upon to show the invalidity of the district shall be set forth. If no answer shall be filed the court must render judgment as prayed for in the complaint. If any answer shall be filed within said period the court shall thereafter proceed as in other civil cases, but no district shall be adjudged invalid when it appears that such district has, for five years prior to the commencement of such proceeding, been performing its functions as a conservation district in good faith. The proceeding under this section is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California.

§ 7. When works benefit overflowed lands. When any of the works constructed under the provisions of this act serve the purpose of drainage, flood control or reclamation of swamp and overflowed lands within an irrigation or conservation district formed under the provisions of this act, the irrigation board may estimate the proportion of the cost of said construction, which may be properly charged to the lands benefited by such drainage, flood control or reclamation; and assessments may be levied in the manner herein provided upon the lands so benefited for the purpose of paying such proportion of said cost of construction, together with a reasonable portion of the expenses of maintenance and repair of such works.

§ 8. Rules and regulations. The irrigation board may make and enforce any and all rules and regulations that in its opinion will promote the objects of this act, and may perform any act and exercise any power necessary to the accomplishment of the purposes herein expressed and full power is hereby conferred in the premises whether or not such powers are herein specially mentioned, and may sue and be sued in the same manner and with the same effect as a municipal corporation.

§ 9. Member may conduct hearing. For the purpose of performing any duty under this act the irrigation board may appoint one of its members to conduct any hearing or investigation. Such member shall make a written report of his proceedings and shall state the evidence

introduced at any hearing and his conclusions thereon. Upon such report, or upon such further inquiry as the irrigation board shall deem proper, the irrigation board may pass upon and decide any question under consideration at said hearing or investigation. The decisions of the irrigation board shall be final except as to questions, the determination of which are vested in the courts by this act or by the constitution of this state or by the constitution of the United States.

§ 10. Apportionment of water. Lease of surplus water. Special board of apportionment. Oath. Notice. Hearing. Rates. Control of distribution of water apportioned. Prior to making any assessment, to provide funds for the construction or purchase of any project for the construction or purchase of which any conservation district shall have been formed, there shall be apportioned as hereinafter provided, to each constituent district or unit under such project the proportion to which it is entitled of all water stored or to be stored or diverted or to be diverted by such project for the irrigation of such conservation district, and of all power to be developed in connection therewith, which proportion of such water and power shall be forever applied to the purposes of said constituent district; provided, that any water or power that may be so apportioned and for which any constituent district or unit has not, to the full extent thereof, a beneficial use, may be leased by such district or unit, with the consent of the irrigation board, to any other territory within or without the said conservation district; the other districts or units, embraced in said conservation district to be entitled, however, to the first right to so lease such surplus water or power. The apportionment of water and power under this section shall be made by a special board of apportionment and confirmed by the irrigation board. The members of such special board of apportionment shall be three in number and shall be appointed by the irrigation board, subject, however, to the approval of two-thirds of the members of the advisory board hereinafter provided for. The members of such special board of apportionment shall be disinterested persons having no interest in any land within the conservation district within which such apportionment is to be made and not residing within such district. Before entering upon his duties each of the members of said special board of apportionment shall take and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly; that he does not reside therein, and that he will perform the duties of a member of such board to the best of his ability. Said special board of apportionment shall determine, define and apportion to the several districts or units within said conservation district, and to the private corporations, mutual water companies and mutual ditch companies admitted to share in the benefits thereof, the amount and extent of the water to be produced, stored or diverted for the project contemplated by said conservation district and the amount and extent of the power to be produced or generated in connection therewith, and shall likewise determine, define and apportion the cost of the project, and shall make a report thereof to the irrigation board. Upon receiving such report the irrigation board shall fix a date for the hearing thereof, and notice to all persons in such conservation district shall be given by publication once a week for four successive weeks in a newspaper of general circulation published in each of the counties in which any por-

tion of the said district is situated. Such hearing shall be held upon a date not less than sixty nor more than ninety days after the first publication of said notice, and affidavits of the publication of said notice in the manner herein provided shall be made and filed with the irrigation board before such hearing. In addition to the publication of such notice the secretary of the irrigation board shall mail a copy thereof to the governing boards of such other districts or political subdivisions of the state and to such private corporations, mutual ditch companies and mutual water companies as may be designated by the irrigation board. At the time set for the hearing the irrigation board shall hear and receive evidence in support of objections which may be presented to the apportionment so made, and shall thereupon make its order approving, modifying or rejecting such apportionment. Any person aggrieved by the order of the irrigation board may commence an action in the superior court of any county in which any part of said conservation district is interested to have said apportionment corrected, modified or annulled. Such action must be commenced within thirty days after said order has been made and filed in the office of the secretary of the irrigation board, and if not so commenced no action or defense shall thereafter be maintained attacking the legality of said apportionment in any respect.

All works constructed at the expense of any irrigation district created under this act, or for any component unit of a conservation district, or for which the same is assessed or charged for the repayment of moneys expended for construction, shall forever be devoted to the purposes of such constituent district or unit under the administration of the irrigation board. No rates shall be charged by an irrigation district formed under the provisions of this act or by a conservation district for the use of water for irrigation therein or for power developed in connection therewith, except for the just proportion of such irrigation district or the units of such conservation district, or of the private corporations, mutual water companies or mutual ditch companies entitled to or receiving the benefits of the construction and operation of the works of said conservation district, for the expenses of the governing bodies and employees thereof and of the maintenance, operation, repair and supervision of the works constructed for the benefit of such irrigation district or conservation district, and except for the repayment of moneys appropriated and paid as the cost of construction of the said works and the payment of bonds issued therefor and the interest thereon.

It shall be the duty of the irrigation board, and said board shall have power to do all things necessary to that end, to control and supervise the distribution of the water and power apportioned as herein provided to the units of a conservation district and to the private corporations, mutual water companies and mutual ditch companies admitted to share in the benefits thereof.

§ 11. Power to contract for repayment of money expended. The irrigation board shall have power to contract with the United States and with the state of California for the repayment of moneys appropriated or expended in the construction of reservoirs, canals, ditches or other works necessary or convenient for any of the purposes herein mentioned. Such repayment shall be made from assessments upon the lands benefited by such works, or the proceeds of bonds issued thereon, from pay-

ments made by private corporations, mutual ditch companies or mutual water companies contributing their proportion of the cost of constructing, operating and maintaining such works as provided in section six b of this act, or from revenues derived by the irrigation board for water or power leased or sold by the irrigation board as provided in this act, or from either, all or any of said methods of repayment. The irrigation board may also deposit with the United States and with the state, bonds, notes, contracts, leases, agreements or other obligations for the payment of money, issued or executed by irrigation districts formed under the provisions of this act, or by conservation districts, or the component units of such conservation districts, the proceeds to be applied to said repayment upon such terms as may be agreed upon between the irrigation board and the United States or the State of California.

§ 12. Power to purchase land, etc., needed. The irrigation board shall have power to acquire within or without any irrigation district created under this act or any conservation district, from persons, associations or private corporations, by purchase, condemnation or other lawful means, any land, water, water rights, reservoirs, flumes, ditches, power lines, telegraph or telephone lines or other works or parts thereof necessary or convenient for the purposes herein mentioned, or necessary for the carrying out of any of the projects formed hereunder.

§ 13. Advisory board. The chairmen or presiding officers of the governing bodies of the respective irrigation districts, reclamation districts, drainage districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, constituting units of a conservation district created under this act, and of the private corporations, mutual water companies and mutual ditch companies contributing to the cost of constructing, operating and maintaining the works of such conservation district, shall be and constitute an advisory board to consult with the irrigation board, and such advisory board shall perform such executive and administrative functions as may be determined from time to time by the irrigation board.

§ 14. Power to make contracts. Apportionment of revenues. Contracts between districts, etc. The irrigation board, except where special power is herein elsewhere conferred, shall have power to make, execute and carry out any agreements or contracts for the performance of any act or the construction of any works provided for in this act, and may make contracts for the sale or rental of unapportioned water or power for periods not to exceed forty years, upon such terms as the irrigation board shall prescribe. All revenues received by the irrigation board from such sales or rentals shall be apportioned to the districts constituting component parts of such conservation district and to the private corporations, mutual water companies and mutual ditch companies contributing to the construction of the project from which such revenues are derived. Such apportionment shall be made in the ratio of the respective amounts of assessments levied or charges made for the construction of the works in connection with which such revenues are derived.

For the purpose of carrying this act into effect and of accomplishing the ends and objects herein expressed, and the development and utilization of the water resources of this state, conservation districts, irri-

gation districts, formed under the provisions of this act, reclamation districts and other political subdivisions of the state organized to promote irrigation, reclamation or drainage, and private corporations organized for the purpose of selling or distributing water or electric power for domestic, irrigation, manufacture, or other beneficial uses and purposes, and mutual water companies and mutual ditch companies, may enter into contracts or agreements with each other or with other districts, political subdivisions, private corporations, associations or persons, for the development, appropriation or storage of water and the apportionment and distribution thereof, and the management, operation and maintenance of any works acquired pursuant to this section, and the division, distribution and payment of the cost and expense of such development, appropriation, storage, apportionment, distribution, management, operation and maintenance. And every and all such contract or contracts shall be valid and binding, in accordance with their terms and provisions respectively; provided, however, that before any such contract or contracts shall go into force or effect or become binding for any purpose, the same shall be submitted to and approved by the irrigation board; and provided, further, that where any such contract relates to or affects the sale, rental or distribution of water or electric power, or the beneficial use of water, by a public utility, the same shall, before it goes into force or effect or becomes binding, be submitted to and approved by the railroad commission of the state of California. And all such contracts approved as herein provided shall be binding and valid for all purposes, either in perpetuity or such term or terms as shall be specified or agreed upon therein or in the order or orders approving the same.

The provisions of this section are in aid of and in addition to other provisions of this act, and the same shall be construed and considered as so in aid of and in addition to, and not limited by or restricted by any of the other terms or provisions of this act. Nothing in this section contained shall be construed to affect or impair the organization or rights of mutual water companies or mutual ditch companies or the rights of the stockholders or members of such companies.

§ 15. Surveys, etc., of conservation districts. Assessment of land. Lien. Tax levy. Additional levy. Duty of auditor and tax collector. Moneys received under contracts, etc., collected by irrigation board. The irrigation board shall, upon the organization of any conservation district as in this act provided, proceed to make or cause to be made, all necessary examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water and the generation of electric power in connection therewith, and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary as aforesaid for the purposes of said conservation district and the probable cost and expense thereof, and in that connection may use and adopt all previous estimates, surveys and reports it may have collected adapted to that purpose, and may employ all necessary engineers and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project and may issue warrants therefor and same shall bear interest from date of issue at the rate of six per cent per annum until paid, and shall be payable out of the funds

of said district, and may be included in any bond issue authorized for the purposes of said district.

Such estimate as is above provided for shall be in such form as shall be approved by said irrigation board and shall be entered in the minutes of said board and shall constitute a part of the records of said board, and the same, or a copy thereof, certified by the secretary of said board, shall be admissible as evidence in any proceeding before any court, commission or tribunal of this state wherein the matters therein set forth shall be admissible in evidence.

Whenever, for any of the purposes of this act, the irrigation board shall deem it necessary for the purposes of said district, or the levying of an assessment upon the property therein, or the issuance of bonds by said district, said board shall appoint three commissioners for such purpose or purposes. Such commissioners shall have no interest in any land in the district, either directly or indirectly, and each commissioner before entering upon his duties shall make and subscribe an oath that he is not in any manner interested directly or indirectly in any land in said district, and that he will perform the duties of commissioner to the best of his ability. Thereupon said commissioners shall proceed separately as to each unit within said district to view and assess upon the land within said district a sum sufficient to cover said estimated amount and shall apportion the same according to the benefits which will accrue to each unit within said district, and separately as to each tract of land within said unit. Such benefits to be estimated according to the benefits which will accrue to each tract of land in such unit by reason of the expenditure of said estimated sum, and shall estimate the same in gold coin of the United States.

Said commissioners shall prepare and certify a roll on which they shall state the name and address of the owner of each parcel of land in such unit, or if the name or address of any owner is unknown, then, that fact; also a description of each parcel of land by legal subdivisions or boundaries, and the total amount assessed against each parcel of land so described. No mistake in the name of the owner, or supposed owner of any parcel of land, shall invalidate the apportionment or assessment. A separate roll shall be made for the lands in each county where such unit includes land in more than one county. When completed said roll or rolls shall be filed with the irrigation board and certified copies of the particular roll for each county shall be filed with the county recorder of any county in which any lands within said unit may be, and each roll shall be open for inspection by the public for at least thirty days.

The irrigation board shall appoint a time and place not less than thirty days after said roll has been filed with said recorder or recorders when and where it will meet, within said conservation district for the purpose of hearing objection to said assessment and the apportionment thereof and notice of such hearing shall be published at least once a week for two successive weeks in some newspaper published in each county in which any lands within said district may be. At any time before or at the original date of such hearing, any person interested in any real estate upon which any charge has been apportioned and assessed, may file in the office of the secretary of said irrigation board written objections thereto, stating the grounds of such objections, which said statements shall be verified by the affidavit of such person or

some other person who is familiar with the facts. Said irrigation board may postpone such hearing from time to time. At such hearing the irrigation board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment and may modify or amend the same and may reapportion all or any part of the entire assessment. No assessment or apportionment shall be increased except upon the hearing of objections thereto or after personal notice or notice by mail to the owner of the land upon which said increase is made. Said irrigation board must make and enter in its minutes an order approving said assessment and apportionment as finally fixed, and the decision of said irrigation board shall be final, and thereafter said assessment and apportionment shall be conclusive evidence of the validity of said assessment and apportionment, and no action or defense shall ever be maintained attacking the same in any respect. And the records of said irrigation board, or a copy thereof certified by its secretary, shall be received in evidence in all or any of the courts of this state, or before any board or tribunal authorized to hear or consider any matter wherein the same shall be admissible as evidence. No change shall be made in said assessment or apportionment after the consideration, approval and fixing thereof by said irrigation board, and all assessments upon the property of said district thereafter shall be levied in accordance therewith and consistent with the apportionment of benefits therein provided for and fixed, and if any assessments are called for or required in addition to the original amount estimated and apportioned for the purposes of said district, such additional amount shall be assessed, levied and raised in accordance with said apportionment and assessment of benefits so fixed in the first instance by said irrigation board. A certified copy of such assessment and apportionment roll as finally approved shall be filed in the offices of the county recorder of each county in which any land within said district is situated. Such assessment and apportionment shall thereafter constitute a first lien upon the land affected thereby until the full amount thereof is paid or until all bonds of the district issued thereon, together with the accrued interest, shall have been fully paid. The said irrigation board shall on the first Tuesday in May following the fixing and approval of said assessment and apportionment therein provided for, and annually thereafter on said date, levy an assessment, sufficient to raise the annual interest on the outstanding bonds of said district, and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full all sums that may become due from the district before the time of collection of the next annual assessment, including an amount sufficient to pay in full the amount of any contract or obligation of the district which may come due during said year or may have been reduced to judgment. And to provide for and maintain a fund out of which the current and contingent obligations of said district can be paid in cash as they mature. In addition to the amounts estimated as necessary for the purposes aforesaid, a further levy of fifteen per cent additional shall be included and levied for the purposes of meeting any additional amounts that may be required on account of delinquencies and to insure the payment of all of the bonded indebtedness, including the interest thereon and other obligations of said district at maturity. Whenever

there is a surplus in the funds of said district over and above all requirements as herein specified for the payment of the bonded indebtedness and interest thereon and accrued obligations of said district, such a surplus may be used and applied in retiring the outstanding bonds, or any thereof, of said district. The secretary of the irrigation board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment upon the property therein enumerated. In so doing, said secretary shall enter the names of the owners of such lands and the descriptions thereof in accordance with the last assessment-roll of the county in which the said lands are situated. Such assessment must be so levied and computed as to be in accordance with the apportionment and assessment of benefits herein provided for and so that all lands within said district shall be assessed and required to pay in accordance therewith.

The secretary of said board shall forthwith deliver a certified copy of that portion of said assessment so directed to be entered by him, so far as it applies or appertains to any land within any county situated within said district to the county auditor of such county, and such auditor shall accept and receipt for the same; and thereupon it shall be the duty of said auditor to include said assessment as an assessment against each parcel or tract of land therein described. It shall be the duty of said auditor to examine and ascertain as to any errors or discrepancies that may exist in said roll as to the ownership of, or the descriptions of, land as applied to any owner or owners thereof as compared with the assessment-roll of the said county for such year, and if any such difference or discrepancies are found, it shall be the duty of said auditor to correct the same accordingly so that the said roll as to ownerships and descriptions of land and assessments thereof shall correspond to the assessment-roll of said county and for such year. And it shall be his duty to audit, enter and certify the same to the tax collector of said county for collection in the same manner and form as county, school district and other taxes are included and certified by him to such tax collector, and all such assessments shall constitute a first lien upon the lands affected thereby as hereinbefore provided.

The board of supervisors is hereby authorized and empowered to employ what extra clerical force is necessary to perform the additional duties herein prescribed for the auditor. Said extra clerks shall receive as compensation for the work herein provided a per diem not to exceed five dollars which shall be paid by the districts operating under the provisions of this act in proportion to the amount of work done for each and it shall be the duty of the clerk of said board to issue warrants payable to such clerks employed as herein provided out of the funds of the districts, upon the presentation of a verified demand, approved by the auditor and the board of supervisors.

Upon receipt of the same from the auditor of such county it shall be the duty of the tax collector of said county to include the same as a separate entry and charge against the land therein described and to collect the same with the county, school district and other taxes so required to be collected by such county tax collector and to keep and deposit such district taxes in a separate fund, and when the same is collected it shall be the duty of such tax collector to pay the same over to the treasurer of such county at the same time and in the same manner as other taxes collected by him are paid over to such treasurer,

and it shall be the duty of such treasurer to receive the same as other taxes are received by him and after receipt thereof to keep the same in a separate fund; and upon receipt of same, or any part thereof, it shall be the duty of such county treasurer within thirty days thereafter to pay the same and all thereof to the treasurer of the state of California, who shall receive and keep the same and deposit the same in a separate fund to the credit of the said district, and to be paid out by him upon the order and approval of the said irrigation board.

All moneys received under contracts, leases or other arrangements by such conservation district from any canal companies, mutual or other water companies, reclamation districts, or from any corporations, individuals, or other sources not herein otherwise provided for shall be collected by said irrigation board and by it deposited with the state treasurer, and thereafter to be disbursed as provided as to funds of such district under the order and direction of such irrigation board for the purposes and obligations of said district, including the payment and retirement of outstanding bonds with interest thereon.

From and after the time of the filing of such assessment-roll of such district with the auditor of any county the taxes therein enumerated, levied and assessed, shall be regarded and treated as are the other taxes of said county or the school districts thereof, and the same shall be included in and considered a part of such taxes and the same shall become delinquent at the same time and in the same manner as such other taxes, and with respect to any delinquency or delinquent notices the same shall become delinquent and notice thereof shall be published with and at the same time and in the same manner as other delinquent taxes, and the same shall be similarly treated for all purposes of notice and sale thereof for such delinquent taxes, and shall be subject to redemption from such delinquent district taxes at the same time and in the same manner and through the same officials as are such other taxes. And any and all charges and penalties in connection with such delinquency and interest thereon and penalties in connection therewith shall be similarly charged and collected, and the amounts so collected on account of any such delinquent taxes or interest or penalties thereon shall be received by the county treasurer and paid over to the state treasurer in the same manner as is hereinabove provided, and in the event of the sale of any property for delinquent taxes of such counties or other delinquent taxes, said district taxes shall be included therein and said property shall be sold therefor in connection with and including such other taxes, and upon a redemption thereof or upon a sale of said lands the said district taxes shall be included therein and together with interest and penalties thereon the same shall be received and paid over to the county treasurer, and by him paid over to the state treasurer, as hereinbefore provided.

§ 16. Issue of bonds. Estimate of amount necessary. Special election. Evidence of ownership. Warrants. Bonds legal investments. Additional bond issue. At any time after the irrigation board shall have made the examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water, and for the other purposes enumerated in this act, and after the same has been entered in the minutes of said board and shall have also had assessed and apportioned upon the lands in said conservation district the charges and bene-

fits and apportionments provided for in this act, and after such apportionment and assessment roll shall have been finally fixed and approved by the said board, and after the same has been entered in the minutes of the said board must, as soon as may be practicable, proceed and issue the bonds of said district for the purposes aforesaid.

The said board shall, in connection with the previous estimates made and adopted by it, estimate the amount of money necessary to be raised by such bond issue for the purposes of said district, as aforesaid, and shall ascertain and determine the same and enter its order to that effect in the minutes of said board. And whenever thereafter the construction fund has been exhausted by expenditures herein authorized, and it is necessary to raise additional money for such purposes, it shall be the duty of said board to estimate and determine the amount of money necessary to be raised for such additional purposes.

For the purposes of such bond issue, or additional bond issue, the said board shall be authorized to employ engineers and other assistants and make all such further examinations and estimates as may be necessary, to fix and determine such matters and the conclusion and estimates of said board shall be entered in its minutes. Said irrigation board shall by order entered in its records order a special election to be held at such places in said district as shall be designated by said irrigation board, and at least one such place shall be designated as a voting place in each unit of said conservation district at which said election there shall be submitted to the owners of land in said district the question of whether or not the bonds of said district shall be issued in the amount specified in the order of said board, and which amount shall be stated in the order for such special election. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes where the question of title to land claimed to be owned by such voter or owner is involved, the equalized assessment-roll for the year last preceding in each county wherein any land of the said district is situated, shall be sufficient evidence of ownership of lands in the district, and the certificate of the register of the United States land office in which the lands are situated or of the surveyor-general of the state of California, shall be sufficient evidence of possessory right in any lands in the district entered under the laws of the United States or of the state of California. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may sign any such petition and may vote without obtaining any special authority therefor. Said irrigation board shall at the time of calling the said election designate in its order the voting places at which said election shall be held and where votes shall be cast and shall designate three landholders of the district to act as a board of election at each voting place.

Notice of such special election must be given by the irrigation board by posting notice thereof in at least three public places in each unit of the district at least twenty days prior thereto, and also by publishing such notice once a week for the same length of time in some newspaper of general circulation, published in each county in which any portion of said district may be situated, or if there be no newspaper published in any one of such counties, then in each county wherein such newspaper is published; and such notice must specify the time and place of holding said election and the aggregate face value of bonds proposed

to be issued and the names of three landholders of said district to act as a board of election at each polling place. Affidavits of the publication and posting of such notice must be filed with the clerk of said irrigation board.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the district, such ownership to be determined from the next preceding assessment-roll of the county or counties in which the lands of the district are situated and the irrigation board shall, prior to the election, cause to be prepared and certified and furnished to the board of election at each polling place, a true and correct copy of each of said next preceding assessment-rolls so far as such assessment-roll applies to any lands within such district, and shall likewise cause to be prepared and furnished lists certified by the register of the United States land office and the surveyor-general of the state of California respectively showing the lands within the district entered upon under the laws of the United States and the state of California respectively, which said list, so far as disclosed by the records of said officers, shall contain the names of the persons entitled to possessory rights therein and the quantity of land held by each of said persons by virtue of said rights. Said certified rolls and certified lists shall be used by the board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

The ballots cast at such election shall contain the words "bonds, yes" or "bonds, no" and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and, if the ballots be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present, voting individually, may appoint in his place any landholder in the district. Each member of said board of election must, before entering upon his duties, take and subscribe an official oath, to faithfully perform his duties as an officer of such election, which oath may be administered by an officer authorized to administer oaths, or by a landholder in the district.

The polls shall be kept open from ten o'clock A. M. of the day of election until five o'clock P. M. of that day.

At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall forward a certificate showing such result and the number of votes cast for and against the issuing of the bonds to the irrigation board and shall also deliver to the said irrigation board all ballots cast at such election and all documents and papers used at such election.

Said irrigation board shall, upon the receipt of such canvass and declaration of the result from the said board of election, proceed to examine the same and shall ascertain and declare the result as shown by such canvass and declaration, and shall enter an order in its minutes that the said proposition for the issuance of said bonds has been carried or defeated, as the case may be.

Forthwith, upon the declaration of the result of said election by said irrigation board, the secretary of said board shall make a certified copy of the order of said board, declaring the result of said election, and shall forward said certified copy or copies to the recorder or recorders of the counties in which any land of said conservation district may be situated, and the same shall forthwith be filed and recorded in said recorder or recorders' office, and shall impart notice to all interested persons as to the result of said election.

Any person owning property within the said district, liable to assessment, may contest such election, by filing a written contest specifying the grounds of his objections thereto, with said irrigation board, said written contest to be filed within thirty days after the declaration of the result of said election by said irrigation board, and if no such contest and objections be filed within thirty days, no such contest and objections shall thereafter be received or filed. Such written contest shall specify the ground or grounds of contest to said election, and upon the filing of the same with said irrigation board shall expeditiously set the said contest for hearing, and shall have the right to postpone the hearing for such time as may be necessary, but not otherwise, and shall expeditiously hear and determine the same. For the purposes of such hearing the board may by subpoena, signed by the secretary, under its seal, compel the attendance of witnesses and the production of evidence. Disobedience of such subpoena or of any lawful order of the board in the premises shall constitute a contempt of the authority of the board punishable by the board in accordance with Title V of Part III, of the Code of Civil Procedure, and shall also constitute a misdemeanor under section one hundred sixty-six of the Penal Code. Said irrigation board shall, upon the conclusion of said hearing of said contest, proceed forthwith to enter its order and decision thereon. Such decision on the part of said irrigation board shall be final, conclusive and binding upon all parties interested as to validity and as to result of such election and shall be subject to review only in event suit is brought by the said district or by some person or corporation or association authorized to bring the same to determine the question of the validity of the said bond issue, and in the determination and adjudication of the question of the validity of said bond issue, as hereinafter specified, the court may review and consider the validity of said election for the issuance of said bonds, but in such action the certificate and determination of said irrigation board shall be received and accepted by the court as prima facie evidence of the result as to the validity of said election and the regularity of the canvassing, counting and return of the votes cast at said election. If a majority of the votes cast at such an election is in favor of the issuance of bonds, the irrigation board after canvassing the returns and declaring the result of said election shall cause bonds in the amount stated in the order for the election to be issued, executed and delivered to the state treasurer of the state of California. Said bonds shall be of the denomination of not less than one hundred

dollars nor more than one thousand dollars each; they shall be signed by the president of the irrigation board and attested by the secretary thereof, and shall be numbered consecutively in the order of their maturity, and shall bear interest at the rate not exceeding six per centum per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said state treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the state treasurer of the state of California.

The principal of said bonds shall be made payable, by an order entered into the minutes of the irrigation board, upon the first day of July or the first day of January, and in such years as the irrigation board may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

Not less than five per cent of the aggregate face value of the bonds issued shall be payable each year, beginning not later than the twentieth year from their date until the whole amount of said bonds have been paid.

Said irrigation board, subject to the provisions of this act, is authorized and empowered to take all such actions and make all such orders as may be necessary in connection with the issuance, sale and disposition of said bonds.

Form of bonds. Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA.

No. —

\$—

(Name of district) Conservation District No. — for value received, hereby acknowledge itself indebted to and promises to pay to the holder hereof at the office of the state treasurer of the state of California, on the first day of —, 19—, the sum of \$—, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of — per cent per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of — bonds of like tenor and effect, except as to denomination and maturity, numbered from — to —, inclusive, amounting in the aggregate to \$—, issued in accordance with the California irrigation act, pursuant to an election held in said district on the — day of —, 19—, authorizing its issuance, and is based upon and secured by a lien upon and a valuation and apportionment levied on the land in said district and filed in the office of the state irrigation board on the — day of —, 19—. And the said district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done precedent to and in the issue of said bonds have been done and have been performed in regular and in due

form and in strict accordance with the provisions of the law authorizing the issuance of such district bonds.

In testimony whereof, the said conservation district, acting by and through the irrigation board of the state of California, has caused this bond to be signed by the president of said irrigation board, and attested by the secretary thereof, with his seal of office affixed, this — day of —, 19—.

By — —,
President of said board.

Attest: — —,
Secretary of said board.

And the interest coupon may be substantially in the following form:

No. — \$—

The state treasurer of the state of California will pay to the holder hereof on the — day of —, 19—, at his office in the city of Sacramento, state of California, the sum of \$— in gold coin of the United States out of the funds of — district — for interest on bond of said district numbered —.

— —,
State treasurer.

The state treasurer shall place the bonds prepared pursuant to this act to the credit of the district and the irrigation board may in its discretion direct the state treasurer to sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the state treasurer by publication at least once a week for three weeks in a newspaper of general circulation published in the city of Sacramento, and also one or more papers in said district, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the state treasurer shall open the bids and award the bonds to the highest responsible bidder. He may reject any and all bids. Any sale by the state treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the state treasury to the credit of said district, and a proper record of such transaction shall be made upon his books. At any time after said bonds shall have been delivered to the state treasurer, an action may be commenced in the superior court of the county within which is situated the largest area of land within said district by the irrigation board in the name of the district or by any unit of said district or by any person owning property within the said district liable to assessment. Such action shall be brought and prosecuted against the lands in said district and all persons owning the same or interested therein, to have it determined as to whether or not said bonds when sold will be a legal obligation of such district. It shall be sufficient to describe said lands as all lands in the district (naming it) without a more specific description. The summons shall be published once a week for three weeks in some newspaper of general circulation published in the county where the action

is pending. Within thirty days after the first publication of summons any owner of land in such district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days after entry of judgment and said appeal and the hearing thereof shall be expedited in said court. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons.

The irrigation board may draw warrants upon the state treasurer against the funds provided by sale of said bonds.

The money derived from the sale of any of said bonds shall be received by the state treasurer and shall by him be safely kept and placed to the credit of said district in a fund to be designated in the name of such district for the said district and may be drawn and expended upon warrants drawn against said fund as in this act provided.

Bonds of any district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by the laws of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

If after said district has authorized the issuance and sale of a series of bonds under this act, it shall become necessary so to do, an additional bond issue or series of bonds may be authorized and sold and all proceedings shall be had and taken, and all procedure in connection with said second issue or series of bonds shall be had and taken in accordance with the provisions of this act as to the first issue of bonds; provided, that said second issue or series of bonds shall not be issued so as to in any manner interfere with the lien or security of the payment of the first issue of bonds, and said second issue or series of bonds shall, as to the lien thereof and as to the security of same, be subsequent and subordinate and subject to such first bond issue.

§ 17. Surveys, etc., of irrigation district. Estimates of costs. Assessments. Taxes. Surplus used in retiring bonds. Duty of auditor and tax collector. The irrigation board shall, upon the organization of any irrigation district as in this act provided, proceed to make or cause to be made, all necessary examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water and the generation of electric power in connection therewith, and the sale and distribution thereof as may be necessary or requisite to enable said board to ascertain and estimate the requirements and works necessary as

aforesaid for the purposes of said irrigation district and the probable cost and expense thereof, and in that connection may use and adopt all previous estimates, surveys and reports it may have collected adapted to that purpose, and may employ all necessary engineers and other assistants for the accomplishment of said purposes, and the cost thereof shall be deemed a part of the expense of said project, and may issue warrants therefor and same shall bear interest from date of issue at the rate of six per cent per annum until paid, and shall be payable out of the funds of said district, and may be included in any bond issue authorized for the purposes of said district.

Such estimate as is above provided for shall be in such form as shall be approved by said irrigation board and shall be entered in the minutes of said board and shall constitute a part of the records of said board, and the same, or a copy thereof, certified by the secretary of said board, shall be admissible as evidence in any proceeding before any court, commission or tribunal of this state wherein the matters therein set forth shall be admissible in evidence.

Whenever, for any of the purposes of this act, the irrigation board shall deem it necessary for the purposes of said irrigation district, or the levying of an assessment upon the property therein, or the issuance of bonds by said irrigation district, said board shall appoint three commissioners for such purpose or purposes. Such commissioners shall have no interest in any land in the irrigation district, either directly or indirectly, and each commissioner before entering upon his duties shall make and subscribe an oath that he is not in any manner interested directly or indirectly in any land in said irrigation district, and that he will perform the duties of commissioner to the best of his ability. Thereupon said commissioners shall proceed to view and assess upon the land within said irrigation district a sum sufficient to cover said estimated amount and shall apportion the same according to the benefits which will accrue to each tract of land within said irrigation district, such benefits to be estimated according to the benefits which will accrue to each tract of land in such irrigation district by reason of the expenditure of said estimated sum, and shall estimate the same in gold coin of the United States.

Said commissioners shall prepare and certify a roll on which they shall state the name and address of the owner of each parcel of land in such irrigation district, or if the name or address of any owner is unknown, then that fact; also a description of each parcel of land by legal subdivisions or boundaries, and the total amount assessed against each parcel of land so described. No mistake in the name of the owner, or supposed owner of any parcel of land, shall invalidate the apportionment or assessment. A separate roll shall be made for the lands in each county where such irrigation district includes land in more than one county. When completed said roll or rolls shall be filed with the irrigation board and certified copies of the particular roll for each county shall be filed with the county recorder of any county in which any lands within said irrigation district may be, and each roll shall be open for inspection by the public for at least thirty days.

The irrigation board shall appoint a time and place not less than thirty days after said roll has been filed with said recorder or recorders when and where it will meet, within the county in which the greater portion of said irrigation district is situated for the purpose of hearing

objection to said assessment and the apportionment thereof and notice of such hearing shall be published at least once a week for two successive weeks in some newspaper published in each county in which any lands within said irrigation district may be. At any time before or at the original date of such hearing, any person interested in any real estate upon which any charge has been apportioned and assessed, may file in the office of the secretary of said irrigation board written objections thereto, stating the grounds of such objections, which said statements shall be verified by the affidavit of such person or some other person who is familiar with the facts. Said irrigation board may postpone such hearing from time to time. At such hearing the irrigation board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment and may modify or amend the same and may reapportion all or any part of the entire assessment. No assessment or apportionment shall be increased except upon the hearing of objections thereto or after personal notice or notice by mail to the owner of the land upon which said increase is made. Said irrigation board must make and enter in its minutes an order approving said assessment and apportionment as finally fixed, and the decision of said irrigation board shall be final, and thereafter said assessment and apportionment shall be conclusive evidence of the validity of said assessment and apportionment, and no action or defense shall ever be maintained attacking the same in any respect. And the records of said irrigation board, or a copy thereof certified by its secretary, shall be received in evidence in all or any of the courts of this state, or before any board or tribunal authorized to hear or consider any matter wherein the same shall be admissible as evidence. No change shall be made in said assessment or apportionment after the consideration, approval and fixing thereof by said irrigation board and all assessments upon the property of said irrigation district thereafter shall be levied in accordance therewith and consistent with the apportionment of benefits therein provided for and fixed, and if any assessments are called for or required in addition to the original amount estimated and apportioned for the purposes of said irrigation district, such additional amount shall be assessed, levied and raised in accordance with said apportionment and assessment of benefits so fixed in the first instance by said irrigation board. A certified copy of such assessment and apportionment roll as finally approved shall be filed in the office of the county recorder of each county in which any land within said irrigation district is situated. Such assessment and apportionment shall thereafter constitute a first lien upon the land affected thereby until the full amount thereof is paid or until all bonds of the irrigation district issued thereon, together with the accrued interest, shall have been fully paid. The said irrigation board shall on the first Tuesday in May following the fixing and approval of said assessment and apportionment therein provided for, and annually thereafter on said date, levy an assessment, sufficient to raise the annual interest on the outstanding bonds of said irrigation district and in any year in which any bonds shall fall due must increase such assessment to an amount sufficient to pay the principal of the outstanding bonds as they mature; also sufficient to pay in full all sums that may become due from the irrigation district before the time of collection of the next annual assessment, including an amount sufficient to pay in full the amount

of any contract or obligation of the irrigation district which may come due during said year or may have been reduced to judgment, and to provide for and maintain a fund out of which the current and contingent obligations of said irrigation district can be paid in cash as they mature. In addition to the amounts estimated as necessary for the purposes aforesaid, a further levy of fifteen per cent additional shall be included and levied for the purposes of meeting any additional amounts that may be required on account of delinquencies and to insure the payment of all of the bonded indebtedness, including the interest thereon and other obligations of said irrigation district at maturity. Whenever there is a surplus in the funds of said district over and above all requirements as herein specified for the payment of the bonded indebtedness and interest thereon and accrued obligations of said irrigation district, such a surplus may be used and applied in retiring the outstanding bonds or any thereof of said irrigation district. The secretary of the irrigation board must compute and enter in a separate column of the assessment book the respective sums in dollars and cents to be paid as an assessment upon the property therein enumerated. In so doing, said secretary shall enter the names of the owners of such lands and the descriptions thereof in accordance with the last assessment-roll of the county in which the said lands are situated. Such assessment must be so levied and computed as to be in accordance with the apportionment and assessment of benefits herein provided for and so that all lands within said irrigation district shall be assessed and required to pay in accordance therewith.

The secretary of said board shall forthwith deliver a certified copy of that portion of said assessment so directed to be entered by him, so far as it applies or appertains to any land within any county situated within said irrigation district to the county auditor of such county, and such auditor shall accept and receipt for the same, and thereupon it shall be the duty of said auditor to include said assessment as an assessment against each parcel or tract of land therein described. It shall be the duty of said auditor to examine and ascertain as to any errors or discrepancies that may exist in said roll as to the ownership of or the descriptions of land as applied to any owner or owners thereof as compared with the assessment-roll of the said county for such year, and if any such difference or discrepancies are found, it shall be the duty of said auditor to correct the same accordingly so that the said roll as to ownerships and descriptions of land and assessments thereof shall correspond to the assessment-roll of said county and for such year. And it shall be his duty to audit, enter and certify the same to the tax collector of said county for collection in the same manner and form as county, school district and other taxes are included and certified by him to such tax collector, and all such assessments shall constitute a first lien upon the lands affected thereby as hereinbefore provided.

The board of supervisors is hereby authorized and empowered to employ what extra clerical force is necessary to perform the additional duties herein prescribed for the auditor. Said extra clerks shall receive as compensation for the work herein provided a per diem not to exceed five dollars which shall be paid by the districts operating under the provisions of this act in proportion to the amount of work done for each and it shall be the duty of the clerk of said board to issue warrants

payable to such clerks employed as herein provided out of the funds of the districts, upon the presentation of a verified demand, approved by the auditor and the board of supervisors.

Upon receipt of the same from the auditor of such county it shall be the duty of the tax collector of said county to include the same as a separate entry and charge against the land therein described and to collect the same with the county, school district and other taxes so required to be collected by such county tax collector and to keep and deposit such irrigation district taxes in a separate fund, and when the same is collected it shall be the duty of such tax collector to pay the same over to the treasurer of such county at the same time and in the same manner as other taxes collected by him are paid over to such treasurer, and it shall be the duty of such treasurer to receive the same as other taxes are received by him and after receipt thereof to keep the same in a separate fund and upon receipt of same, or any part thereof, it shall be the duty of such county treasurer within thirty days thereafter to pay the same and all thereof to the treasurer of the state of California, who shall receive and keep the same and deposit the same in a separate fund to the credit of the said district, and to be paid out by him upon the order and approval of the said irrigation board.

All moneys received under contracts, leases or other arrangements by such irrigation district from any canal companies, mutual or other water companies, reclamation districts, or from any corporations, individuals, or other sources not herein otherwise provided for, shall be collected by said irrigation board and by it deposited with the state treasurer, and thereafter to be disbursed as provided as to funds of such irrigation district under the order and direction of such irrigation board for the purposes and obligations of said irrigation district, including the payment and retirement of outstanding bonds with interest thereon.

From and after the time of the filing of such assessment-roll of such irrigation district with the auditor of any county the taxes therein enumerated, levied and assessed, shall be regarded and treated as are the other taxes of said county or the school districts thereof and the same shall be included in and considered a part of such taxes and the same shall become delinquent at the same time and in the same manner as such other taxes, and with respect to any delinquency or delinquent notices the same shall become delinquent and notice thereof shall be published with and at the same time and in the same manner as other delinquent taxes and the same shall be similarly treated for all purposes of notice and sale thereof for such delinquent taxes, and shall be subject to redemption from such delinquent irrigation district taxes at the same time and in the same manner and through the same officials as are such other taxes. And any and all charges and penalties in connection therewith shall be similarly charged and collected, and the amounts so collected on account of any such delinquent taxes or interest or penalties thereon shall be received by the county treasurer and paid over to the state treasurer in the same manner as is hereinabove provided, and in the event of the sale of any property for delinquent taxes of such counties or other delinquent taxes, said irrigation district taxes shall be included therein and said property shall be sold therefor in connection with and including such other taxes, and upon a redemption thereof or upon a sale of said lands the said irrigation district taxes

shall be included therein and together with interest and penalties thereon the same shall be received and paid over to the county treasurer, and by him paid over to the state treasurer, as hereinbefore provided.

§ 17a. Defraying expenses before making assessment. Ascertainment of expenses. Upon the organization of an irrigation district hereunder and for the purpose of defraying the expenses of such organization, and for any other purposes of this act, prior to the making of the assessment provided for in section seventeen, the directors may incur an indebtedness not exceeding one-half as many dollars as there are acres in the district, and upon the certification thereof to the irrigation board, such board shall cause warrants to issue therefor bearing interest at a rate to be fixed by the board of directors, not to exceed six per centum per annum, and thereafter it shall be the duty of the irrigation board to levy an assessment sufficient to pay said warrants upon all of the lands within the district, in the same manner and at the same time, so far as possible, as other assessments are provided to be levied (except as to the appointment of commissioners). Said assessment shall be ascertained by dividing the number of dollars due or to become due upon the warrants which have been issued by the number of acres in the district, and assessing to each acre the result so obtained. Such assessment-roll shall be prepared and delivered to the county auditor or auditors by the secretary of the irrigation board as provided in section seventeen, and the said amount shall be collected by the tax collector of the county in the same manner as is provided for the collection of other assessments levied by the district.

Where an irrigation district is organized after the first Tuesday in May of any year, the irrigation board shall nevertheless, at the request of the board of directors of said district, cause an assessment to be levied payable at the same time as if levied prior to the first Tuesday in May as in this section provided, of an amount sufficient to defray the expenses of organization and other expenses of the district prior to the levying of the assessment provided for in section seventeen, not, however, to exceed the limit in this section specified.

§ 18. Issue of bonds. Estimate of amount necessary. Examination by engineer. Elections. Sale of bonds. Bonds as investment. Determining validity. Additional bond issue. At any time after the irrigation board shall have made the examinations, surveys, plans and estimates of cost for the storage, diversion and distribution of water, and for the other purposes enumerated in this act, and after the same has been entered in the minutes of said board and shall have also had assessed and apportioned upon the lands in any irrigation district organized under the provision of this act the charges and benefits and apportionments provided for in this act, and after such apportionment and assessment roll shall have been finally fixed and approved by the said board, and after the same has been entered in the minutes of the said board must, as soon as may be practicable, proceed and issue the bonds of said irrigation district for the purposes aforesaid.

The said board shall, in connection with the previous estimates made and adopted by it, estimate the amount of money necessary to be raised by such bond issue for the purposes of said irrigation district, as aforesaid, and shall ascertain and determine the same and enter its order to

that effect in the minutes of said board. And whenever thereafter the construction fund of said irrigation district has been exhausted by expenditures herein authorized, and it is necessary to raise additional money for such purposes, it shall be the duty of said board to estimate and determine the amount of money necessary to be raised for such additional purposes.

For the purposes of such bond issue, or additional bond issue, the said board shall be authorized to employ engineers and other assistants and make all such further examinations and estimates as may be necessary, to fix and determine such matters and the conclusion and estimates of said board shall be entered in its minutes. Said irrigation board shall by order entered in its records order a special election to be held at such place or places in said irrigation district as shall be designated by said irrigation board, at which said election there shall be submitted to the owners of land in said irrigation district the question whether or not the bonds of said district shall be issued in the amount specified in the order of said board, and which amount shall be stated in the order for such special election. For all purposes of this act relating to signing petitions and voting at any election, and for all other purposes where the question of title to land claimed to be owned by such voter or owner is involved, the equalized assessment-roll for the year last preceding in each county wherein any land of the said irrigation district is situated, shall be sufficient evidence of ownership of lands in the irrigation district. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote without obtaining any special authority therefor. Said irrigation board shall at the time of calling the said election designate in its order the voting place or places at which said election shall be held and where votes shall be cast and shall designate three landholders of the irrigation district to act as a board of election at each voting place.

Notice of such special election must be given by the irrigation board by posting notice thereof in at least three public places in such irrigation district at least twenty days prior thereto, and also by publishing such notice once a week for the same length of time in some newspaper of general circulation, published in each county in which any portion of said irrigation district may be situated, or if there be no newspaper published in any one of such counties, then in each county wherein such newspaper is published; and such notice must specify the time and place of holding said election and the aggregate face value of bonds proposed to be issued and the names of three landholders of said irrigation district to act as a board of election at each polling place. Affidavits of the publication and posting of such notice must be filed with the secretary of said irrigation board.

At such election each owner of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each acre of real estate owned by him in the irrigation district, such ownership to be determined from the next preceding assessment-roll of the county or counties in which the lands of the irrigation district are situated and the irrigation board shall, prior to the election, cause to be prepared and certified and furnished to the board of election at each polling place, a true and correct copy of each of said next preceding assessment-rolls so far as such assessment-roll applies to any lands within such irrigation district, which said certified roll shall be used

by the board of election in determining the number of votes each voter is entitled to cast. Executors, administrators, special administrators and guardians may cast the vote of the estates represented by them. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property and filed with the board of election.

The ballots cast at such election shall contain the words, "bonds, yes" or "bonds, no" and also the name of the person casting the ballot, with the number of votes cast by him. A list of the ballots cast shall be made by the board of election containing the name of each voter, and, if the ballots be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of bonds.

If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present, voting individually, may appoint in his place any landholder in the irrigation district. Each member of said board of election must, before entering upon his duties, take and subscribe an official oath, to faithfully perform his duties as an officer of such election, which oath may be administered by any officer authorized to administer oaths, or by a landholder in the irrigation district.

The polls shall be kept open from ten o'clock A. M. of the day of election until five o'clock P. M. of that day.

At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result and shall forward a certificate showing such result and the number of votes cast for and against the issuing of the bonds to the irrigation board and shall also deliver to the said irrigation board all ballots cast at such election and all documents and papers used at such election.

Said irrigation board shall, upon the receipt of such canvass and declaration of the result from the said board of election, proceed to examine the same and shall ascertain and declare the result as shown by such canvass and declaration, and shall enter an order in its minutes that the said proposition for the issuance of said bonds has been carried or defeated, as the case may be.

Forthwith, upon the declaration of the result of said election by said irrigation board, the secretary of said board shall make a certified copy of the order of said board, declaring the result of said election, and shall forward said certified copy or copies to the recorder or recorders of the counties in which any land of said irrigation district may be situated, and the same shall forthwith be filed and recorded in said recorder or recorders' office, and shall impart notice to all interested persons as to the result of said election.

Any person owning property within the said irrigation district, liable to assessment, may contest such election, by filing a written contest specifying the grounds of his objections thereto, with said irrigation board, said written contest to be filed within thirty days after the declaration of the result of said election by said irrigation board, and if no such contest and objections be filed within thirty days, no such contest and objections shall thereafter be received or filed. Such written contest shall specify the ground or grounds of contest to said election, and

upon the filing of the same with said irrigation board it shall expeditiously set the said contest for hearing, and shall have the right to postpone the hearing for such time as may be necessary, but not otherwise, and shall expeditiously hear and determine the same. For the purposes of such hearing the board may by subpoena signed by the secretary under its seal compel the attendance of witnesses and the production of evidence. Disobedience of such subpoena or of any lawful order of the board in the premises shall constitute a contempt of the authority of the board punishable by the board in accordance with Title V of Part III of the Code of Civil Procedure, and shall also constitute a misdemeanor under section one hundred sixty-six of the Penal Code. Said irrigation board shall, upon the conclusion of said hearing of said contest, proceed forthwith to enter its order and decision thereon. Such decision on the part of said irrigation board shall be final, conclusive and binding upon all parties interested as to validity and as to result of such election and shall be subject to review only in the event suit is brought by the said irrigation district or by some person or corporation or association authorized to bring the same to determine the question of the validity of the said bond issue, and in the determination and adjudication of the question of the validity of said bond issue, as hereinafter specified, the court may review and consider the validity of said election for the issuance of said bonds, but in such action the certificate and determination of said irrigation board shall be received and accepted by the court as prima facie evidence of the result as to the validity of said election and the regularity of the canvassing, counting and return of the votes cast at said election. If a majority of the votes cast at such an election is in favor of the issuance of bonds, the irrigation board shall after canvassing the returns and declaring the result of said election cause bonds of said irrigation district in the amount stated in the order for the election to be issued, executed and delivered to the state treasurer of the state of California. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each; they shall be signed by the president of the irrigation board and attested by the secretary thereof, and shall be numbered consecutively in the order of their maturity, and shall bear interest at the rate not exceeding six per centum per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said state treasurer, upon the presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the state treasurer of the state of California.

The principal of said bonds shall be made payable, by an order entered into the minutes of the irrigation board, upon the first day of July or the first day of January, and in such years as the irrigation board may prescribe. Said bonds shall be payable serially within forty years from their date in the manner following, to wit:

Not less than five per cent of the aggregate face value of the bonds issued shall be payable each year, beginning not later than the twentieth year from their date until the whole amount of said bonds have been paid.

Said irrigation board, subject to the provisions of this act, is authorized and empowered to take all such actions and make all such orders

as may be necessary in connection with the issuance, sale and disposition of said bonds.

Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA.

No. —.

\$—.

Name of district—.

Irrigation District —.

Organized under California irrigation act of 1919.

(Name of district) Irrigation District, for value received, hereby acknowledges itself indebted to and promises to pay to the holder hereof at the office of the state treasurer of the state of California, on the first day of —, 19—, the sum of \$—, in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid, at the rate of — per cent per annum, payable at the office of said treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of — bonds of like tenor and effect, except as to denomination and maturity, numbered from — to — inclusive, amounting in the aggregate to \$— issued in accordance with the California irrigation act of 1919, pursuant to an election held in said district on the — day of —, 19—, authorizing its issuance and is based upon and secured by a lien upon and a valuation and apportionment levied on the land in said irrigation district and filed in the office of the state irrigation board on the — day of —, 19—; and the said district does hereby certify and declare that said election was duly called and held upon due notice, and the result thereof was duly canvassed and ascertained, in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all of the acts and conditions and things required by law to be done precedent to and in the issue of said bonds have been done and have been performed in regular and in due form and in strict accordance with the provisions of the law authorizing the issuance of such irrigation district bonds.

In testimony whereof, the said irrigation district, acting by and through the irrigation board of the state of California, has caused this bond to be signed by the president of said irrigation board, and attested by the secretary thereof, with his seal of office affixed, this — day of —, 19—.

By — —,
President of said board.

Attest: — —,

Secretary of said board.

And the interest coupon may be substantially in the following form:

No. —.

\$—.

The state treasurer of the state of California will pay to the holder hereof on the — day of —, 19—, at his office in the city of Sacramento, state of California, the sum of \$— in gold coin of the United States out of the funds of — irrigation district — for interest on bond of said irrigation district numbered —.

— —,
State treasurer.

The state treasurer shall place the bonds prepared pursuant to this act to the credit of the irrigation district and the irrigation board may in its discretion direct the state treasurer to sell the whole or any designated number of said bonds for the best price obtainable therefor, but in no event for less than ninety per cent of the face value of said bonds and the accrued interest thereon. Before making a sale of said bonds, notice shall be given by the state treasurer by publication at least once a week for three weeks in a newspaper of general circulation published in the city of Sacramento, and also one or more papers in the county in which the greater portion of said irrigation district is situated, that he will sell a specified amount of said bonds, and stating the day, hour and place of such sale, and asking sealed proposals for the purchase of said bonds, or any part thereof. At the time appointed the state treasurer shall open the bids and award the bonds to the highest responsible bidder. He may reject any and all bids. Any sale by the state treasurer and delivery of the bonds thereunder shall be conclusive evidence in favor of the purchaser and all subsequent holders of the bonds that such sale was made upon due authority and notice. The proceeds of sale of said bonds shall be placed in the state treasury to the credit of said irrigation district, and a proper record of such transaction shall be made upon his books. At any time after said bonds shall have been delivered to the state treasurer, an action may be commenced in the superior court of the county within which is situated the largest area of land within said irrigation district by the irrigation board in the name of the irrigation district or by any person owning property within the said irrigation district liable to assessment. Such action shall be brought and prosecuted against the lands in said irrigation district and all persons owning the same or interested therein, to have it determined as to whether or not said bonds when sold will be a legal obligation of such irrigation district. It shall be sufficient to describe said lands as all lands in the irrigation district (naming it) without a more specific description. The summons shall be published once a week for three weeks in some newspaper of general circulation published in the county where the action is pending. Within thirty days after the first publication of summons any owner of land in such irrigation district, or any person interested, may appear and answer the complaint, which answer shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions in such court and judgment rendered declaring such matter so contested either valid or invalid. Any party not in default may have the right to appeal to the supreme court within thirty days after entry of judgment and said appeal and the hearing thereof shall be expedited in said court. Judgment for the plaintiff in such proceedings shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons.

The irrigation board may draw warrants upon the state treasurer against the funds provided by sale of said bonds.

The money derived from the sale of any of said bonds shall be received by the state treasurer and shall by him be safely kept and placed to the credit of said irrigation district in a fund to be designated in the name of such irrigation district for the said irrigation district and

may be drawn and expended upon warrants drawn against said fund as in this act provided.

Bonds of any irrigation district issued pursuant to the provisions of this act which are investigated and approved by any commission or officer now or hereafter authorized by a law of this state to conduct such approval and by authority of which approval said bonds are declared to be legal investments for savings banks may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state, or of any county, city, city and county or other municipal or corporate body within the state having or holding funds which they are allowed by law to invest or loan.

If after said irrigation district has authorized the issuance and sale of a series of bonds under this act, it shall become necessary so to do an additional bond issue or series of bonds may be authorized and sold and all proceedings shall be had and taken, and all procedure in connection with said second issue or series of bonds shall be had and taken in accordance with the provisions of this act as to the first issue of bonds; provided, that said second issue or series of bonds shall not be issued so as to in any manner interfere with the lien or security of the payment of the first issue of bonds, and said second issue or series of bonds shall, as to the lien thereof and as to the security of same, be subsequent and subordinate and subject to such first bond issue.

§ 19. Not applicable to counties with charter or city and county. Nothing in this act contained shall affect, or apply to, any irrigation, protection, flood control, conservation, or other improvement district situated wholly or in part within any county which has adopted a charter pursuant to section seven and one-half of article eleven of the constitution of California, ratified and approved as provided therein, prior to June 4, 1915, or within any city and county; and said board shall have no power of jurisdiction within any of said districts or within such counties or city and county.

§ 20. Stats. 1917, p. 1068, repealed. Proceedings initiated under former acts. The California irrigation act, approved June 4, 1915, and chapter six hundred forty-six of the Statutes of 1917, approved May 28, 1917, amendatory thereof, are hereby repealed; but any petition circulated for signature pursuant to the provisions of said amendatory act and prior to the effective date of this act may be filed as though prepared pursuant to the provisions hereof, and any proceeding initiated under said amendatory act but not completed prior to the effective date of this act, may be completed hereunder, all proceedings subsequent to such effective date, however, to be in conformity with the provisions hereof; and any district organized under the provisions of the acts hereby repealed shall be subject in all respects to the provisions of this act; and provided, further, that such repeal shall not affect the tenure of office of the present members of the irrigation board and that neither such repeal nor anything in this act contained shall affect the right of said board to any funds heretofore appropriated for the use of said irrigation board, and all such funds heretofore appropriated shall be used by said board to the extent and for the purposes for which the same were appropriated.

ACT 1732n.

An act to provide for the development of electrical power by irrigation districts.

[Approved May 21, 1919. Stats. 1919, p. 778.]

§ 1. Irrigation districts may maintain electrical power plants. Any irrigation district heretofore organized or hereafter to be organized under the laws relating to such district may provide for the construction, operation, leasing and control of plants for the generation, distribution, sale, and lease of electrical energy, including sale to municipalities, corporations, public utility districts, or individuals, of electrical power so generated; and said district, subject however to the conditions in this section contained, may make special appropriations of water for power purposes, as required by law; provided, however, that any use of water for generating such electrical power or energy at any given time of the year, which use is in excess of the water appropriated and beneficially used for irrigation purposes by such district at said period of the year, shall be subject to all prior existing appropriations by any municipal corporation, who or which is proceeding in good faith in the expenditure of money and the construction of works designed to divert the water appropriated; and the officers, agents, and employees of such districts shall have the same powers, duties and liabilities respecting such power and the construction, repair, maintenance, management, and control thereof as they now have or may hereafter have respecting such irrigation or such irrigation districts. The California irrigation district act shall be so construed, applied and enforced as to apply to such power as well as such irrigation.

§ 2. Management of works. The board of directors of any irrigation district and its officers, agents, and employees, shall do all necessary and proper acts for the construction, repair, maintenance, and management of such electrical power works for such purposes.

§ 3. Bonds. In case funds are not otherwise available the irrigation district may issue bonds for such purpose and all of the provisions of the California irrigation district act, relating to the issuance of bonds for other purposes in so far as the same are applicable to said bonds shall apply.

§ 4. Repealed. All acts or parts of acts in conflict with any of the provisions of this act are hereby repealed.

ACT 1732o.

An act to authorize irrigation districts to refund outstanding bonded indebtedness.

[Approved May 25, 1919. Stats. 1919, p. 1004. In effect July 25, 1919.]

§ 1. Refunding bonded indebtedness of irrigation district. The board of directors of any irrigation district organized or existing under or subject to the provisions of the California irrigation district act approved March 31, 1897, as amended, providing for the organization and government of irrigation districts, that has an outstanding indebtedness evidenced by bonds lawfully issued prior to January 1, 1913, may, by a

majority vote of the members of the board, submit to the electors of the irrigation district at any election the proposition of the issuance of new bonds for the purpose of refunding the bonds outstanding, as the same become due. Such election shall be held, and the vote thereon shall be the same as provided by the California irrigation district act for the issuance of other irrigation district bonds; provided, no petition therefor need be circulated or signed; and provided, further, that a majority of the votes of those voting on said proposition shall be sufficient to carry the same. Such bonds shall bear interest at a rate the same as or lower than the bonds to be refunded and no refunding bond shall have a later date of maturity than twenty years from the date of its issue.

§ 2. Form. Sale. The refunding bonds shall be issued in substantially the manner and in the form required by law for the issuance of other bonds of the district. These bonds may be sold from time to time in the same manner as other bonds of the district, or, if the directors of the district and the holders of any of the bonds reaching maturity so elect, they may be exchanged in payment of the bonds so maturing as such bonds mature.

§ 3. Tax levy to pay interest and principal. The board of directors shall cause to be assessed and levied each year upon the assessable property in the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on or any principal of such refunding bonds in the same manner as is provided in the California irrigation district act in the case of other bonds.

ACT 1732p.

An act to recognize and declare valid all the proceedings in the Jacinto irrigation district.

[Approved April 4, 1919. Stats. 1919, p. 32. In effect July 22, 1919.]

ACT 1732q.

An act declaring the conditions upon which an irrigation district may be dissolved, prescribing the procedure therefor, and the winding up of the affairs of the district when dissolved.

[Approved May 18, 1919. Stats. 1919, p. 751.]

§ 1. Provisions for dissolution of irrigation districts. Any irrigation district organized under any of the laws of the state of California, providing for the organization of irrigation districts, which—

(a) Has been organized more than three years and has failed and neglected to secure an adequate water supply and which does not have a reasonable prospect of securing an adequate water supply for the lands of the district, and has failed and neglected to obtain the approval of the state water commission of the water supply of said district and has failed and neglected to obtain the approval of the state engineer of the plans of said district, and has failed and neglected to construct or acquire a system of works or the financing thereof, and has failed and neglected to obtain the approval of the irrigation district bond commission; or

(b) Has been organized for more than ten years and for more than five years after the construction or acquisition of a system of works has failed and neglected to maintain such works, or for five years or more after such works have been constructed or acquired has failed and neglected to supply or make available, water for the irrigation of more than ten per cent of the lands of the district;

May be dissolved and annulled by the superior court of the county in which said district is located by proceedings in an action brought by the attorney general in the name of the people of the state of California, upon his own information. Before such an action can be commenced in the courts the attorney general shall publish for two consecutive weeks in some newspaper published in the county in which the greater portion of the district is located, a notice to all parties in interest that it is his intention to begin such action for the dissolution of said district. The rules of pleading and practice in the Code of Civil Procedure not inconsistent with the provisions of this act are made applicable to the proceedings herein provided.

§ 2. Investigation by state engineer. Access to records. Report. Before the trial of the case the court may direct the state engineer to investigate all the affairs of said district; the water supply that may be obtained without prohibitive cost; the feasibility and practicability of irrigating all or a reasonable amount of the lands of said district; and all other matters which the court may direct, or the state engineer may deem pertinent as affecting the possible success or failure of the district as an irrigation enterprise and which may be necessary to enable the court to determine the question of dissolution.

For the purpose of making such investigation, the state engineer shall have access to all the records of the district, and all officers and employees and other persons in any manner connected with or employed by said district shall furnish such information as he may require which has already been obtained or determined, including maps, plans, estimates, field-notes, and other data.

The state engineer shall report his findings and conclusions to the superior court as soon as practicable, but within ninety days unless a longer time be granted him by the court, but in no case to extend beyond the period of one hundred eighty days in all.

§ 3. Upon dissolution county officers shall be ex-officio officers of district. Sale of property. Funds remaining after indebtedness is paid. Upon final judgment of dissolution in such action, the district in question shall be deemed dissolved and annulled. The court shall determine the amount of indebtedness outstanding against said district, including the costs of the court action herein provided for, and thereafter the appropriate county officers shall act as ex-officio officers of the district; the records and papers of every kind belonging to the district shall be turned over to the proper county officers. The county treasurer shall perform the duties of the district treasurer; the county tax collector shall perform the duties of the district tax collector; the county assessor shall perform the duties of the district assessor; the county clerk shall perform the duties of the secretary of the board of directors; the board of supervisors shall perform the duties of the board of directors; they shall proceed to levy and collect such additional taxes

as may be necessary upon the lands embraced within such district in the same manner and with the same procedure for nonpayment that county taxes are levied and collected for the purpose of paying such outstanding indebtedness not provided for by previous assessments. All property of every kind belonging to the district, including lands sold to the district for taxes, shall be sold as the court may direct and the proceeds together with all money on hand shall be used to pay off the indebtedness. All funds remaining after all outstanding indebtedness has been paid shall be apportioned and be paid to the assessment payers according to the last assessment-roll.

§ 4. Indebtedness no bar to dissolution. The outstanding indebtedness, whether of bonds, warrants, or otherwise, of any irrigation district shall not operate as a bar to dissolution by the superior court when provision is made for the payment of such indebtedness in the manner provided in section three of this act.

§ 5. Intent of act. This act is designed to provide an alternative method for the dissolution of irrigation districts and shall not be deemed to repeal any other statute or statutes.

TITLE 273.

JUTE GOODS.

ACT 1766.

An act to authorize and empower the state board of prison directors to insure jute and jute goods against either fire or marine loss and to pay the cost of such insurance from the revolving fund for the purchase of jute.

[Approved March 10, 1909. Stats. 1919, p. 281.]

Amended 1919, p. 175.

The title of the act was amended in 1919 to read as follows: "An act to authorize and empower the state board of prison directors to insure jute, jute goods, and other prison made goods and materials for the manufacture of the same, against either fire or marine loss and to pay the cost of such insurance from the revolving fund for the purchase of jute and from the manufacturing revolving fund."

The body of the act was amended as follows:

§ 1. Insurance of jute goods. The state board of prison directors is hereby authorized and empowered to insure from time to time against fire or marine loss, all jute and jute goods owned by the state, in such amounts as it may deem proper. The cost of such insurance shall be paid from the revolving fund for the purchase of jute. [Amendment approved April 30, 1919; Stats. 1919, p. 175.]

§ 2. Insurance of other prison made goods. The state board of prison directors is hereby authorized to insure from time to time against fire or marine loss, all furniture, shoes, clothing or other articles manufactured at San Quentin prison and the materials from which the same are made, in such amounts as it may deem proper. The cost of such insurance shall be paid from the manufacturing revolving fund. [Amendment approved April 30, 1919; Stats. 1919, p. 175.]

TITLE 274.

JUVENILE COURT.

ACT 1770a.

An act to be known as the juvenile court law, and concerning persons under the age of twenty-one years; and in certain cases providing for their care, custody and maintenance; providing for the probationary treatment of such persons, and for the commitment of such persons to the Whittier State School and the Preston School of Industry, the California School for Girls, and other institutions; establishing probation officers and a probation committee to deal with such persons and fixing the salary thereof; providing for the establishment of detention homes for such persons; fixing the method of procedure and treatment or commitment where crimes have been committed by such persons; providing for the punishment of those guilty of offenses with reference to such persons, and defining such crimes; and repealing the juvenile court law approved March eighth, nineteen hundred and nine, as amended by an act approved April fifth, nineteen hundred and eleven, and as amended by an act approved June sixteenth, nineteen hundred and thirteen, and all amendments thereof and all acts or parts of acts inconsistent herewith.

[Approved June 5, 1915. Stats. 1915, p. 1225.]

Amended 1917, pp. 1002, 1022; 1919, pp. 476, 756, 1298.

The amendments of 1917 and 1919 follow:

§ 11. Support of ward. Paid to probation officer. Extent of parents' control. Duty of probation officer. Any order providing for the care and custody of a ward of the juvenile court may provide that the expense of support and maintenance of said ward shall be paid by the parent, parents, guardian of said ward or other person liable therefor, after citation thereto, or from the earnings, property or estate of said ward, and in such case shall state the amount to be so paid. If it is found, however, that the parent, parents, guardian of said ward, or other person liable therefor, are unable to pay or that the earnings, property, or estate, of said ward is insufficient to pay the whole expense of support and maintenance of said ward, the court may direct such additional amount as may be necessary for the maintenance and support of said ward to be paid from the county treasury of the county for the support and maintenance of said ward, the amount so ordered to be paid from the treasury of said county not to exceed, in the case of any one ward, the sum of twenty dollars in any one month. No order for payment shall be made in a sum in excess of the actual cost of supporting and maintaining said ward. No order for the payment of all or part of the expense of support and maintenance of a ward of the juvenile court from the county treasury shall be effective for more than six months, and upon said original and all subsequent hearings the case shall be continued on the calendar, but in no instance to exceed six months.

The judge of the juvenile court may provide that the amount, or any part of the amount, so paid by parents, parent, guardian or other

person liable therefor or from the earnings, property or estate of said ward, shall be paid to the probation officer, to be by him paid as the court shall direct, first, to reimburse the person, association or institution that under court order is caring for and maintaining said ward and after such reimbursement to reimburse the county. For such purpose said probation officer shall keep suitable books and accounts and shall give and keep suitable receipts and vouchers, and if such funds shall be by said probation officer kept in a bank, said bank shall be designated by the judge of said court. The auditor of said county annually in the month of January shall audit such books and accounts and shall make a report thereon to the judge of said court and to the supervisors of such county prior to the thirty-first day of said month of January.

In all cases the court may determine whether or not the parent, parents, or guardian shall exercise any control of said ward and shall define the extent thereof. Any disobedience or interference with the custody and control of said ward shall constitute a contempt of court.

It shall be the duty of the probation officer to see that such parent, guardian, or other person liable therefor, comply with such orders, or upon three months failure to make such payment to report such failure to said court. The court may thereafter set aside, change or modify any order herein provided for. [Amendment approved May 9, 1919; Stats. 1919, p. 476.]

§ 13. Transfer of juvenile court cases. Order of transfer. Whenever a petition has been filed in the juvenile court of a county other than that of the residence of a person coming within any of the provisions of this act, or whenever, subsequent to the filing of a petition in the juvenile court of the county where said person resides, the residence of said person is changed to another county, the entire case may be transferred at any time to the juvenile court of the county wherein said person then resides, and such court must take jurisdiction of the case upon the filing with it of such order. The expense of the transfer of said person shall be borne by the parent, parents, or guardian of the person so transferred or shall be paid out of the earnings, property, or estate of said person, or if the parent, parents or guardian are unable to pay the same or if the earnings, property or estate of said person is insufficient to pay the same the court shall order the same to be paid from the county treasury of the county ordering the transfer. Whenever a case shall be transferred thereunder, the order of transfer shall recite (a) each and all the findings, orders or modification of orders that may have been made in said case, and (b) that said person resides in or has removed to the county to which said matter has been transferred and (c) to said order of transfer shall be attached a certified copy of the original petition in said matter. Such transfer shall be accompanied by a summary of all the facts in the possession of the court or probation officer covering the history of said person. [Amendment approved May 18, 1919; Stats. 1919, p. 755.]

§ 19b. Probation officers in cities and counties of second class. In counties or cities and counties of the second class there shall be one probation officer and nine assistant probation officers. The salaries of said officers shall be as follows: Probation officer, two hundred fifty dollars per month; one assistant probation officer, two hundred dollars per

month, and eight assistant probation officers, one hundred forty dollars per month each. [Amendment approved May 27, 1919; Stats. 1919, p. 1298.]

§ 19c. Probation officers in counties of third class. In counties of the third class there shall be one probation officer and ten assistant probation officers. The salaries of said officers shall be as follows: Probation officer, two hundred twenty-five dollars a month; one assistant at a salary of one hundred seventy-five dollars a month; one assistant at a salary of one hundred sixty dollars a month; one assistant at a salary of one hundred fifty dollars a month; one assistant at a salary of one hundred thirty-five dollars a month; three assistants at a salary of one hundred dollars a month each; two assistants at a salary of eighty-five dollars a month each; one assistant at a salary of seventy-five dollars a month; provided, however, that in the event an adult probation department is created in counties of the third class, from and after the creation of such department and the appointment of an adult probation officer or any deputy or assistant or like officer who shall relieve the probation officer of the adult probation work, the offices of assistant probation officer at a salary of one hundred seventy-five dollars a month and of assistant probation officer at a salary of one hundred sixty dollars a month shall cease and determine and be abolished in counties of this class. [Amendment approved May 28, 1917; Stats. 1917, p. 1002.]

§ 19e. Sixteenth, etc., classes. In each of the counties of the sixteenth, twenty-second and twenty-third classes there shall be one probation officer, whose salary shall be one hundred fifty dollars per month. In counties of the fifth class there shall be one probation officer at one hundred seventy-five dollars per month, one assistant probation officer, whose salary shall be one hundred fifty dollars per month; one assistant probation officer at a salary of one hundred dollars per month, and one assistant probation officer, who shall be a competent stenographer, at a salary of eighty-five dollars per month. In counties of the twenty-third class there shall be one assistant probation officer, whose salary shall be fifty dollars per month. In counties of the twenty-second class the probation officer shall perform in addition to his duties as probation officer, the duties of the attendance officer for the schools of the county, and investigator for the board of supervisors on application for county and state aid, without any additional compensation except his necessary expenses and such mileage as the board of supervisors shall fix and allow in the performance of his duties. [Amendment approved May 28, 1917; Stats. 1917, p. 1023.]

§ 19i. Ninth, etc., classes. In each of the counties of the ninth, twelfth, thirteenth, fifteenth, seventeenth, eighteenth, nineteenth, twenty-sixth, twenty-seventh, thirty-third and thirty-sixth class, there shall be one probation officer whose salary shall be one hundred dollars per month. In counties of the ninth class there shall be two assistant probation officers, whose salaries shall be as follows: One assistant probation officer, whose salary shall be seventy-five dollars per month and one assistant probation officer whose salary shall be fifty dollars per month. In counties of the twelfth class, there shall be one assistant probation officer

whose salary shall be seventy-five dollars per month. In counties of the thirteenth class there shall be one assistant probation officer whose salary shall be twenty-five dollars per month. In counties of the eighteenth class there shall be four assistant probation officers whose salaries shall be twenty-five dollars per month each. In counties of the twenty-third class there shall be one assistant probation officer whose salary shall be fifty dollars per month. In counties of the twenty-sixth class there shall be one assistant probation officer, whose salary shall be sixty dollars per month; provided, that in counties of the twelfth class the probation officer shall, as a part of his duties, and without any additional compensation, except his necessary expenses, do all necessary work that the board of supervisors of said county may designate or require, in looking after the indigent and poor of said county. [Amendment approved May 28, 1917; Stats. 1917, p. 1023.]

§ 19k. Eleventh, etc., classes. In each of the counties of the eleventh, fourteenth and thirtieth class there shall be one probation officer whose salary shall be one hundred twenty-five dollars per month; provided, that in the counties of the eleventh class there shall be an assistant probation officer, whose salary shall be seventy-five dollars per month; and provided, that in counties of the fourteenth class there shall be an assistant probation officer, whose salary shall be fifty dollars per month; and provided, further, that in counties of the thirteenth class the probation officer shall, as a part of his duties, and without any additional compensation, except his necessary expenses, do all necessary work that the board of supervisors of said county may designate or require, in looking after the indigent and poor of said county. [Amendment approved May 28, 1917; Stats. 1917, p. 1024.]

§ 19l. Thirty-second class. In each of the counties of the thirty-second class there shall be one probation officer, whose salary shall be seventy-five dollars per month. [Amendment approved May 28, 1917; Stats. 1917, p. 1024.]

§ 19ll. Twentieth class. In each of the counties of the twentieth class there shall be one probation officer, whose salary shall be one hundred dollars per month. [New section added May 28, 1917; Stats. 1917, p. 1024.]

§ 19m. Thirty-ninth, etc., classes. In each of the counties of the thirty-ninth, fortieth and forty-second classes, there shall be one probation officer whose salary shall be fifty dollars per month. [Amendment approved May 28, 1917; Stats. 1917, p. 1024.]

§ 19mm. Twenty-first class. In each of the counties of the twenty-first class there shall be one probation officer, whose salary shall be sixty-five dollars per month. [New section added May 28, 1917; Stats. 1917, p. 1024.]

§ 19nn. Forty-third class. In each of the counties of the forty-third class there shall be one probation officer, whose salary shall be fifty dollars per month. [New section added May 28, 1917; Stats. 1917, p. 1024.]

§ 190. Twenty-fifth class. In counties of the twenty-fifth class there shall be one probation officer whose salary shall be one hundred fifty dollars per month, and one assistant probation officer whose salary shall be seventy-five dollars per month. [Amendment approved May 28, 1917; Stats. 1917, p. 1025.]

TITLE 276a.

KELP.

ACT 1782.

An act to regulate the taking and harvesting of kelp and other aquatic plants of the state of California by recognizing and declaring their ownership in the state of California and providing for the control thereof by the fish and game commissioners, and providing for a license tax upon all persons, firms or corporations engaged in the industry of taking or harvesting kelp or other aquatic plants, and providing for the collection and disbursement of the revenues derived therefrom, and providing for a privilege tax upon all kelp taken in the waters of this state, and providing for the protection of kelp-beds, and for the manner of taking kelp and other aquatic plants, and providing for hearings by the fish and game commissioners, and providing penalties for the violation of this act.

[Approved May 18, 1917. Stats. 1917, p. 646. In effect July 27, 1917.]

§ 1. Kelp state property. All kelp and other aquatic plants in the waters of the state are hereby declared to be the property of the state of California.

§ 2. Powers of board of fish and game commissioners. The board of fish and game commissioners of the state of California are hereby empowered to carry out the provisions of this act, and to make proper rules and regulations for the taking and harvesting of kelp, and the conservation of kelp and aquatic plants, and to see that the laws, rules and regulations with reference thereto are strictly enforced, and to issue all licenses herein provided for, and collect the fees therefor, and to collect all moneys due or to become due under this act.

§ 3. License to harvest kelp. Every person, firm or corporation, desiring to engage in taking or harvesting kelp or other aquatic plants for profit in the waters of this state must first obtain a license before engaging in such occupation.

§ 4. Term. Fee. Privilege tax. Licenses granting the privilege to take or harvest kelp in this state shall be issued and delivered upon application by the state board of fish and game commissioners, who shall prepare suitable licenses, which shall license the holder of such license to take or harvest kelp or other aquatic plants in this state for the term of one year from the date of the issuance of such license. All licenses shall be numbered consecutively, and shall contain blanks for the name of the licensee, and place of business, which information shall be furnished by the applicant to the board of fish and game commissioners. The license herein provided for shall be issued to such applicant upon payment of ten dollars and before such license is delivered to the applicant said license must be countersigned by the president of the board of fish and game commissioners, and in addition to such license fee every person,

firm or corporation taking or harvesting kelp shall pay a privilege tax of one and one-half cents per ton of wet kelp taken or harvested.

§ 5. Record of kelp harvested. Every person, firm or corporation engaged in taking or harvesting kelp in the waters of this state shall cause to be weighed, all wet kelp immediately after said kelp shall be delivered to the place of business designated in said license. and the weight thereof shall be entered in a book, or books, to be kept by said person, firm or corporation, said book or books to be open at all times to the inspection of the board of fish and game commissioners, or any of its deputies; every person, firm or corporation engaged in taking or harvesting kelp shall on or before the tenth day after the last day of each month during the term of said license, render a statement of the weight of all wet kelp cut or harvested during the preceding month, and pay to the board of fish and game commissioners, the privilege tax herein provided for.

§ 6. Notice of closing kelp-beds. Hearing. Complaint. Answer. Evidence. Witness' fees. Powers of superior court. Failure of witnesses to obey subpoenas. Depositions of witnesses. If at any time the taking or harvesting of kelp will tend to destroy or impair any kelp bed or beds or parts thereof, or shall tend to impair or destroy the supply of any food for game fish, said fish and game commission shall cause to be served on every person, firm or corporation, licensed to take or harvest kelp in the waters of this state, a notice in writing that said kelp bed or beds or parts thereof shall be closed to the taking or harvesting of kelp for a period not to exceed one year. Within ten days after the service upon any person, firm or corporation licensed to take or harvest kelp under the provisions of this act, of a notice that any kelp-bed or beds or parts thereof are closed to the taking or harvesting of kelp, said person, firm or corporation engaged in taking or harvesting kelp shall on making such order, by serving on the board of fish and game commissioners a demand to be heard upon the necessity for closing said kelp bed or beds or parts thereof for the taking or harvesting of kelp, and upon such demand for a hearing, said board of fish and game commissioners shall fix a time and place for the taking of evidence upon the necessity of closing said bed or beds or parts thereof, which time shall be not less than ten days nor more than thirty days from the date of such demand for a hearing, and said fish and game commission shall cause notices in writing of said time and place to be served upon the party or parties making a demand for said hearing at least ten days before the day set for the hearing, and if no demand is made for a hearing within the time prescribed herein, said kelp bed or beds or parts thereof shall remain closed to the taking or harvesting of kelp for the time mentioned in said order.

Complaint may be made by the commission or any of its deputies against any person, firm or corporation licensed to cut or harvest kelp in the waters of this state for any violation of the laws of this state, or any rules or regulations made by the board of fish and game commissioners for the taking or harvesting of kelp. Said complaints shall be made in writing, setting forth the particular offense charged to have been committed by said person, firm or corporation, a copy of which shall be filed with the board of fish and game commissioners and a copy of the same served upon the person, firm or corporation so charged. Said person, firm or corporation must appear or file an answer within five days

from the date of service of a copy of said complaint, and if default be made, the board of fish and game commissioners shall issue an order revoking said license for the period hereinafter prescribed in this act, and said board of fish and game commissioners shall fix a time and place for the hearing of said charges, not less than ten days nor more than thirty days from the filing of said charges, and if the party accused appears and answers, a day may be fixed within the time prescribed in this act to take testimony. The evidence in any investigation, inquiry or hearing upon the necessity for closing any kelp bed or beds or parts thereof and the evidence in any hearing upon any charges made against any person, firm or corporation for violating any of the laws of the state of California for the preservation of kelp, or of the rules and regulations of the board of fish and game commissioners regulating the taking and harvesting and handling of kelp provided for in this section may be taken by any member of the board of fish and game commissioners, or such deputy fish and game commissioner or employee as the board may designate to take such evidence; and each member of the board and any of its deputies or employees designated to take evidence at the hearing provided hereby shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses at such hearing. Each witness legally subpoenaed attending a hearing shall receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. The superior court in and for the county or city and county in which any inquiry, investigation, hearing or proceeding may be held under authority of this section, shall have power to compel the attendance of witnesses, the giving of testimony and the production of papers, as required by any subpoena issued under authority of this section.

The commission or representative of the commission before whom the testimony is to be given or produced may in the case of refusal of any witness to attend, or testify or produce any papers required by such subpoena, report to the superior court in and for the county or city and county in which the proceeding is pending by petition setting forth that due notice has been given of the time and place of the attendance of said witness or the production of said papers and that the witness has been summoned in the manner prescribed in this act and that the witness has failed and refused to attend or produce the papers required by the subpoena before the commission or its representatives, in the case or proceeding named in the notice of time and place of hearing and subpoena, or has refused to answer questions propounded to him in the course of said proceeding, and ask an order of said court to compel the witness to attend and testify or produce said papers before the commission or its representatives.

The court upon the petition of the commission or its representatives, shall enter an order directing the witness to appear before the court at any time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he has not attended and testified or produced said papers before the commission or its representative. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or its representative the court shall thereupon enter an order that said witness shall appear

before the commission or its representatives at the time and place entered in said order, and testify or produce the required papers, and upon failure to obey said order said witness shall be dealt with as for contempt of court.

The commission or its representatives, or any party designated by the fish and game commission may, in any investigation or hearing before the commission, or its representatives, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production of documents and papers.

§ 7. Revocation of license. If any person, firm or corporation, taking or harvesting kelp from any bed or beds or parts thereof, after service of a notice that said bed or beds or parts thereof are closed to the taking or harvesting of kelp, takes or harvests any kelp between the time of the service of said notice and the decision of the board of fish and game commissioners upon the hearing for the necessity for closing said kelp bed or beds or parts thereof, his license may be revoked for a period not to exceed one year.

§ 8. Revocation of license. If any person, firm or corporation, licensed to take or harvest kelp in the waters of this state shall violate any of the laws of the state of California, regulating the taking and harvesting of kelp, or any rule or regulation of the board of fish and game commissioners regarding the taking or harvesting of kelp, said board of fish and game commissioners may, after a hearing, as provided herein, revoke said license and withhold the issuance of a new license to any such person, firm or corporation for a period not to exceed one year thereafter.

§ 9. Penalty. Fines paid in part to "state university fund." Every person, firm or corporation, who takes or harvests kelp or other aquatic plants for profit in this state, without first obtaining a license therefor, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail, in the county in which conviction shall be had for not less than fifty days nor more than one hundred and fifty days, or by both such fine and imprisonment.

All fines and forfeitures collected for any violation of this act and all license fees and two-thirds of the moneys collected from the privilege tax under this act must be paid into the state treasury to the credit of the fish and game preservation fund and one-third of the moneys collected from the privilege tax under this act must be paid into the state treasury to the credit of the "state university fund." The amount so paid to the "state university fund" in accordance with the direction of this section, is hereby appropriated to be expended annually in accordance with law by the Scripps Institute for Biological Research.

§ 10. License not required, when. The fish and game commission of this state shall have the power, subject to such rules and regulations as it may deem proper, to grant permits to any department of the United States government or to any scientific or any educational institution to take or harvest kelp at any and all times for scientific or experimental

purposes without the payment of the kelp license or privilege tax herein provided.

§ 11. **Repealed.** All acts and parts of acts in conflict herewith are hereby repealed.

TITLE 284.

LABOR STATISTICS.

ACT 1828.

An act to establish and support a bureau of labor statistics.

[Approved March 3, 1883. Stats. 1883, p. 27.]

Amended 1889, p. 6; 1901, p. 12; 1907, p. 306; 1909, p. 36; 1911, pp. 39, 1205; 1915, pp. 925, 928; 1917, p. 328; 1919, p. 330.

The amendments of 1917 and 1919 follow:

§ 7. **Powers of labor commissioner and deputies. Seal. Access to places of labor.** The commissioner and his representatives duly authorized by him in writing shall have the power and authority, when in his judgment he deems it necessary, to take assignments of wage claims and prosecute actions for the collection of wages and other demands of persons who are financially unable to employ counsel in cases in which, in the judgment of the commissioner, the claims for wages are valid and enforceable in the courts; to issue subpoenas, to compel the attendance of witnesses or parties and the production of books, papers or records, and to administer oaths and to examine witnesses under oath, and to take the verification or proof of instruments of writing, and to take depositions and affidavits for the purpose of carrying out the provisions of this act and all other acts now or hereafter placed in the bureau for enforcement. The commissioner shall have a seal inscribed "Bureau of Labor Statistics—State of California" and all courts shall take judicial notice of such seal. Obedience to subpoenas issued by the commissioner or his duly authorized representatives shall be enforced by the courts in any county or city and county. The commissioner and his representatives shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, manufacturing or mercantile establishment, or any agent or employee of such principal, owner, operator, manager or lessee who shall refuse to said commissioner, or his duly authorized representative, admission therein, or who shall, when requested by him willfully neglect or refuse to furnish to him any statistics or information, pertaining to his lawful duties, which may be in his possession or under the control of said principal, owner, operator, lessee, manager or agent thereof, shall be punished by a fine of not more than two hundred dollars. [Amendment approved May 7, 1919; Stats. 1919, p. 330.]

§ 9. **Assistants of labor commissioner. Offices.** The commissioner shall appoint two deputies who shall have the same power as said commissioner; an assistant deputy who shall reside in the county of Los Angeles; a statistician and chief examiner; a stenographer; and such agents or assistants as he may from time to time require, at such rate of wages as he may prescribe, and actual traveling expenses for each

person while employed. He shall procure rooms necessary for offices in San Francisco, Los Angeles, Sacramento, San Diego, and in such other places as he may deem necessary, at a rent not to exceed the sum of four hundred dollars per month. [Amendment approved May 10, 1917; Stats. 1917, p. 328.]

§ 10. Salaries. Traveling expenses. The salary of the commissioner shall be four thousand dollars per annum; the salary of each deputy commissioner shall be two thousand four hundred dollars per annum; the salary of the assistant deputy shall be two thousand one hundred dollars per annum; the salary of the statistician and chief examiner shall be, two thousand seven hundred dollars per annum; the salary of the stenographer shall be one thousand two hundred dollars per annum; to be audited by the controller and paid by the state treasurer in the same manner as other state officers. There shall also be allowed a sum not to exceed forty thousand dollars per annum for salaries of agents or assistants, for traveling expenses, and for other contingent expenses of the bureau. [Amendment approved May 10, 1917; Stats. 1917, p. 328.]

The amending act also contained the following provisions:

§ 3. Repealed. All the provisions of said act in conflict with the provisions of this act are hereby repealed.

TITLE 298.

LEGISLATION.

ACT 1901.

An act to establish a legislative counsel bureau and making an appropriation therefor.

[Approved May 26, 1913. Stats. 1913, p. 626.]

Amended 1915, p. 49; 1917, p. 1398.

The amendment of 1917 follows:

§ 1. Legislative counsel bureau created. A bureau is hereby created to be known as the legislative counsel bureau, which shall be in charge of a chief, who shall be a civil executive officer and who shall be known as the legislative counsel of California and who shall be appointed by the governor and who shall hold during the pleasure of the governor. The legislative counsel shall be chosen without reference to party affiliations and solely on the ground of fitness to perform the duties of his office. [Amendment approved May 31, 1917; Stats. 1917, p. 1398.]

§ 2. Duty of legislative counsel. It shall be the duty of the legislative counsel to prepare and assist in the preparation, amendment and consideration of legislative bills when requested or upon suggestion as herein provided. Upon request he shall advise any state officer, commissioner or bureau as to the preparation of bills to be submitted to the legislature; and when requested so to do, he shall advise as to their work with any legislative committee appointed to carry on investigations between sessions of the legislature. He shall advise the legislature from time to time as to needed revision of the statutes. He shall present to each session of the legislature a statement calling attention to laws which have been repealed by implication or which have been declared uncon-

stitutional by the courts but which have not been expressly repealed. It shall also be the duty of the legislative counsel, whenever in his judgment there is reasonable probability that an initiative measure will be submitted to the voters of the state of California under the laws of the state relating to the submission of measures by initiative, to co-operate with the proponents of said measure in the preparation of said law when requested in writing so to do by twenty-five or more electors proposing such a measure. [Amendment approved May 31, 1917; Stats. 1917, p. 1398.]

§ 3. Preparation of legislative bills. Not to urge legislation. The legislative counsel shall prepare or assist in the preparation or amendment of legislative bills at the suggestion, in writing and as herein set forth, of the governor of the state, or of any judge of the supreme court or of the district courts of appeal or of the superior courts of the state, or of any committee of the senate or assembly of the legislature of the state. All such suggestions shall set forth the substance of the provisions desired or which may be needed with the reasons therefor. Such suggestion by a judge of the supreme court shall be filed with the clerk of that court. Such suggestion by a judge of a district court of appeal shall be filed with the clerk of that court. Such suggestion by a judge of a superior court shall be filed with the clerk of the district court of appeal of the district within which such superior court is located. When such suggestion is so filed with the clerk of the supreme court or of a district court of appeal, that clerk shall make and send to the permanent office of said bureau a certified copy of such suggestion, and all other suggestions shall be filed at said office, and all such papers so received at such office shall be there permanently filed and recorded and copies furnished to the legislative counsel. The legislative counsel shall prepare a bill in accordance with such suggestion and shall transmit it to the chairman of the judiciary committee of each house at the next succeeding session of the legislature.

From the time the legislature of the state convenes until it is adjourned finally, the legislative counsel shall give such consideration to and service concerning any bill before the legislature, as circumstances will permit, and which is in any way requested by the governor of the state or the senate or the assembly or any committee of the legislature having such bills before it for consideration, and after such adjournment the legislative counsel shall still remain so subject to such request by the governor of the state as to any bill still in his hands for rejection or approval or other action. Neither the legislative counsel nor any employee of the bureau shall oppose or urge legislation; but the bureau shall, upon request, and so far as may be in its power, aid and assist any member of the legislature as to bills, resolutions and measures, drafting the same into proper form and furnishing to them the fullest information upon all matters in the scope of the bureau. Neither the legislative counsel nor any other employee of the bureau shall reveal to any person outside thereof the contents or nature of any matter which has not become a public record, except with the consent of the person bringing such matter before the bureau. [Amendment approved May 31, 1917; Stats. 1917, p. 1399.]

§ 4. Office in capitol. Temporary offices. The legislative counsel shall be in attendance upon all sessions of the legislature and his permanent

office shall be in the state capitol in Sacramento, where he shall be provided with suitable and sufficient offices convenient to the chambers of the two houses of the legislature. For the convenience of members of the legislature, however, and when in his judgment the conduct of his work requires, he may maintain temporary offices at other places in the state of California. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 5. Salaries. The salary of the legislative counsel shall be four thousand dollars per annum and shall be payable in equal monthly installments. The legislative counsel shall have authority to employ and to fix the compensation of such professional assistants and such clerical and other employees as he may deem to be necessary for the effective conduct of the work under his charge. The salary of the legislative counsel and of every other employee of the bureau shall be paid in the same way as the salaries of other state officers are paid. The legislative counsel shall be repaid all actual expenses incurred or paid by him in carrying out the provisions of this act. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 6. Material available to bureau. The material (including books and other publications) of the state library shall be made available to said bureau, and all the officers of the state, the University of California, and all departments, commissions and bureaus and other official state organizations, and all persons connected therewith, shall give the legislative counsel ready access to their records and full information and reasonable assistance in any matters of research requiring recourse to them or to data within their knowledge or control. The bureau may co-operate with any of the educational institutions of the state in any manner approved by the legislative counsel and such institutions. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 9. Unexpended balance available. The unexpended balance of the moneys heretofore appropriated for the support and salaries of the legislative counsel bureau by an act entitled "An act making appropriations for the support of the government of the state of California for the sixty-seventh and sixty-eighth fiscal years," approved May 19, 1915, is hereby made available to carry out the provisions of this act. [Amendment approved May 31, 1917; Stats. 1917, p. 1401.]

ACT 1902.

An act providing for an investigation by the legislative counsel of laws relating to roads, streets, highways and bridges, and for the submission of a report thereon to the governor for presentation to the legislature.

[Approved March 25, 1919. Stats. 1919, p. 18. In effect July 22, 1919.]

§ 1. Report on road laws by legislative counsel. The legislative counsel is hereby directed to investigate and study the existing laws of this and other states relating to roads, streets, highways and bridges, and to prepare a report, accompanied by a draft of an act or acts, codifying and perfecting the laws of this state relating thereto. Such report shall be printed by the superintendent of state printing and shall be sub-

mitted to the governor on or before the first day of November in the year 1920, and shall be presented by him to the legislature at the opening of its forty-fourth session.

TITLE 300.

LEEVE DISTRICTS.

ACT 1913.

An act to provide for the formation of levee districts in the various counties of this state, and to provide for the erection of levees, dikes and other works for the purpose of protecting the lands within such districts from overflow and to levy assessments to erect and construct and maintain such levees, dikes and other works and to pay the necessary costs and expenses of maintaining said districts.

[Approved March 20, 1905. Stats. 1905, p. 327.]

Amended 1907, p. 333; 1911, p. 1212; 1917, p. 824.

The amendment of 1917 follows:

§ 8. Board of trustees must keep office. Powers of trustees. Yearly estimate of costs. Report to board of supervisors. The board of trustees must keep an office in or near the district for the transaction of the business thereof, and the books, maps, papers, records, contracts and other documents pertaining to the affairs of the district must be open for inspection to any person interested at all times. From and after the election and qualification of said trustee said district shall be deemed organized and shall have power to sue or be sued. The board of trustees shall have power to elect one of its members president thereof, to employ engineers and others, to survey, plan, locate and estimate the cost of the works and improvements necessary, in the way of erection or repair of levees, dikes and other works for the benefit of said district; to thereafter and at any time in its discretion modify or change said original plan or plans or to adopt any new supplemental or additional plan or plans, when in its judgment the same shall become necessary; to acquire by purchase, condemnation or otherwise, rights of way, and the right to take material for the construction of all works necessary for the accomplishment of the objects of the district including drains, levees and embankments, and to construct, maintain and keep in repair all works, requisite and necessary to that end; and to do all other acts and things necessary or required for the protection of the lands in said district from the overflow of any river, stream, streams or watercourse, and to employ the service of any person legal or otherwise which in the judgment of said board of trustees may be necessary to the welfare of the district. The said board of trustees shall each year estimate the total cost for all purposes of erecting, constructing or repairing levees, dikes or other works, and doing the necessary things for the protection of the lands and property within said district from the overflow of any river, stream, streams or watercourse, and maintain the same for one year, including all damages awarded to any person by reason of the erection or construction of any of said levees, dikes or other works for protection, and shall thereupon make a report of the foregoing matters to the board of supervisors in which said district is situated, showing the amount of money required by said district for all purposes for one year

office shall be in the state capitol in Sacramento, where he shall be provided with suitable and sufficient offices convenient to the chambers of the two houses of the legislature. For the convenience of members of the legislature, however, and when in his judgment the conduct of his work requires, he may maintain temporary offices at other places in the state of California. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 5. Salaries. The salary of the legislative counsel shall be four thousand dollars per annum and shall be payable in equal monthly installments. The legislative counsel shall have authority to employ and to fix the compensation of such professional assistants and such clerical and other employees as he may deem to be necessary for the effective conduct of the work under his charge. The salary of the legislative counsel and of every other employee of the bureau shall be paid in the same way as the salaries of other state officers are paid. The legislative counsel shall be repaid all actual expenses incurred or paid by him in carrying out the provisions of this act. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

§ 6. Material available to bureau. The material (including books and other publications) of the state library shall be made available to said bureau, and all the officers of the state, the University of California, and all departments, commissions and bureaus and other official state organizations, and all persons connected therewith, shall give the legislative counsel ready access to their records and full information and reasonable assistance in any matters of research requiring recourse to them or to data within their knowledge or control. The bureau may co-operate with any of the educational institutions of the state in any manner approved by the legislative counsel and such institutions. [Amendment approved May 31, 1917; Stats. 1917, p. 1400.]

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§ 1. Report on road laws by legislative counsel. The legislative counsel is hereby directed to investigate and study the existing laws of this and other states relating to roads, streets, highways and bridges, and to prepare a report, accompanied by a draft of an act or acts, codifying and perfecting the laws of this state relating thereto. Such report shall be printed by the superintendent of state printing and shall be sub-

mitted to the governor on or before the first day of November in the year 1920, and shall be presented by him to the legislature at the opening of its forty-fourth session.

TITLE 300.

LEVEE DISTRICTS.

ACT 1913.

An act to provide for the formation of levee districts in the various counties of this state, and to provide for the erection of levees, dikes and other works for the purpose of protecting the lands within such districts from overflow and to levy assessments to erect and construct and maintain such levees, dikes and other works and to pay the necessary costs and expenses of maintaining said districts.

[Approved March 20, 1905. Stats. 1905, p. 327.]

Amended 1907, p. 333; 1911, p. 1212; 1917, p. 824.

The amendment of 1917 follows:

§ 8. Board of trustees must keep office. Powers of trustees. Yearly estimate of costs. Report to board of supervisors. The board of trustees must keep an office in or near the district for the transaction of the business thereof, and the books, maps, papers, records, contracts and other documents pertaining to the affairs of the district must be open for inspection to any person interested at all times. From and after the election and qualification of said trustee said district shall be deemed organized and shall have power to sue or be sued. The board of trustees shall have power to elect one of its members president thereof, to employ engineers and others, to survey, plan, locate and estimate the cost of the works and improvements necessary, in the way of erection or repair of levees, dikes and other works for the benefit of said district; to thereafter and at any time in its discretion modify or change said original plan or plans or to adopt any new supplemental or additional plan or plans, when in its judgment the same shall become necessary; to acquire by purchase, condemnation or otherwise, rights of way, and the right to take material for the construction of all works necessary for the accomplishment of the objects of the district including drains, levees and embankments, and to construct, maintain and keep in repair all works, requisite and necessary to that end; and to do all other acts and things necessary or required for the protection of the lands in said district from the overflow of any river, stream, streams or watercourse, and to employ the service of any person legal or otherwise which in the judgment of said board of trustees may be necessary to the welfare of the district. The said board of trustees shall each year estimate the total cost for all purposes of erecting, constructing or repairing levees, dikes or other works, and doing the necessary things for the protection of the lands and property within said district from the overflow of any river, stream, streams or watercourse, and maintain the same for one year, including all damages awarded to any person by reason of the erection or construction of any of said levees, dikes or other works for protection, and shall thereupon make a report of the foregoing matters to the board of supervisors in which said district is situated, showing the amount of money required by said district for all purposes for one year

thereafter. Said estimate of moneys necessary for said district for each year, and said report shall be made to said board of supervisors by said board of trustees on or before the first day of September of each year after the formation of said district and said estimate made as aforesaid and report to said board of supervisors by said board of trustees as hereinbefore set out, shall in each instance form the basis of the estimates of the board of supervisors for the amount of money required to be raised by assessment on the lands and personal property within such district for such year. [Amendment approved May 22, 1917; Stats. 1917, p. 824.]

ACT 1922.

An act authorizing levee districts of the state to incur a bonded indebtedness for the purpose of building, constructing, or repairing levees of the district; or for excavating and constructing ditches or canals of such districts; or for the purpose of acquiring rights of way for any such levees, ditches, or canals; or for any and all of said purposes.]

[Approved March 8, 1911. Stats. 1911, p. 303.]

Amended 1915, p. 914; 1917, p. 809.

The amendments of 1917 follow:

§ 1. Levee district may issue bonds. Report of engineer. Any levee district formed or organized by or under the laws of California, may incur a bonded indebtedness for the purpose of building, constructing, or repairing the levee or levees of such district; or in excavating or constructing any ditches or canals in such district, or other protective works; or to purchase and acquire any levee or levees, ditches or canals, or other reclamation works already constructed or in process of construction; or for the purpose of acquiring rights of way for any such levee, or ditches, pipe-lines or canals; or for building, repairing and constructing any and all kinds of work in water and river channels, wherever situate, as ancillary to land and levee protection, including the straightening of river channels, or diverting waters from the dikes and levees themselves, or the lands they are protecting, and in general for doing any and all work of every character and description for the purpose of securing, protecting, guarding and preserving the lands protected, and the dikes, levees, ditches, excavations or other protective works; or for any and all of said purposes, or for any one or more of said purposes.

Whenever it shall become necessary in the opinion of the board of trustees of any such levee district to build, construct, or repair any levee for the protection of the lands of the district from overflow; or to excavate or construct any ditches or canals, or to purchase or acquire any levee or levee system or parts thereof then constructed or in process of construction; or for acquiring rights of way for either of such purposes of building, constructing, or repairing the levee or levees of such district; or in excavating or constructing any ditches or canals in such district, or other protective works, or to purchase and acquire any levee or levees, ditches, or canals or other reclamation works already constructed or in process of construction; or for the purpose of acquiring rights of way for any such levee, or ditches, pipe-lines, or canals; or for building,

repairing any and all kinds of work in water and river channels, wherever situate, as ancillary to land and levee protection, including the straightening of river channels, or diverting waters from the dikes and levees themselves, or the lands they are protecting, or in general for doing any and all work of every character and description for the purpose of securing, protecting, guarding and preserving the lands protected, and the dikes, levees, ditches, excavations or other protective works, or for any and all of said purposes, or for any one or more of said purposes, the trustees of such levee district shall, by resolution, employ some civil engineer, and direct him to make a report in writing to said board of trustees, containing his recommendations as to the best method of doing said work. Said report shall show:

1. A description of the work to be done, including all ancillary work.
2. The plans, profiles, cross-sections and specifications of the work required.
3. A general description of the lands required for rights of way for the work, if any such are required.
4. An estimate of the expenses of such work, including an estimate of the cost of requiring rights of way for such work, should such rights of way be required.
5. An estimate of the cost or value of any levee or levees, ditches or canals already constructed or in process of construction, or advisable or proposed to be acquired as part of the proposed system, including all work necessary to be done for the protection of said main works and ancillary thereto, and including moreover the amount necessary for the maintenance of the work proposed to be done for the first year.
6. An estimate of all incidental expenses likely to be incurred in connection with the work, such as clerical, engineering, inspection, printing and advertising. [Amendment approved May 22, 1917; Stats. 1917, p. 809.]

§ 2. Adoption of report. After the report of the engineer provided for in the next preceding section has been filed with the board of trustees of such levee district, said board shall consider the same and shall have power, by resolution, to adopt the same as filed by said engineer, or to modify or change the same, and to adopt the same as so modified or changed, and said report shall be adopted as originally presented if not modified or changed, but if modified or changed it shall be adopted as so modified or changed. [Amendment approved May 22, 1917; Stats. 1917, p. 811.]

§ 3. Notice of adoption. Publication. Within ten days after the adoption of the report as provided in section two of this act, the board of trustees of such levee district shall give notice thereof as hereinafter provided. Such notice shall specify a day and hour when and a place where any and all persons may appear before said board and show cause, if any they have, why said work provided for in said report should not be carried out in accordance therewith, said time to be not less than twenty nor more than forty-five days from the adoption of said report.

Said notice shall briefly outline the proposed work, and shall refer to the said report on file with said board for a particular description of the work to be done. Such notice shall be given by conspicuously posting in three of the most public places within said district, and publishing

in some newspaper printed and published in the county where said district is situated, or if said district is situated in more than one county then by posting in three of the most public places in that portion of the district, situated in each county and by publishing in a newspaper printed and published in each of the counties wherein any portion of said district is situated, for a period of three weeks prior to the day of hearing. Said publication shall be made once a week for three consecutive weeks in a newspaper of general circulation published in the county where said district is situated. If said district comprises land situated in more than one county, then once a week for three consecutive weeks in a newspaper of general circulation in each of the counties where said lands are situated. It shall not be necessary that publication shall be made on the same day of the week in each of the three weeks, but not less than sixteen days, including the day of the first publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication. [Amendment approved May 22, 1917; Stats. 1917, p. 811.]

§ 5. Board may confirm resolution. Report of engineer. The board of trustee shall have power to set aside, modify, or confirm the resolution provided for in section two of this act; in case the board shall decide that it will be for the best interests of the district to proceed with the work, it shall, by resolution, so declare; and in case the said original plan of the work shall have been modified or changed, the board shall direct the engineer of the district to estimate the cost of the work in accordance with the plan so modified or changed, and to report the same to the board. The engineer of the district shall thereupon, in case such original plan shall have been changed or modified, make a report to the board in accordance with the modifications or changes adopted by it, and such report must show:

1. A description of the work to be done as changed or modified by the board, including all ancillary work.
2. The plans, profiles, cross-sections and specifications of the work as so changed or modified by the board.
3. A general description of the lands required for rights of way for the work, if any such are required.
4. An estimate of the expense of such work in accordance with the plan so modified or changed by the board, including an estimate of the cost of acquiring rights of way for such work, if any such rights are acquired.
5. An estimate of the cost or value of any levee or levees, ditches or canals already constructed or in process of construction, proposed to be acquired as part of the proposed system.
6. An estimate of all incidental expenses likely to be incurred in connection with the work as planned, such as clerical, engineering, inspection, printing and advertising, including all work necessary to be done for the protection of said main works, and ancillary thereto, and including furthermore the amount necessary for the maintenance of the work proposed to be done, for the first year. [Amendment approved May 22, 1917; Stats. 1917, p. 812.]

§ 7. Bonds for levee districts. Order for election. Conduct of election. Contests. Duty of supervisors. Form of bond. Form of interest coupon. Whenever in the judgment and opinion of the board of trustees in said district it would be for the best interests of said district, or the land owners therein, to issue bonds for the purpose of obtaining money to pay the cost of construction of said levee or levees, ditches or canals, or other protective works, or to purchase in whole or in part any system of levee, or levees, ditches or canals already constructed or in process of construction, or for any of the purposes set forth in section one of this act, or when a petition requesting them so to do, signed by the owners of more than one-half of the land of the district, is filed with the secretary of the board, the board of trustees of such district shall, by order entered upon the records of said board, order a special election to be held for the purpose of submitting the question of the issuance of bonds to the taxpayers of said district. Said order shall specify the amount of bonds it is proposed to issue which, in any case, shall not exceed the entire estimate of the expense of the work as planned, shall specify the rate of interest to be paid, not exceeding seven per cent, and the number of years, not exceeding forty, the whole or any part of said bonds are to run, and shall name a time and place for the holding of such election, which place shall be at some convenient place in the district. In the case of joint levee districts the said order shall specify a polling place within the district in each county, in which a portion of the district lies. The board shall also appoint one inspector, two judges and one clerk to conduct said election at each and every polling place designated, all of whom must be electors and taxpayers of said district. Notice of such election shall be given by publication, in a newspaper printed and published in the county in which said district or some part thereof is situated once a week for at least three weeks prior to such election. If said district is situated in more than one county, then publication shall be made in a newspaper printed and published in each county wherein a portion of said district is situated, and the provisions relating to publication provided in section three hereof shall apply, and such notice must contain a time and place for the holding of such election, the names of the election officers to conduct the same, and amount and denominations of the bonds, the rate of interest to be paid, and the number of years, not exceeding forty, the whole or any part of said bonds are to run. If any election officer appointed by said board and named in such notice is not present at the time for the opening of the polls, the voters present may appoint an election officer to take the place of such election officer so absent. Before opening the polls each officer of election must take and subscribe an oath faithfully to perform the duties imposed upon him by law. Any voter of the district may administer and certify such oath.

The polls shall be kept open for receiving votes from ten o'clock A. M. until four o'clock P. M. At such election any voter qualified to vote for the election officers of said district and none other shall be permitted to vote thereat, and such election shall be held as nearly as practicable in conformity with the general election law of the state, except that no sample ballot need be sent out, except that registration shall not be

required, and except also that persons voting at such bond election shall put a cross (X) upon the ballots with pencil or ink after the words: "bonds—yes" and "Bonds—no" (as the case may be) to indicate whether they have voted for or against the issuance of the bonds. The said ballots shall be of the form: "bonds—yes" and "bonds—no," or words of similar import, together with a general statement of the amount and purpose of the bonds to be issued.

At the close of the polls the board or boards of election shall at once proceed to count the votes and declare the result, and shall forward a certificate showing the same and the number of votes cast for and against the issuance of the bonds to the clerk of the board of supervisors of the county in which the greater portion of the lands of said district is situated, and deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the clerk of the said board of supervisors all ballots cast at such election, and all documents and papers used at such election.

Any person owning land situated in said district may contest said election within twenty days after the result thereof has been declared by the board of supervisors, by filing a complaint in the superior court of the county where said land is situated, and if no contest shall be commenced within said time the declaration of the result by the board of supervisors shall be final and conclusive.

The returns of such election shall be canvassed and the result declared by the board of supervisors of the county to whom such returns of election are made, at a special meeting called for that purpose or at the next regular meeting of such board after such election. No ballot shall be rejected because of any distinguishing marks made thereon. If a majority of the voters of the district voting at such election shall vote in favor of the issuance of bonds, the board of supervisors shall be, and it is, authorized and directed to issue bonds of said district to the number and amount provided in such proceedings, payable out of the bond fund of such district, naming the same, and provide that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds and the payment of interest thereon, provided that the total amount of bonds so issued shall not exceed the entire estimate of the expense of the work as planned or determined by section one, together with the expense of the maintenance of said works for one year after their completion.

The board of supervisors to whom said returns of election are made, by an order upon its minutes shall prescribe the form of said bond and the interest coupons attached thereto, and provide whether the same shall be paid in lawful money of the United States or in gold coin, and fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof; and said bonds shall be issued in sums of not less than one hundred dollars nor more than one thousand dollars each, and shall not have more than forty years to run, and shall bear interest at a rate not exceeding seven per cent per annum, payable semi-annually, and said bonds shall be substantially in the following form:

STATE OF CALIFORNIA.

No. —

\$ —

Bond of

— Levee District.

In the county (or counties) of —
state of California.

— district, of the county of (or counties or) —, state of California, for value received, hereby acknowledges itself indebted and promises to pay to the holder of this bond on the first day of —, 19—, at the office of the treasurer of the county of — in the city of —, state of California, the sum of — dollars in gold coin (or lawful money) of the United States, with interest at the rate of — per cent (—%) per annum, payable semi-annually upon the first day of — and the first day of — of each and every year from and after the date hereof, at the office of the treasurer aforesaid, on presentation and surrender of the interest coupons hereto attached, until this bond is fully paid. This bond is issued by the board of supervisors of the said county of — in conformity with the resolution of said board dated the — day of — 19—, and under the authority conferred upon the said board by the provisions of the act of the legislature of the state of California, entitled "An act authorizing levee districts of the state to incur a bonded indebtedness for the purpose of building, constructing and repairing levees of the district, or for excavating and constructing ditches or canals of such district, etc.

(Here will be inserted in the final draft the correct designation of the act approved March 8, 1911, together with acts amendatory thereof.)

It is hereby declared that said — levee district is a levee district duly created, organized, established and incorporated in strict conformity to the laws of the state of California relating thereto.

It is furthermore declared that a majority of the qualified electors of said levee district voting at a special election held therein on the — day of — 19—, which said election was held to determine whether bonds of said levee district, in the amount of \$— should be issued and sold for the purpose of raising money for the purposes prescribed in said act, voted in favor thereof.

It is hereby further declared that said election was duly called, duly held and duly conducted and the notices thereof duly given, and the result thereof canvassed and declared in accordance with the provisions of the act above mentioned, and that all other proceedings of the board of supervisors of such — levee district, and of the board of supervisors of said county, in the matter of the issuance of this bond, were regular and in strict accordance with the provisions of the said act above mentioned, and the constitution of the state of California; and that the total bonded indebtedness of said district authorized at said election does not exceed the entire estimate of the expense of the work planned and the cost of the maintenance of said work for one year after the date of their completion.

This bond is in the form prescribed by the order of said board of supervisors, duly made and entered in its minutes on the — day of —, 19—, and in substantial conformity to the form prescribed by said act, and this bond shall be payable out of the bond fund of said — levee district, and the money for the redemption of said bond, and the pay-

ment of the interest thereon, shall be raised by taxation upon the taxable property of said district.

In witness whereof the said board of supervisors has caused this bond to be signed by its chairman and by the auditor of said county, with its seal of office attached this — day of —, 19—.

Chairman of the board of supervisors of the county of —.

Attest: — —.

Auditor of — county.

The interest coupon shall be in the following form:

On the — day of —, 19—, the treasurer of the county of —, state of California, will pay to the holder hereof out of the bond fund of the — levee school district of said county, at his office in the city of — in said county, the sum of \$— for interest on bond of said district, No. —.

§ 8. Bonds to be numbered and signed. Bonds issued under this act shall be numbered consecutively, signed by the chairman of the board of supervisors and attested by the county auditor, who shall affix thereto his official seal. The coupons shall be numbered consecutively and signed by the treasurer by original, or engraved, or lithographed facsimile signature, and the bonds and coupons shall be payable at the office of the county treasurer. In case any officer whose signature or attestation or countersignature appears on any bonds or coupons thereof issued under the provisions of this act shall cease to be such officer before the sale or delivery of said bonds to the purchaser thereof, such signature, countersignature or attestation appearing either on the bonds or the coupons or on both shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the sale or delivery of such bonds. [Amendment approved May 22, 1917; Stats. 1917, p. 812.]

§ 8a. Sale of bonds. Said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par. The board of supervisors may sell all the bonds of said issue at one time, or may sell less than the whole, to wit, any part thereof, at one time, and from time to time. In the event the whole, or any part of said issue of bonds, may be offered for sale at one time, the board of supervisors may sell either the whole or any lesser number of the bonds so offered for sale. All moneys realized from the sale of said bonds shall be placed on deposit with the county treasurer to the credit of the bond fund of said district, and shall not be expended for any purpose other than that for which said bonded indebtedness was incurred as specified in section one of this act. [New section added May 22, 1917; Stats. 1917, p. 816.]

§ 8b. Action to have bonds declared valid. Summons. Treasurer's record. As soon as said bonds shall have been delivered to said county treasurer, the board of trustees, or any holder of title, or evidence of title, including possessory rights, to lands contained in the district, may, in order to determine that said bonds are a legal obligation of the district, institute a proceeding therefor in the superior court of the county in which the district was organized by filing with the clerk of said county a complaint setting forth that on a date therein named bonds of said district were delivered to the said treasurer, stating the amount

of such bonds, and praying that such bonds be adjudged to be a valid legal obligation of such district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed with the court, any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of said bonds. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California. In the event said district comprises lands situated in more than one county, such action shall be brought in the superior court of the county in which the larger portion of the district is situated.

The treasurer of the county shall keep a record of all bonds by number, date of sale, amount, date of maturity, and the name and postoffice address of the purchaser when known, which record shall be open at all times for public inspection. [New section added May 22, 1917; Stats. 1917, p. 817.]

§ 8c. Bonds exempt from taxation. Bonds legal investment. Any bonds issued by any levee district under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the state of California.

The bonds of levee districts issued pursuant to this act may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators, and special administrators, or by any public officer or officers of this state, or of any county, city, or city and county, or other municipal or corporate body within the state, having or holding bonds [funds] which they are allowed by law to invest or loan. [New section added May 22, 1917; Stats. 1917, p. 817.]

§ 9. Tax to pay interest and principal. Levy and collection. Lien on property. Levy and collection of tax when land situated in more than one county. In addition to any other estimate which the board of trustees may be required by law to make and to submit to the board of supervisors of the county in which said district is situated, the board of trustees, on or before the first day of September of each year, shall certify to the board of supervisors, if said district is situated in one county, but if it comprises lands situated in more than one county, then the respective boards of supervisors of each county within which lands of said district are situated, the amount of interest upon all outstanding bonds to grow due within the said year, and the amount of moneys necessary to redeem any or all outstanding bonds that may grow due in said year. At the time when by law it is the duty of the board of supervisors of said county to fix the annual tax rate of such county, said board of supervisors must levy a tax upon the taxable property situated in such levee district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said bonds for that year and such portion of the principal as is to become due dur-

ment of the interest thereon, shall be raised by taxation upon the taxable property of said district.

In witness whereof the said board of supervisors has caused this bond to be signed by its chairman and by the auditor of said county, with its seal of office attached this — day of —, 19—.

Chairman of the board of supervisors of the county of —.

Attest: — —.

Auditor of — county.

The interest coupon shall be in the following form:

On the — day of —, 19—, the treasurer of the county of —, state of California, will pay to the holder hereof out of the bond fund of the — levee school district of said county, at his office in the city of — in said county, the sum of \$— for interest on bond of said district, No. —.

§ 8. Bonds to be numbered and signed. Bonds issued under this act shall be numbered consecutively, signed by the chairman of the board of supervisors and attested by the county auditor, who shall affix thereto his official seal. The coupons shall be numbered consecutively and signed by the treasurer by original, or engraved, or lithographed facsimile signature, and the bonds and coupons shall be payable at the office of the county treasurer. In case any officer whose signature or attestation or countersignature appears on any bonds or coupons thereof issued under the provisions of this act shall cease to be such officer before the sale or delivery of said bonds to the purchaser thereof, such signature, countersignature or attestation appearing either on the bonds or the coupons or on both shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the sale or delivery of such bonds. [Amendment approved May 22, 1917; Stats. 1917, p. 812.]

§ 8a. Sale of bonds. Said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par. The board of supervisors may sell all the bonds of said issue at one time, or may sell less than the whole, to wit, any part thereof, at one time, and from time to time. In the event the whole, or any part of said issue of bonds, may be offered for sale at one time, the board of supervisors may sell either the whole or any lesser number of the bonds so offered for sale. All moneys realized from the sale of said bonds shall be placed on deposit with the county treasurer to the credit of the bond fund of said district, and shall not be expended for any purpose other than that for which said bonded indebtedness was incurred as specified in section one of this act. [New section added May 22, 1917; Stats. 1917, p. 816.]

§ 8b. Action to have bonds declared valid. Summons. Treasurer's record. As soon as said bonds shall have been delivered to said county treasurer, the board of trustees, or any holder of title, or evidence of title, including possessory rights, to lands contained in the district, may, in order to determine that said bonds are a legal obligation of the district, institute a proceeding therefor in the superior court of the county in which the district was organized by filing with the clerk of said county a complaint setting forth that on a date therein named bonds of said district were delivered to the said treasurer, stating the amount

of such bonds, and praying that such bonds be adjudged to be a valid legal obligation of such district. The summons in such proceeding shall be served by publishing a copy thereof once a week for four weeks in some newspaper of general circulation published in each county in which any of the lands contained in said district are located. Within thirty days after the last publication thereof shall have been completed and proof thereof filed with the court, any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of said bonds. If no answer shall be filed within said time, the court must render judgment as prayed for in the complaint. If an answer be filed the court shall proceed as in other civil cases. Said proceeding is hereby declared to be a proceeding in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against the state of California. In the event said district comprises lands situated in more than one county, such action shall be brought in the superior court of the county in which the larger portion of the district is situated.

The treasurer of the county shall keep a record of all bonds by number, date of sale, amount, date of maturity, and the name and postoffice address of the purchaser when known, which record shall be open at all times for public inspection. [New section added May 22, 1917; Stats. 1917, p. 817.]

§ 8c. Bonds exempt from taxation. Bonds legal investment. Any bonds issued by any levee district under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality and shall be exempt from all taxation within the state of California.

The bonds of levee districts issued pursuant to this act may be lawfully purchased or received in pledge for loans by banks, trust companies, guardians, executors, administrators, and special administrators, or by any public officer or officers of this state, or of any county, city, or city and county, or other municipal or corporate body within the state, having or holding bonds [funds] which they are allowed by law to invest or loan. [New section added May 22, 1917; Stats. 1917, p. 817.]

§ 9. Tax to pay interest and principal. Levy and collection. Lien on property. Levy and collection of tax when land situated in more than one county. In addition to any other estimate which the board of trustees may be required by law to make and to submit to the board of supervisors of the county in which said district is situated, the board of trustees, on or before the first day of September of each year, shall certify to the board of supervisors, if said district is situated in one county, but if it comprises lands situated in more than one county, then the respective boards of supervisors of each county within which lands of said district are situated, the amount of interest upon all outstanding bonds to grow due within the said year, and the amount of moneys necessary to redeem any or all outstanding bonds that may grow due in said year. At the time when by law it is the duty of the board of supervisors of said county to fix the annual tax rate of such county, said board of supervisors must levy a tax upon the taxable property situated in such levee district, for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said bonds for that year and such portion of the principal as is to become due dur-

ment of the interest thereon, shall be raised by taxation of property of said district.

In witness whereof the said board of supervisors hereby to be signed by its chairman and by the auditor its seal of office attached this — day of —

Chairman of the board of supervisors

Attest: — — —

Auditor of — county.

The interest coupon shall be in the following

On the — day of —, 19—, the state of California, will pay to the holder of the — levee school district of — of — in said county, the sum of — district, No. —.

§ 8. Bonds to be numbered

shall be numbered consecutive of supervisors and attested by his official seal. The coupon by the treasurer by original nature, and the bonds and county treasurer. In case of the provisions of this act, the delivery of said bonds shall be the duty of the board of supervisors signature or attest — respectively to levy a tax upon the taxable or on both shall not be less in district as may be situated in said county for the same as if such coupon of said bonds, and such tax must not be less in of such bonds. — sufficient to pay the interest on said bonds for that

§ 8a. Sale of portion of the principal as is to become due during such scried by — portion of the principal that at the end of ten years the board of supervisors shall equal at least twenty-five per cent of or may set off of bonds issued, at the end of twenty years at least fifty per and from — amount, and at and before the date of maturity of the bonds issue of — equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund and shall be used for the payment of bonds and interest coupons and for no other purpose offered by the board of supervisors. The county treasurer of each county shall open and keep in full a separate and special account which shall at all times show the condition of such bond fund. Such tax shall be levied on all property in the territory comprising the district situated in said county, and shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be held by the treasurer of each of said counties. Upon the first days of January, April, July and October of each year succeeding the date of issuance of said bonds, the county treasurer of each county, other than the county wherein the larger portion of the lands of said district is situated, shall transmit to the county treasurer of the county in which the larger portion of the lands of said district is situated all sums then in his possession in said bond fund, and the county treasurer of the county in which the larger portion of the lands of said district is situated shall issue his receipt therefor. Such taxes shall be a lien upon all the property within

vising the district, and of the same force and effect as and the collection of said taxes shall be enforced in the same manner as provided by law for the county taxes. [Amendment approved May 22,

LEEVE DISTRICTS.

Act 1922, Stats. 1917, p. 819.

Whenever there shall be in the bond one thousand dollars or more, over and above the next levy, the treasurer shall give to the newspapers of general circulation, in which such district is situated, on the day and hour named in the notice, at his office for the purpose of receiving bids at the time and place named in the notice, provided, that no bid shall be accepted for a value of such bonds with interest at par, or less, sufficient to ex-act the same for redemption, the treasurer shall in the same manner a notice that he will give to the said district, giving the number or numbers of the bonds presented for redemption within thirty days after the first publication of such notice, the interest thereon on the amount due thereon will be set aside for the payment of the bonds whenever presented. If any such bond be not so presented, the interest thereon shall cease, and the amount due thereon shall be paid as specified in said notice. All redemption of bonds other than those voluntarily surrendered shall be made in the exact order of their numbering, beginning with the lowest or first number. [Amendment approved May 22, 1917; Stats. 1917, p. 819.]

§ 11. Act full authority for issuance and sale of bonds. Levee district fund. This act shall without reference to any other act of the legislature of the state of California be full authority for the issuance and sale of the bonds in this act authorized, which bonds shall have all the qualities of negotiable paper under the law merchant, and when executed by the officials as provided in this act in conformity with the provisions of this act, and when sold in the manner prescribed therein and the consideration therefor received by the county treasurer for the benefit of said district, shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof, and shall be incontestible in the hands of bona fide purchasers or holders thereof for value. The moneys obtained from the sale of such bonds shall be by the county treasurer placed in a fund to be called the "— levee district fund," and all payments of any of the expenses of the work or improvements for which said bonded indebtedness was incurred shall be paid out upon warrants drawn by the board of trustees of said levee district. [New section added May 22, 1917; Stats. 1917, p. 820.]

ACT 1923.

An act to create a levee district to be called and designated Sacramento River west side levee district; to prevent the overflow of flood waters from the Sacramento River from flooding on to the lands within said district by the construction of levees along the west bank of the Sacramento River and adjacent thereto and maintain the same; pro-

ing such year, and such proportion of the principal that at the end of ten years the sum raised from such levies shall equal at least twenty-five per cent of the amount of bonds issued, at the end of twenty years at least fifty per cent of the amount, and at and before the date of the maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund, and shall be used for the payment of bonds and interest coupons and for no other purpose whatever; and the county treasurer shall open and keep in his book a separate and special account which, at all times, shall show the exact condition of such bond fund.

Such tax shall be levied on all property in the territory comprising the district, and shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be held by the treasurer for the credit of said district, to be paid by orders of such treasurer issued under the authority of and signed by the president of the board of trustees of said district. Such taxes shall be a lien on all the property within the territory comprising the district, and of the same force and effect as other liens for taxes, and its collection shall be enforced by the same means and in the same manner as provided for in the enforcement of liens for county taxes.

In the event the said district comprises land situated in more than one county, then said estimate shall be furnished to the board of supervisors of each of the counties within which said lands of said district are situated. In such case at the time when by law it is the duty of the board of supervisors of said respective counties to fix the annual tax rate of each county, it shall be the duty of the board of supervisors of each of said counties respectively to levy a tax upon the taxable property in such levee district as may be situated in said county for the interest and redemption of said bonds, and such tax must not be less in the aggregate than sufficient to pay the interest on said bonds for that year and such portion of the principal as is to become due during such year, and such portion of the principal that at the end of ten years the sum raised from such levies shall equal at least twenty-five per cent of the amount of bonds issued, at the end of twenty years at least fifty per cent of the amount, and at and before the date of maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund and shall be used for the payment of bonds and interest coupons and for no other purpose whatever. The county treasurer of each county shall open and keep in his book a separate and special account which shall at all times show the exact condition of such bond fund. Such tax shall be levied on all property in the territory comprising the district situated in said county, and shall be collected at the same time and in the same manner and form as county taxes are collected, and when collected shall be held by the treasurer of each of said counties. Upon the first days of January, April, July and October of each year succeeding the date of issuance of said bonds, the county treasurer of each county, other than the county wherein the larger portion of the lands of said district is situated, shall transmit to the county treasurer of the county in which the larger portion of the lands of said district is situated all sums then in his possession in said bond fund, and the county treasurer of the county in which the larger portion of the lands of said district is situated shall issue his receipt therefor. Such taxes shall be a lien upon all the property within

the territory comprising the district, and of the same force and effect as other liens for taxes, and the collection of said taxes shall be enforced by the same means and in the same manner as provided by law for the enforcement of liens for county taxes. [Amendment approved May 22, 1917; Stats. 1917, p. 818.]

§ 10. **Redemption of bonds.** Whenever there shall be in the bond fund of such district a surplus of one thousand dollars or more, over and above the interest maturing before the next levy, the treasurer shall give notice for two weeks in one or more newspapers of general circulation, printed and published in the county in which such district is situated, stating the amount of such surplus, and that on the day and hour named in such notice, sealed proposals will be received at his office for the surrender of bonds of the district, and shall at the time and place named open the proposals and accept the lowest bid; provided, that no bid shall be accepted for an amount exceeding the par value of such bonds with accrued interest; if bids are not offered at par, or less, sufficient to exhaust the amount on hand applicable to redemption, the treasurer shall publish for the same time and in the same manner a notice that he will redeem a bond or bonds of said district, giving the number or numbers thereof, and that if not presented for redemption within thirty days after the date of the first publication of such notice, the interest thereon will cease, and the amount due thereon will be set aside for the payment of such bond or bonds whenever presented. If any such bond be not so presented, interest thereon shall cease, and the amount due thereon shall be set aside as specified in said notice. All redemption of bonds other than those voluntarily surrendered shall be made in the exact order of their numbering, beginning with the lowest or first number. [Amendment approved May 22, 1917; Stats. 1917, p. 819.]

§ 11. **Act full authority for issuance and sale of bonds. Levee district fund.** This act shall without reference to any other act of the legislature of the state of California be full authority for the issuance and sale of the bonds in this act authorized, which bonds shall have all the qualities of negotiable paper under the law merchant, and when executed by the officials as provided in this act in conformity with the provisions of this act, and when sold in the manner prescribed therein and the consideration therefor received by the county treasurer for the benefit of said district, shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof, and shall be incontestible in the hands of bona fide purchasers or holders thereof for value. The moneys obtained from the sale of such bonds shall be by the county treasurer placed in a fund to be called the "— levee district fund," and all payments of any of the expenses of the work or improvements for which said bonded indebtedness was incurred shall be paid out upon warrants drawn by the board of trustees of said levee district. [New section added May 22, 1917; Stats. 1917, p. 820.]

ACT 1923.

An act to create a levee district to be called and designated Sacramento River west side levee district; to prevent the overflow of flood waters from the Sacramento River from flooding on to the lands within said district by the construction of levees along the west bank of the Sacramento River and adjacent thereto and maintain the same; pro-

viding for the election and appointment of officers of said levee district; defining the powers, duties and compensation of such officers; and providing for levying and collecting assessments upon the lands within said levee district.

[Approved May 18, 1915. Stats. 1915, p. 516.]

Amended 1917; Stats. 1917, p. 1211.

The amendment of 1917 follows:

§ 3. Election. Manner of conducting. Commissioner takes office when. An election shall be held within forty days after the date upon which this act shall take effect, and on the last Monday of October of every fourth calendar year thereafter, at which election said commissioners shall be elected. Said first election shall be called by the reclamation board created by that certain act of the legislature of the state of California, entitled: "An act approving the report of the California debris commission transmitted to the speaker of the house of representatives by the secretary of war on June 27, 1911, directing the approval of plans of reclamation along the Sacramento River or its tributaries or upon the swamp lands adjacent to said river, directing the state engineer to procure data and make surveys and examinations for the purpose of perfecting the plans contained in said report of the California debris commission and to make report thereof, making an appropriation to pay the expenses of such examinations and surveys, and creating a reclamation board and defining its powers," approved December 24, 1911, or such board as may by law be made its successor. Said reclamation board shall also designate the voting place for said first election and for all succeeding elections. Notice of the time and place of holding all elections shall be given by said reclamation board by publication once a week for two weeks next preceding such election, in some newspaper published in Colusa county and also in some newspaper published in Yolo county. In the first election the reclamation board shall, prior to the election, procure from the assessors of said counties of Yolo and Colusa, respectively, a list certified by such assessors, respectively, containing a description of all the lands of the district situated in such counties, the name of the person to whom each tract is assessed and the acreage thereof as it appears from the last prior assessment-roll of said counties, which said list shall be furnished to and be used by the board of election hereinafter described in determining the number of votes each voter is entitled to cast. In all elections said reclamation board shall appoint an inspector and two judges of election, who shall constitute a board of election for such voting place. At the first election of commissioners each owner of land within said levee district as above defined, shall be entitled to cast one vote, in person or by proxy, for each commissioner to be elected therein for each acre of land or fraction thereof owned by such land owner within said district, such acreage to be determined by the aforesaid assessment-roll of the county in which the same is situated. In case of town lots, or where the acreage is not stated, the board of election officers shall determine the amount of acreage therein. The estates of minors, incompetents, deceased persons and beneficiaries under a trust shall be represented by the guardian, executor, administrator or trustee in person. Where a tract is situated partly within and partly without the boundaries of such district, and the assess-

ment-roll contains the acreage of said tract of land as a whole, the same must be apportioned according to the number of acres lying within and without the boundaries of said district. In the case of all elections after the first election hereinbefore provided for, each land owner in said district shall be entitled to cast one vote, either in person or by proxy, for each commissioner to be elected therein for each dollar, or fraction thereof, assessed against his land, as shown by the first assessment list in said district as prepared by the assessors and heretofore filed with the reclamation board, as provided in section six of this act, or in the event that said assessment list has been equalized by the said reclamation board before the time of said election, then as shown by the said assessment list so equalized by the reclamation board. No person shall vote by proxy at such election, unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified in the same manner as grants of real property, and filed with the board of election. In case no board of election shall be appointed, or if any member thereof shall fail or refuse to serve, the land owners present at the time of the opening of such election may appoint such board of election or supply the place of an absent member. Each member of the board of election must, before entering upon the discharge of his duties, be sworn to perform them faithfully. Any person entitled to vote at such election may administer the oath. The polls shall be kept open from ten o'clock A. M. till four o'clock P. M. on the day of said election. The board of election must keep a list of the names of the persons voting at such election, together with a statement of the number of votes cast by each, and shall canvass the votes and make a return thereof showing the number of votes cast for each person for levee commissioner and shall return therewith said list containing the names of the land owners voting at such election. Such election shall be by ballot, which ballots must contain the name of the person voting same, the total number of votes cast, the names of the persons voted for and the number of votes cast for each of said persons. The ballots must be inclosed in an envelope by the election board, and delivered, with the election returns, to the said reclamation board, and said reclamation board shall cause a certificate of election to be issued within five days to the person or persons receiving the highest number of legal votes. If a certificate of election shall be issued to any person who has not received the highest number of legal votes, and upon an affidavit being filed by a land owner in the said levee district, setting forth that such person did not receive the highest number of legal votes, and giving the names of the persons who cast illegal votes for such person, and the number of such illegal votes so cast, the said reclamation board shall canvass the election returns, and hear evidence touching the legality of any votes cast, and may revoke such certificate of election and issue a certificate to the person legally elected. Within fifteen days after receiving a certificate of election, and before entering upon the duties of his office, each levee commissioner shall take the oath of office prescribed by law, and file the same in the office of said reclamation board. All vacancies in the board of levee commissioners shall be filled by the said reclamation board, and such appointee shall hold office until the next succeeding election, and the qualification of his successor. Such person shall possess the same qualifications as an elected commissioner. [Amendment approved May 28, 1917; Stats. 1917, p. 1212.]

§ 7. Charges become lien. Statement that assessment delinquent. Sale of property. Purchase by district. Redemption. Land not charged to be later charged. Correction of errors. To whom payments made. Moneys deposited in treasury. From and after the filing of the original list with the county treasurer of Colusa county, and from and after the filing of the duplicate original list with the county treasurer of Yolo county, the charges assessed upon any tract of land within each respective county shall constitute a lien thereon, and shall impart notice thereof to all persons. No subsequent act or conduct of the commissioners shall invalidate said assessment or lien, but such commissioners may be compelled by mandate or other proper proceeding to perform their duties, as required by law. The list thus prepared and filed must remain in the offices of the respective treasurers for thirty days from such filing, or longer if ordered by the board of levee commissioners, and during the time they so remain, any person may pay the amount of the charge assessed against any tract of land to the treasurer of the county in which such tract is situated, in gold coin of the United States, or in warrants of the district. At the end of thirty days the treasurers must return the lists to the board of commissioners of the district. The said board, from time to time in its discretion, may, by order entered in its minutes, direct the said assessment to be collected and paid in separate installments, of such amounts and at such time, respectively, as the said board may determine. After any order has been made calling in an installment of assessment, the secretary of the said district, for the information of the land owners, shall mail to each land owner, as described in the said assessment list, if his address be known to such secretary, or, if not, then to the county seat of the county in which such land may be situated, a statement stating the amount of the call of such assessment, and stating further that said installment, if unpaid at the expiration of thirty days from the date of such order, shall become delinquent, which said statement shall be mailed by said secretary within ten days after the date of any such order calling in any installment of such assessment, and each installment of assessment, from the time of the order of said board directing the same to be collected and paid, shall bear interest at the rate of seven per cent per annum until paid; if any such installment shall remain unpaid at the expiration of thirty days from the date of the order, then said installment shall become delinquent, together with the accrued interest thereon, and ten per cent of the amount of said installment and interest shall be added thereto, and collected for the use of the district; provided, further, that the commissioners must on the first day of January of each year, order the collection of a sufficient amount of said assessment to pay all warrants that have been issued and outstanding for a period of two years or more, together with the interest on such warrants. Immediately after the said installment has become delinquent, the board of levee commissioners must publish a notice at least once each week for three weeks in some newspaper of general circulation published in the county or counties in which any land upon which such installment may be delinquent is situated, which notice shall contain a description of the property assessed, the name of the person to whom it is assessed, or a statement that it is assessed to unknown owners, if such be the fact; the amount of the delinquent installment, the amount of the interest at the date of delinquency, the amount of the penalty that has been added as above pro-

vided, and a notice that the property assessed will be sold on a date therein stated, at such time and place in said district as the board of commissioners may in said notice designate, to pay said installment with accrued interest and the penalty hereinbefore specified. At the time stated in said notice, or such other time to which said sale may have been postponed, the commissioners must sell said property to the highest bidder for gold coin of the United States. Out of the proceeds of said sale the commissioners must pay the amount of said installment with the accrued interest thereon and the penalty herein provided for to the county treasurer of the county of Colusa who shall place the same in the proper funds of said district, and the commissioners must pay to the owner of said property any surplus remaining after such payment to said county treasurer. The commissioners may postpone said sale from time to time by a written notice posted at the place of sale. If no bid is made for said property equal to the amount of said installment, accrued interest and penalty, the district shall become the purchaser, and the said property must be struck off to the district for the amount of said installment, accrued interest and penalty. A certificate of such sale shall be executed by the commissioners of said levee district to the purchaser, or to the district, if the property shall have been struck off to the district, and said certificate of sale shall be recorded in the office of the county recorder of the county in which the land sold is situated, or if situated in two counties, then in the office of the county recorder of each thereof. Any person interested in said property may redeem the same at any time within one year after the date of said sale, by paying in gold coin or in warrants of said district, to the county treasurer of Colusa county the amount of said installment with the accrued interest and penalty, and interest on the said sums at the rate of two per cent per month from the date of said sale.

If no redemption shall be made within said one year, the purchaser, or the district, if said property shall have been sold to the district, shall be entitled to a deed executed by said commissioners, and the effect of such deed shall be to convey said property free of all liens and encumbrances, excepting state, county and municipal taxes, and the liens of assessments now levied or which may hereafter be levied by any of the reclamation districts situate within said levee district, or by the Knights Landing Ridge drainage district, and the unpaid balance of said assessment of said levee district, if any, which said balance must be called in and collected in the same manner as other assessments; provided, that where said property shall have been deeded to the district and shall not have been sold by the commissioners, the same shall not be offered for sale for subsequent installments of said assessments so long as the district shall remain the owner of said property, but the commissioners may sell said property at any time at public auction after notice given for the same period and in the same manner as is herein provided for sales for delinquent installments, but not for a sum less than all delinquent unpaid installments with accrued interest and penalties, and the deed executed in pursuance of such sale shall convey said property free of all encumbrances, except state, county and other municipal taxes, the lien of any assessments levied or which may hereafter be levied by any reclamation district within said levee district, or the Knights Landing Ridge drainage district, and the unpaid balance of said assessment.

In all cases where an assessment has been, or shall hereafter be, levied for any purpose on the lands embraced within said levee district, if, for any reason, any tract or tracts of land shall not have been charged with said assessment, then such tract or tracts of land shall be charged in any subsequent assessment with such proportion of the former assessment as the benefits derived by said lands from the levee works, for which said former assessment was levied, bears to the whole amount of said former assessment; or a subsequent reassessment of such tract or tracts of land may be made separately for the purpose of charging said land with its proper proportion of the costs of levee protection. Such reassessment shall be made by assessors appointed by the reclamation board, as provided by this act, and must be made and approved in the same manner as other assessments. The assessors appointed by the reclamation board must make a list of the charges assessed against each tract of land; and, if there be any error or mistake in the description of the land or in the name of the owner, or if any land which should be assessed has been, or shall be, omitted from the list, or if there is any error or mistake in any other respect, the said assessors may amend or correct the same at any time before the filing of such list with the reclamation board as hereinbefore provided. Where payment is made in warrants of the district, legal interest must be computed thereon from the date thereof to the time of such payment, when said warrants must be surrendered to the county treasurer of the county of Colusa and by him canceled.

In the event that any land owner of the said district shall have paid the amount, or any portion of the amount, assessed against any tract of land before said assessment shall have been adjudged invalid, in whole, or in part, the amount so paid by said land owner, together with legal interest thereon from the date of such payment, shall be a credit and shall be credited by the treasurer of the county where the assessment list is filed, or by said district, or upon any subsequent assessment on the tract of land on which the said invalid assessment was paid, or be applied in satisfaction pro tanto of any such subsequent assessment thereafter levied on said tract.

All installments of assessment, after the original list and the duplicate original have been returned by the respective county treasurers to the board of levee commissioners that may be called in, shall be paid to the secretary of said board of levee commissioners, and the same and also all proceeds from any delinquent sale shall be paid into the county treasury of the county of Colusa, and be placed by the treasurer thereof to the credit of said district, and paid out upon warrants issued by the board of levee commissioners. At any time an assessment on any tract of land may be paid in full, notwithstanding the same has not been called in by the board of levee commissioners.

All moneys received from any source by the board of levee commissioners shall be paid by the said board, or the secretary thereof, into the county treasury of Colusa county, and be placed by the treasurer to the credit of the district, and paid out upon the warrants of the board of levee commissioners in the manner hereinbefore provided.

On the first Monday of each month the county treasurer of Yolo county shall transmit to the county treasurer of Colusa county all moneys that may be in his hands to the credit of said district arising from any source, and, likewise, all warrants that may be delivered in payment

of any assessment, and all such moneys shall thereupon be placed to the credit of said district by said county treasurer of Colusa county. [Amendment approved May 26, 1917; Stats. 1917, p. 1214.]

§ 3. Repealed. All acts and parts of acts in conflict with this act are hereby repealed.

ACT 1924.

An act to validate bonds of Palo Verde joint levee district of Riverside and Imperial counties, California, and all proceedings relating thereto. [Approved May 16, 1919. Stats. 1919, p. 541. In effect July 22, 1919.]

TITLE 310.

LOS ANGELES CITY.

ACT 1977.

Charter of Los Angeles. [Stats. 1889, p. 455.]

Amended 1903, p. 555; 1905, p. 980; 1907, p. 1160; 1909, p. 1289; 1911, p. 2051; 1913, p. 1629; 1915, p. 1686; 1917, p. 1686; 1919, p. 1430.

ACT 1991.

An act granting to the city of Los Angeles the tide-lands and submerged lands of the state within the boundaries of the said city.

[Approved May 1, 1911. Stats. 1911, p. 1256.]

Amended 1917; Stats. 1917, p. 159.

The amendment of 1917 follows:

§ 1. Tide-lands granted to Los Angeles. There is hereby granted to the city of Los Angeles, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to all tide-lands and submerged lands, whether filled or unfilled, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions, following, to wit:

(a) **Purposes for which lands may be used.** That said lands shall be used by said city, and by its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon for limited periods, in any event not to exceed thirty years for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods, in any event not to exceed thirty years for any and all purposes which shall not interfere with commerce or navigation, and are

not inconsistent with the trusts upon which said lands are held by the state of California;

(b) **Harbor improved without expense to state.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **No discrimination in rates.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city, or by its successors;

Right to fish reserved to people. Reserving, however, in the people of the state of California, the absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purposes. [Amendment approved April 20, 1917; Stats. 1917, p. 159.]

ACT 1991d.

An act to appropriate money to be expended under the direction of the state board of control in co-operation with the federal government to carry out the project adopted by congress for the protection of the navigability of Los Angeles and Long Beach harbors, and providing for the future completion of the entire project. [Approved May 15, 1917. Stats. 1917, p. 533. In effect July 27, 1917.]

The act appropriated \$250,000 for the purpose indicated.

ACT 1991e.

An act to appropriate money to be used as a revolving fund by the sixth district agricultural association for the purpose of creating, installing and maintaining special expositions at Exposition Park, Los Angeles. [Approved June 1, 1917. Stats. 1917, p. 1619.]

The act appropriated \$50,000 for the purpose indicated.

ACT 1991f.

An act to appropriate money to be expended under the direction of the state board of control in co-operation with the federal government to carry out the project adopted by Congress for the protection of the navigability of Los Angeles and Long Beach harbors. [Approved May 22, 1919. Stats. 1919, p. 777.]

TITLE 311.

LOS ANGELES COUNTY.

ACT 2016.

An act to validate bonds of the Los Angeles county flood control district and all proceedings relating thereto, and making final and con-

clusive, except as therein provided, the official canvass of election returns of the election at which said bonds were voted.

[Approved May 5, 1917. Stats. 1917, p. 239. In effect July 27, 1917.]

§ 1. Los Angeles county flood control district bonds validated. Bonds in the amount of four million four hundred fifty thousand dollars of the Los Angeles county flood control district, and all the acts and proceedings of said district, leading up to and including the authorizing and issuance of said bonds, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, which district was created by the Los Angeles county flood control act, approved June 12, 1915, and which bonds were authorized by virtue of an election held in said district on February 20, 1917, at which a majority of the votes cast were in favor of incurring such bonded indebtedness, as found and determined by the board of supervisors of said district upon canvassing such election returns, and which finding and determination of the result of said election shall be and is hereby declared to be final and conclusive against all persons except the state of California upon suit commenced by the attorney general. Any such suit must be commenced within thirty days after this act takes effect and not otherwise.

And all said bonds when issued and sold as in said act provided shall be and are hereby declared to be legal and valid obligations of said district, and the faith and credit of said Los Angeles county flood control district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds and said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings leading up thereto, and that they were duly authorized at said election.

TITLE 321.

MANUFACTURES.

ACT 2063.

An act to provide for the registration of factories, workshops, mills and other manufacturing establishments.

[Approved June 2, 1913. Stats. 1913, p. 444.]

Amended 1917; Stats. 1917, p. 270.

The amendment of 1917 follows:

§ 1. Registration of factories. Notice by commissioner of labor. The owner of any factory, workshop, mill or other manufacturing establishment, where five or more persons are employed, shall register such factory, workshop, mill or other manufacturing establishment with the bureau of labor statistics, giving the name of the owner, the name under which the business is carried on, the location of the plant, the address of the general offices or principal place of business and such other information as the commissioner of labor shall require. Such registration of existing factories, workshops, mills or other manufacturing establishments shall be made on or before January 1, 1914. All factories, workshops, mills or other manufacturing establishments hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory, work-

shop, mill or other manufacturing establishment the owner thereof shall file with the commissioner of the bureau of labor statistics the new address.

Whenever the commissioner of labor shall have been notified or otherwise becomes aware of the existence of a new factory, or factories, he shall forward a notification of said fact on or before the tenth day of each month to the state board of health and to the board of health or the health officer of the city and county wherein said factory or factories may be located.

TITLE 322.

MAPS.

ACT 2065.

An act requiring the recording of maps of subdivisions of land into lots for the purpose of sale, and prescribing the conditions on which such maps may be recorded, and prohibiting the selling or offering for sale of land by reference to said maps unless the same are recorded.

[Approved March 15, 1907. Stats. 1907, p. 290.]

Amended 1913, p. 568; 1915, p. 1512; 1919, pp. 164, 177, 725.

The amendments of 1919 follow:

§ 1. Map of subdivision must be recorded. Whenever any tract or subdivision of land shall be laid out into lots for the purpose of selling the same by reference to a map or plat, the owner or owners thereof shall cause to be made out and filed with the county recorder of the county in which the same is situated, an accurate map or plat thereof on cloth, drawn and attested to by a civil engineer or licensed surveyor from his own survey of the ground. Said engineer or surveyor shall, in making the surveys, leave sufficient permanent monuments so that another surveyor or engineer may retrace his work. The nature and location of these monuments shall be plainly shown on the map; provided, however, that on all maps of tracts filed for the purpose of showing as acreage, land previously subdivided into numbered or lettered lots or parcels, no survey or certificate by surveyor or engineer shall be required. The map shall also particularly set forth and describe:

Matters set forth. First—All parcels of ground within such tract or subdivision used for public purposes or offered for dedication for public uses, whether they be intended for public highways, parks, courts, commons or other public uses and their dimensions and boundaries and the courses of their boundary lines.

Second—All lots intended for sale, or reserved for private purposes and not offered for dedication to the public use, either by number or letter, and their dimensions and boundaries and the courses of their boundary lines. All parcels of land offered for dedication as public highways and not accepted by the proper authorities upon presentation to them, shall also be designated by number or letter.

Third—The exact location of such tract or subdivision of land into lots with reference to adjacent subdivisions of land into lots, the maps or plats of which have been previously recorded, if any, or if none, then with reference to corners of a United States survey, or to some natural

or artificial monument. [Amendment approved March 2, 1919; Stats. 1919, p. 177.]

§3. Consent of owner. Certificate of auditor. Bond. Land intended for public use. Upon every such map or plat there shall be indorsed a consent to the making thereof, signed by the owner or owners of the tract or other subdivision of land shown thereon, and also by all other persons whose consent is necessary to pass a clear title to such land, and acknowledged by all the signers in the same manner as conveyances of real property; also a certificate from the county auditor, and from the auditor or other proper officer of any municipal corporation in which any part of such tract or other subdivision is situated, showing that there are no liens for unpaid state, county, municipal or other taxes, except taxes not yet payable against said tract or subdivision of land or any part thereof; also where a tax lien attaches against any such tract or subdivision or any part thereof a certificate of the clerk of the board of supervisors that a bond has been filed with said board as provided herein; and the owner or owners of any tract, or other subdivision of land shown thereon, shall execute and file with the board of supervisors of the county wherein such tract, or subdivision, or any part thereof, is situated, a good and sufficient bond to be approved by and in amount to be fixed by said board of supervisors and by its terms made to inure to the benefit of the county wherein such tract, subdivision, or any part thereof, is situate, and conditioned for the payment of all taxes which are at the time of filing of said map, a lien against any such tract, or subdivision, or any part thereof, but not yet payable. Except that no tax bond, or certificate in regard to tax bond, by the clerk of the board of supervisors, shall be required on any map which may be recorded on or after the date upon which the taxes for the current year have become payable and before the date upon which the assessment for the next succeeding year is based. Upon every such map or plat which shows any parcels of land intended for public use and not previously dedicated therefor, there shall be indorsed a statement of the dedication of such parcels of land intended for public use, executed by the owner or owners, and by all other persons whose consent is necessary to pass a clear title to such parcels of ground to the public, and acknowledged by all persons executing the same in the same manner as conveyances of real property. [Amendment approved May 2, 1919; Stats. 1919, p. 164.]

§4. Approval of map by city or county governing body. Certificate of examination as to value of territory. Highways to conform to those surrounding. The map or plat so made, indorsed and acknowledged shall be submitted to the governing body of the city, city and county, or county having control of public highways in the territory shown on such map or plat, for the approval of such governing body before such map or plat is filed for record in the recorder's office; provided, that said map or plat shall not be accepted or approved by such governing body unless the same is accompanied by a certificate of the county surveyor and county assessor, if such tract or subdivision of land lies in unincorporated territory, or city engineer, if such there be, and the city assessor of any incorporated city or town, in which the whole or any part of such tract or subdivision of land is situated, showing that each

and every lot and block therein has been carefully examined as to its value for residence or commercial uses with their suggestions and recommendations to such governing body; and provided, further, that whenever such tract or subdivision of land lies within an incorporated city or town, the map or plat thereof shall first be submitted by the governing body thereof to the city planning commission, if such there be, of such city or town, or, if there be no city planning commission, to the city engineer, if such there be. Said city planning commission, or city engineer, shall report thereon to the governing body within ten days after receipt of said map or plat. If such tract or subdivision of land is in unincorporated territory but within three miles from the exterior boundaries of any city or town, the map or plat thereof shall first be submitted by the county board of supervisors to the city planning commission, if such there be, or to such city engineer as above provided of the city or town lying nearest to such tract or subdivision of land, whereupon such commission shall make an examination of such map or plat and submit a report thereon with its suggestions and recommendations to the governing body of the municipality. Said governing body shall thereupon submit a report thereon, with its suggestions and recommendations to the said county board of supervisors. Such governing body after considering the report of the city planning commission, or the city engineer, as the case may be, and said county board of supervisors, after considering the report of said governing body, shall approve or disapprove such map or plat within thirty days after the same is submitted to it as above provided. In the event of the failure, refusal or neglect of said city planning commission, or city engineer to so report within said ten days to the said governing body it shall then be the duty of said commission or city engineer to forthwith transmit said map or plat to said governing body for its action thereon. In the event of the failure, refusal or neglect of said governing body to so report to said county board of supervisors within twenty days after said county board has so filed said map or plat with said city planning commission, or city engineer, it shall then be the duty of said governing body to forthwith transmit said map or plat to said county board of supervisors for its action thereon. If approved, the said governing body or board of supervisors shall indorse, or cause to be indorsed, on said map or plat its approval of the same. Without such approval the said map or plat shall not be filed for record or be recorded. Such governing body may require the public highways, if any, offered for dedication by said map or plat and the parcel or parcels of land, if any, therein reserved or indicated for highway or right of way purposes, and not offered for dedication to public use, to be as wide as and to conform, as near as practicable, to the adjoining, surrounding or neighboring streets or highways of said city, city and county, or county. If such map or plat offers for dedication any highways said governing body or board of supervisors shall indorse thereon which of the highways so offered for dedication are accepted on behalf of the public, and thereupon such highways which have been so accepted, and no others, shall be and become dedicated to the public use. [Amendment approved May 18, 1919; Stats. 1919, p. 725.]

ACT 2066.

An act to cure defects in maps or plats filed for record prior to January 1, 1917, and in deeds or conveyances referring to such maps.

[Approved June 1, 1917. Stats. 1917, p. 1653.]

§1. Defects cured in maps filed prior to January 1, 1917. Any map or plat recorded or filed with the county recorder of the county in which the lands shown on said map or plat are situated prior to the first day of January, one thousand nine hundred seventeen, shall for all purposes be deemed to have been properly so recorded or filed and to comply with all the requirements of the laws in force at the time it was so recorded or filed, notwithstanding any defect, omission or informality in the preparation or execution of such map or plat or of the affidavits, certificates, acknowledgments, indorsements, acceptances of dedication or other matters thereon or required to be thereon by any law in force at the time of such recording or filing, and all sales or conveyances of land by reference to any such map or plat shall be valid as though said map or plat had been made, certified, indorsed, acknowledged and filed in all respects in accordance with the laws in force at the time said map or plat was so recorded or filed. And any deed or conveyance referring to any such map or plat which, prior to the passage hereof, was copied into the proper book of records kept in the office of any county recorder shall impart after the passage hereof notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission or informality in the preparation or execution of such map or plat or of the affidavits, certificates, acknowledgments, indorsements, acceptances of dedication or other matters thereon or required to be thereon by any law in force at the time of such recording or filing.

ACT 2067.

An act to provide for the exclusion of any portion of the lands embraced within a subdivision or tract of land and for the alteration or vacation of recorded maps or plats thereof.

[Approved May 7, 1919. Stats. 1919, p. 329. In effect July 22, 1919.]

§1. Exclusion of land from subdivision. Upon the application of the owners of at least two-thirds of the area of the land included within the boundaries of any tract or subdivision of land described in a recorded map or plat, the superior court of the county or city and county wherein such land is situated, may cause all or any portion of such land to be excluded from the subdivision or tract and the recorded map or plat thereof to be altered or vacated as hereinafter provided.

§2. Petition. The application provided for in section one hereof shall be made by filing in the office of the county clerk of the county or city and county in which the tract or subdivision, or that portion of the land sought to be excluded, is situated, a petition signed and verified by the owners of at least two-thirds of the total area of the land included within the boundaries of the tract or subdivision, as shown on the recorded map or plat, praying that all or such portions of the land included within such subdivision or tract as is described shall be excluded therefrom. Such petition shall also show the reasons therefor.

The land sought to be excluded shall be accurately and distinctly described by reference to the recorded map or plat or by an accurate survey. The petition shall further show the names and addresses of all other owners of the land in the subdivision or tract so far as the same are known to the petitioners.

§ 3. Notice of filing petition. Upon the filing of a petition as hereinbefore provided, any judge of the superior court of the county or city and county wherein such land is situated, shall make an order directing the clerk of such court to give notice of the filing of such petition. Said notice shall be for not less than thirty, nor more than fifty, days as shall be by such judge directed, by publication in some newspaper of general circulation within the county, or city and county, or if there is no newspaper published therein by posting in three of the principal places in the county or city and county. Such notice shall contain a statement of the nature of the petition together with a direction that any person may file his objection to the petition, in writing, at any time before the expiration of the time of posting or publication.

§ 4. Hearing of application. Exclusion by court. When the time of posting or publication has expired there shall be filed with the clerk of the superior court an affidavit showing due posting or publication, whereupon the court may if no objection has been filed, proceed without further notice to hear the application. If upon such hearing the petitioners shall produce to said court satisfactory evidence of the necessity of the exclusion of said lands, and that the owners to two-thirds of the area of the land included within such tract or subdivision are such petitioners, and that there is no reasonable objection to making such exclusion, the court may proceed to exclude the lands sought to be excluded by the petition, and alter or vacate any recorded map or plat thereof, and enter its decree accordingly.

§ 5. Hearing of objections. If objection is made to the petition which, in the judgment of the court is material, the court shall proceed to hear such objection and may adjourn the proceedings to such time as may be necessary upon proper notice to the petitioners.

§ 6. Public highway not affected. Filing of decree. The exclusion of any territory herein provided for or the alteration or vacation of any recorded map or plat, shall not affect or vacate the whole or any part of any public highway. The exclusion of any land herein provided for or the alteration or vacation of any recorded map or plat, shall be complete with the filing in the office of the county recorder of the county or city and county in which such land is situated, of a copy of the decree of the superior court. The county recorder shall make, upon the face of any such recorded map or plat a memorandum stating briefly that such map or plat has been altered or vacated, whichever the case may be, and giving the date and reference of such decree.

§ 7. New map filed. In case any land has been excluded and any map or plat altered pursuant to the provisions of this act, a new map or plat shall be filed with the county recorder in the manner provided by law showing the boundaries of such subdivision or tract as same appears after the exclusion and alteration.

TITLE 326.**MARKS AND BRANDS.****ACT 2103.**

An act requiring the labeling of articles offered for sale and intended for personal wear, manufactured in state penitentiaries, reform schools or other institutions supported at public expense, and requiring that notice that such goods are on sale, shall be conspicuously posted in places where said goods are offered for sale.

[Approved May 5, 1917. Stats. 1917, p. 249. In effect July 27, 1917.]

§ 1. Articles manufactured at state institutions must be labeled. No person, persons, firm or corporation, by themselves, their agents or employees shall sell, offer for sale or expose for sale, or have in his or their possession for sale, any article intended for personal wear which was manufactured at a state penitentiary, state reform school or at any other institution supported at public expense and located without the boundaries of the state of California, unless said article shall have affixed, stamped or imprinted thereon, a label in letters three-eighths of an inch in height, designating the state penitentiary, state reform school or other public institution, where said article was manufactured.

§ 2. Notice that articles manufactured at state institutions are for sale. No person, persons, firm or corporation, by themselves, their agents or employees shall sell, offer for sale or expose for sale, or have in his or their possession for sale, any article intended for personal wear which was manufactured at a state penitentiary, state reform school or at any other institution supported at public expense and located without the boundaries of the state of California unless there is kept on exhibition in a conspicuous place, where said article is exposed or offered for sale, a notice at least twelve inches in length by six inches in height, stating that goods so manufactured are on sale there.

§ 3. Penalty. Whoever shall knowingly violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

§ 4. Duty of district attorney. It shall be the duty of the district attorney of each and every county in this state, upon application, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district.

ACT 2104.

An act to perpetuate marks, brands and counterbrands established in the several counties of the state under sections three thousand one

hundred sixty-eight and three thousand one hundred sixty-nine of the Political Code, to provide methods of perpetuation and declaring all marks, brands and counterbrands not so perpetuated to be inoperative and void.

[Approved April 16, 1917. Stats. 1917, p. 138. In effect July 27, 1917.]

§ 1. Notice to perpetuate marks, brands, and counterbrands. The county recorder of each county in whose office there are recorded more than one hundred marks, brands and counterbrands under the provisions of section three thousand one hundred sixty-eight of the Political Code, shall, within thirty days after this law goes into effect, cause to be published in a newspaper of general circulation in such county, the following notice:

"Every person, who, under and by virtue of compliance with section three thousand one hundred sixty-eight of the Political Code, owns a mark, brand or counterbrand, must, within three months after final publication of this notice, notify the county recorder of his desire to continue and perpetuate such mark, brand and counterbrand. This notification must be in words of positive and reasonable intentment and must be either by registered letter or by personal application addressed to said county recorder. Any person failing to so continue and perpetuate such mark, brand and counterbrand, shall lose all right, title and interest therein.

First publication: (naming date).

Last publication: (naming date).

_____,
County recorder of _____ county."

§ 2. Publication. The notice set forth in section one shall be published six times at intervals of four weeks, final publication to be not more than five months later than the original publication thereof.

§ 3. Continuance of marks, etc. Every person desiring to continue and perpetuate any mark, brand and counterbrand must comply with the provisions set forth in the notice under section one, and the county recorder shall, upon such compliance, write or stamp opposite the record of such mark, brand or counterbrand the word "perpetuated."

§ 4. Marks, etc., deemed abandoned. At the termination of three months after final publication of notice set forth in section one, the county recorders of the several counties shall transfer the records of all marks, brands and counterbrands perpetuated under section three to a new book set apart for the purpose described in section three thousand one hundred sixty-eight of the Political Code, and all marks, brands and counterbrands in the custody of the county recorders of the several counties not so continued and perpetuated shall be deemed to have been abandoned by the owner thereof and to be inoperative and void.

§ 5. Sections of Political Code not affected by act. Nothing in this act shall be construed as repealing sections three thousand one hundred sixty-eight and three thousand one hundred sixty-nine of the Political Code.

TITLE 328.**MARSHALL MONUMENT.****ACT 2116.**

An act to provide for the appointment of a guardian for the Marshall monument and grounds, prescribing his duties and appropriating money therefor.

[Approved March 31, 1891. Stats. 1891, p. 424.]

Amended 1919, p. 1352.

The amendment of 1919 follows:

§ 3. Salary of guardian of Marshall monument. The guardian shall receive for his services seventy-five dollars per month, payable from the state treasury in the same manner as other state officers are paid. [Amendment approved May 27, 1919; Stats. 1919, p. 1352.]

TITLE 331.**MASTER AND SERVANT.****ACT 2135.**

An act prohibiting employers of labor from coercing employees in the purchase of things of value, and prescribing a penalty for the violation of the provisions hereof.

[Approved April 26, 1917. Stats. 1917, p. 207. In effect July 27, 1917.]

§ 1. Unlawful to force employee to patronize employer. It shall be unlawful for any employer of labor, or any officer, agent or employee of any employer of labor to make, adopt or enforce any rule or regulation compelling or coercing any employee to patronize said employer, or any other person, firm or corporation, in the purchase of any thing of value; provided, however, that nothing herein shall be interpreted as prohibiting any employer of labor from prescribing the weight, color, quality, texture, style, form and make of uniforms required to be worn by their employees.

§ 2. Penalty. Any person, whether as an individual, or as an agent or employee of a firm, or as an officer, agent or employee of a corporation, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

ACT 2139b.

An act to provide for the furnishing by public utility corporations, to employees thereof leaving their service, of service letters.

[Approved June 1, 1917. Stats. 1917, p. 1520. In effect July 31, 1917.]

§ 1. Service letters by public utility corporations. Every public utility corporation shall, upon request therefor made to it by any employee thereof leaving its service, give to such employee a letter cover-

ing and stating the period during which such service was and kind of service rendered to such corporation by such employee.

§ 2. Penalty. Every public utility corporation violating the provisions of this act shall, for each offense, suffer a fine of not less than twenty-five dollars, nor more than one hundred dollars; which fine shall be collected by the district attorney of the county in which such corporation has its principal place of business.

ACT 2140c.

An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments, to demand or receive any fee, gift or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics. [Approved April 12, 1915. Stats. 1915, p. 61.]

Repealed 1917; Stats. 1917, p. 257.

See post, Act 2143d.

ACT 2140e.

An act to require employers to pay the cost of bonds and photographs required of and furnished by employees or applicants for employment.

[Approved April 20, 1917. Stats. 1917, p. 151. In effect July 27, 1917.]

§ 1. Employer must pay for bond or photograph. Whenever a bond or photograph of an employee or applicant for employment is required by any employer of labor, said employer shall pay the cost of such bond or photograph.

§ 2. Penalty. Any person violating any provision of this act shall be guilty of a misdemeanor, punishable by a fine not less than twenty-five dollars nor exceeding five hundred dollars.

§ 3. Enforcement. The commissioner of the bureau of labor statistics of the state of California shall enforce the provisions of this act.

ACT 2141b.

An act regulating the sanitation and ventilation in and at camps where five or more persons are employed; and providing a penalty for the violation thereof.

[Approved May 29, 1913. Stats. 1913, p. 328.]

Amended 1915, p. 497; 1919, p. 244.

The amendments of 1919 follow:

§ 1. Camps to be kept clean. In or at any camp where five or more persons are employed, bunkhouses, tents or other suitable sleeping places must be provided for all the employees. Such bunkhouses, tents or other sleeping places must be in good structural condition, and so constructed as to provide shelter to the occupants against the elements and

so as to exclude dampness in inclement weather. The bunkhouses, tents and other sleeping places shall be kept in a cleanly state, and free from vermin and matter of an infectious and contagious nature, and the grounds around such bunkhouses, tents or other sleeping places shall be kept clean and free from accumulation of dirt, filth, garbage, and other deleterious matter. [Amendment approved May 5, 1919; Stats. 1919, p. 245.]

§ 2. Air space in bunkhouse. Bunks. Every bunkhouse, tent or other sleeping place used for the purpose of a lodging or sleeping apartment in such camp, shall contain sufficient air space to insure an adequate supply of fresh air for each person occupying such bunkhouse, tent or other sleeping place. Suitable bunks or beds shall be provided for all employees. Such bunks or beds shall be made of steel, canvas or other sanitary material, and shall be so constructed as to afford reasonable comfort to the persons occupying the same. [Amendment approved May 5, 1919; Stats. 1919, p. 245.]

§ 4. Bathing facilities. Toilet facilities. For every such camp there shall be provided convenient and suitable bathing facilities of a reasonable nature to suit conditions, which shall be kept in a clean and sanitary condition. For every such camp there shall be provided convenient and suitable privy or other toilet facilities, which shall be kept in a clean and sanitary state. A privy other than a water-closet shall consist of a pit at least two feet deep, with suitable shelter over the same, and the openings of the shelter and pit shall be inclosed by screening or other suitable fly netting. No privy pit shall be filled with excreta to nearer than one foot from the surface of the ground and the excreta in the pit shall be covered with earth, ashes, lime or other similar substance. [Amendment approved May 5, 1919; Stats. 1919, p. 245.]

§ 5. Garbage disposal. All garbage, kitchen wastes and other rubbish in such camp shall be deposited in suitable covered receptacles which shall be emptied daily or oftener if necessary, and the contents burned, buried or otherwise disposed of in such a way as not to be or become offensive or insanitary. All drainage from the kitchen sink shall be carried through a covered drain to a covered cesspool or septic tank or otherwise disposed of in such a way as not to become offensive or insanitary. [Amendment approved May 5, 1919; Stats. 1919, p. 245.]

§ 6. Duty of employees. It shall be the duty of any person, firm, corporation, agent or officer of a firm or corporation employing persons to work in or at camps to which the provisions of this act apply and the superintendent or overseer in charge of the work in or at such camps to carry out the provisions of this act. At every such camp such owner, superintendent or overseer shall appoint a responsible person to assist in keeping the camp clean. [Amendment approved May 5, 1919; Stats. 1919, p. 246.]

ACT 2142a.

An act to provide for semi-monthly pay days of laborers in the employ of any county of the first or second class.

[Approved May 22, 1917. Stats. 1917, p. 800. In effect July 27, 1917.]

§ 1. Semi-monthly pay days of county employees. The wages of all employees of any county of the first or second class, whose compensation

is based on a daily rate of payment, shall be paid at not less than two stated times in each calendar month, and at substantially equal intervals.

§ 2. Penalty for violation. Any officer, employer or agent of any county of the first or second class, or of any department or institution thereof, who fails, refuses or neglects to comply with the requirements of this act, in so far as the payments are prescribed or controlled by him, is guilty of a misdemeanor.

ACT 2142b.

An act to regulate the payment of wages or compensation for labor or service in private employments, establishing regular pay days, providing penalties for the violation of its provisions, authorizing the commissioner of the bureau of labor statistics to enforce this act, defining the duties of district attorneys relative to its enforcement, providing for the collection of certain penalties by civil action at the direction of said commissioner and for the disposition of penalties so collected; repealing an act entitled "An act providing for the time of payment of wages," approved May 1, 1911, as amended April 28, 1915, and repealing an act entitled "An act to regulate the payment of wages or compensation of employees in private employments; to provide for regular pay days in such employments; providing a penalty for the violation thereof; and authorizing the commissioner of the bureau of labor statistics to enforce the provisions of this act," approved June 8, 1915.

[Approved May 6, 1919. Stats. 1919, p. 294.]

§ 1. Wages of discharged employee. Whenever an employer discharges an employee, the wages or compensation for labor or service earned and unpaid at the time of such discharge shall become due and payable immediately. Whenever an employee not having a written contract for a definite period quits or resigns his employment, the wages or compensation shall become due and payable not later than seventy-two hours thereafter, unless such employee shall have given seventy-two hours previous notice of his intention to quit, in which latter case such employee shall be entitled to his wages or compensation at the time of quitting.

§ 2. Wages due semi-monthly. Exceptions. All wages or compensation other than those mentioned in section one of this act earned by any person in any employment not exempt by section eleven of this act, shall become due and payable semi-monthly or twice during each calendar month, on days to be designated in advance by the employer as the regular pay days; provided, however, that services rendered between the first and fifteenth days, inclusive, of any calendar month shall be paid for between the sixteenth and the twenty-sixth day of the month during which services were rendered, and for all services rendered between the sixteenth and the last day, inclusive, of any calendar month, said services shall be paid for between the first and tenth day of the following month; provided, however, that in agricultural, viticultural and horticultural pursuits, in stock or poultry raising, and in household domestic service, and when the employees

in the said employments are boarded and lodged by the employer, the wages or compensation due any employee remaining in such employment shall become due and payable monthly or once in each calendar month, on a day designated in advance by the employer as the regular pay day, but no two successive such pay days to be more than thirty-one days apart, and the payment or settlement shall include all amounts due for labor or service up to the regular pay day.

§ 3. What wages shall include. The wages or compensation subject to the provisions of this act shall include all amounts for labor or service performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, or other method of calculating the same, or whether the labor or service is performed under contract, subcontract, partnership, subpartnership, station plan, or other agreement for the performance of labor or service; provided, that the labor or service to be paid for is performed personally by the person demanding payment. Nothing contained in this act shall in any way limit or prohibit the payment of wages or compensation at more frequent intervals, or in greater amounts, or in full when or before due.

§ 4. Notice of time and place of payment. In case of strike. Every employer shall post and keep posted conspicuously at the place of work, if practicable, or otherwise where it can be seen as employees come or go to their place of work, or at the office or nearest agency for payment kept by the employer, a notice specifying the regular pay days and the time and place of payment, also any changes in those regards occurring from time to time. Every employee who is discharged shall be paid at the place of discharge, and every employee who quits or resigns shall be paid at the office or agency of the employer in the county or city and county where such employee has been performing the labor or service for the employer. All payments of money or compensation shall be made in the manner provided by law. In the happening of any strike, the unpaid wages or compensation earned by such striking employees shall become due and payable on the employer's next regular pay day, and the payment or settlement shall include all amounts due such striking employees without abatement or reduction, and the employer shall return to each such striking employee any deposit or money or other guaranty required by him from such employee for the faithful performance of the duties of the employment. Any violation of the provisions of this section shall be punishable as for a misdemeanor, and any failure to post any notice as in this section prescribed shall be deemed prima facie evidence of a violation of this act.

§ 5. Failure of employer to pay. In the event that an employer shall willfully fail to pay, without abatement or reduction, any wages or compensation of any employee who is discharged or who resigns or quits, as in section one of this act provided, then as a penalty for such nonpayment the wages or compensation of such employees shall continue from the due date thereof at the same rate until paid, or until an action therefor shall be commenced; provided, that in no case shall such wages continue for more than thirty days; and provided, further, that no such employee who secretes or absents himself to avoid pay-

ment to him or who refuses to receive the payment when fully tendered to him, including any penalty then accrued under the provisions of this section, shall be entitled to any benefit under this act for each time as he so avoids payment.

§ 6. Refusal of employer to pay. Any person, firm, association, or corporation, or agent, manager, superintendent, or officer thereof, who having the ability to pay, shall willfully refuse to pay the wages due and payable when demanded, as herein provided, or falsely deny the amount or validity thereof, or that the same is due, with intent to secure for himself, his employer or other person, any discount upon such indebtedness, or with intent to annoy, harass, or oppress, or hinder, or delay, or defraud, the person to whom such indebtedness is due, shall, in addition to any other penalty imposed upon him by this act, be guilty of a misdemeanor.

§ 7. Enforcement by bureau of labor statistics. It shall be the duty of the commissioner of the bureau of labor statistics to inquire diligently for any violations of this act, and to institute the actions for penalties herein provided, and to enforce generally the provisions of this act.

§ 8. Enforcement by district attorney. Nothing herein contained shall be construed to limit the authority of the district attorney of any county or city and county to prosecute actions, both civil and criminal, for such violations of this act as may come to his knowledge, or to enforce the provisions hereof independently and without specific direction of the commissioner of the bureau of labor statistics.

§ 9. Constitutionality. If any section, sentence, clause, or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, sentence, clause, or part thereof, irrespective of the fact that one or more sections, sentences, clauses, or parts be declared unconstitutional.

§ 10. Public employment excepted. Nothing in this act shall apply to the payment of wages or compensation of employees directly employed by any county, city and county, incorporated city or town, or other municipal corporation. Nor shall anything herein apply to employees directly employed by the state, any department, bureau, office, board, commission, or institution thereof. All other employments shall for the purposes of this act be deemed private employments and subject to the provisions hereof.

§ 11. Acts, Stats. 1911, p. 1268, Stats. 1915, p. 299, and Stats. 1915, p. 1292, repealed. An act entitled "An act providing for the time of payment of wages," approved May 1, 1911, as amended April 28, 1915; and an act entitled "An act to regulate the payment of wages or compensation of employees in private employments; providing a penalty for the violation thereof; and authorizing the commissioner of the bureau of labor statistics to enforce the provisions of this act," approved June 8, 1915, are hereby repealed; but such repeal shall not affect any prosecution or action for the violation of either of said acts commenced within the time allowed by the statute of limitations of actions.

ACT 2143.

An act providing for the time of payment of wages. [Approved May 1, 1911. Stats. 1911, p. 1268.]

Amended 1915, p. 299; repealed 1919, p. 294.

See Act 2142b.

ACT 2143b.

An act to regulate the payment of wages or compensation of employees in private employment to provide for regular pay days in such employments; providing a penalty for the violation thereof; and authorizing the commissioner of the bureau of labor statistics to enforce the provisions of this act. [Approved June 8, 1915. Stats. 1915, p. 1292.]

Repealed May 6, 1919; Stats. 1919, p. 294.

See Act 2142b.

ACT 2143c.

An act to promote the comfort, health, safety and general welfare of the people of this state as affected by injury causing the disability or death of employees in the course of their employment, providing for a complete plan of workmen's compensation by creating a liability on the part of immediate employers, principal employers, contracting employers and their insurance carriers to compensate employees and their dependants for such disability or death, irrespective of the fault of any party, providing the means and methods of enforcing such liability and providing for certain liens upon compensations; and regulating compensation insurance coverage against such liability, securing the payment of compensation and confirming the establishment and transactions of the state compensation insurance fund; and requiring safety in all employments and places of employment in this state and providing the means and methods of enforcing such safety; and requiring reports of industrial injuries; and providing penalties for offenses, as defined herein, by employers, their officers and agents, and by employees and other persons and corporations; and defining the powers and duties of the industrial accident commission under this act, and providing for a review of its orders, decisions and awards; and repealing sections two, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-five a, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six and eighty-seven of chapter one hundred seventy-six, Statutes of 1913, and all other acts and parts of acts inconsistent herewith, except sections one, three,

four, five, six, seven, eight, nine, ten, eleven, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, eighty-eight and ninety of said chapter one hundred seventy-six, Statutes of 1913.

[Approved May 23, 1917. Stats. 1917, p. 831. In effect January 1, 1918.]

Amended 1919, p. 910.

§ 1. Intention of act. Social public policy of state declared. This act and each and every part thereof is an expression of the police power and is also intended to make effective and apply to a complete system of workmen's compensation the provisions of section seventeen and one-half of article twenty and section twenty-one of article twenty of the constitution of the state of California. A complete system of workmen's compensation includes adequate provision for the comfort, health, safety and general welfare of any and all employees and those dependent upon them for support to the extent of relieving from the consequences of any injury incurred by employees in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment, full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury, full provision for adequate insurance coverage against the liability to pay or furnish compensation, full provision for regulating such insurance coverage in all its aspects including the establishment and management of a state compensation insurance fund, full provision for otherwise securing the payment of compensation, and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any matter arising under this act to the end that the administration of this act shall accomplish substantial justice in all cases expeditiously, inexpensively and without encumbrance of any character; all of which matters contained in this section are expressly declared to be the social public policy of this state, binding upon all departments of the state government.

§ 2. Title. This act shall be known and may be cited as the "workmen's compensation, insurance and safety act of 1917" and shall apply to the subjects mentioned in its title.

§ 3. Definitions. The following terms as used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

(1) "**Commission.**" The term "commission" means the industrial accident commission of the state of California created under the provisions of chapter one hundred seventy-six of the laws of 1913.

(2) "**Commissioner.**" The term "commissioner" means one of the members of the commission.

(3) "**Compensation.**" The term "compensation" means compensation under this act and includes every benefit or payment conferred by sections six to thirty-one, inclusive, of this act upon an injured employee, or in the event of his death, upon his dependents, without regard to negligence.

(4) **"Injury."** The term "injury," as used in this act, shall include any injury or disease arising out of the employment including injuries to artificial members. In case of aggravation of any disease existing prior to such injury, compensation shall be allowed only for such proportion of the disability due to the aggravation of such prior disease as may reasonably be attributed to the injury.

(5) **"Damages."** The term "damages" means the recovery allowed in an action at law as contrasted with compensation under this act.

(6) **"Person."** The term "person" includes an individual, firm, voluntary association, or a public, quasi-public or private corporation.

(7) **"Insurance carrier."** The term "insurance carrier" includes the state compensation insurance fund and any private company, corporation, mutual association, reciprocal or interinsurance exchange authorized under the laws of this state to insure employers against liability for compensation under this act and any employer to whom a certificate of consent to self-insure has been issued.

(8) **Singular and plural.** Whenever in this act the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included. [Amendment approved May 22, 1919; Stats. 1919, p. 911.]

§ 4. Assistant to attorney. The commission shall have power and authority to appoint an assistant to its attorney, who shall be an attorney at law of this state, and who shall hold office at the pleasure of the commission. It shall be the right and duty of such assistant attorney to perform any of the duties of the attorney of the commission under the direction of the commission or its attorney.

§ 5. Powers and duties. Said commission is hereby vested with full power, authority and jurisdiction under the provisions of this act and charged with the duties defined by the provisions of this act in addition to all other power, authority, jurisdiction and duties conferred upon it and exercised by it as heretofore created, constituted and existing.

§ 6a. Employer's liability. Misconduct of injured employee. (a) Liability for the compensation provided by this act, in lieu of any other liability whatsoever to any person, shall, without regard to negligence, exist against an employer for an injury sustained by his employees arising out of and in the course of the employment and for the death of any such employee if the injury shall proximately cause death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the injury, both the employer and employee are subject to the compensation provisions of this act.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his employment and is acting within the course of his employment.

(3) Where the injury is proximately caused by the employment, either with or without negligence, and is not caused by the intoxication of the injured employee, or is not intentionally self-inflicted.

(4) Where the injury is caused by the serious and willful misconduct of the injured employee, the compensation otherwise recoverable by him shall be reduced one-half; provided, however, that such miscon-

duct of the employee shall not be a defense to the claim of the dependents of said employee, if the injury results in death, or to the claim of the employee, if the injury results in a permanent partial disability equaling or in excess of seventy per cent of total; and provided, further, that such misconduct of said employee shall not be a defense where his injury is caused by the failure of the employer to comply with any provision of law, or any safety order of the commission, with reference to the safety of places of employment; and provided, further, that in case of an injury suffered by an employee under sixteen years of age, it shall be conclusively presumed that such injury was not caused by serious and willful misconduct.

(b) **Recovery of compensation.** Where such conditions of compensation exist, the right to recover such compensation, pursuant to the provisions of this act, shall be the exclusive remedy against the employer for the injury or death; provided, that where the employee is injured by reason of the serious and willful misconduct of the employer, or his managing representative, or if the employer be a partnership, on the part of one of the partners, or if a corporation, on the part of an executive or managing officer or general superintendent thereof, the amount of compensation otherwise recoverable for injury or death, as hereinafter provided, shall be increased one-half, any of the provisions of this act as to maximum payments or otherwise to the contrary notwithstanding; provided, however, that said increase of award shall in no event exceed two thousand five hundred dollars.

(c) **Liability.** In all other cases where the conditions of compensation do not concur, the liability of the employer shall be the same as if this act had not been passed. [Amendment approved May 22, 1919; Stats. 1919, p. 912.]

§ 7. **"Employer."** The term "employer" as used in sections six to thirty-one, inclusive, of this act shall be construed to mean: The state, and each county, city and county, city, school district, irrigation district, all other districts established by law, and all public corporations and quasi-public corporations and public agencies therein, and every person, firm, voluntary association, and private corporation, including any public service corporation, who has any person in service under any appointment or contract of hire, or apprenticeship, express or implied, oral or written, and the legal representative of any deceased employer. [Amendment approved May 22, 1919; Stats. 1919, p. 913.]

§ 8. **"Employee."** (a) The term "employee" as used in section six to thirty-one, inclusive, of this act shall be construed to mean: Every person in the service of an employer as defined by section seven hereof under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also including minors, whether lawfully or unlawfully employed, and all elected and appointed paid public officers, and all officers and members of boards of directors of quasi-public or private corporations, while rendering actual service for such corporations for pay, but excluding any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and also excluding any employee engaged in household domestic service, farm, dairy, agricultural, viticultural or horticultural labor, in stock or poultry raising and any person holding

an appointment as deputy clerk, deputy sheriff or deputy constable appointed for the convenience of such appointee, who receives no compensation from the county or municipal corporation or from the citizens thereof for services as such deputy; provided, that such last exclusion shall not deprive any person so deputized from recourse against any private person employing him for injury occurring in the course of and arising out of such employment.

(b) **"Independent contractor."** Partner receiving wages. Any person rendering service for another, other than as an independent contractor, or as expressly excluded herein, is presumed to be an employee within the meaning of this act. The term "independent contractor" shall be taken to mean, for the purposes of this act: Any person who renders service, other than manual labor, for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished. A working member of a partnership receiving wages irrespective of profits from such partnership shall be deemed an employee within the meaning of this section.

(c) **"Casual."** The term "casual" as used in this section shall be taken to refer only to employments where the work contemplated is to be completed in not exceeding ten working days, without regard to the number of men employed, and where the total labor cost of such work is less than one hundred dollars. The phrase "course of the trade, business, profession or occupation of his employer" shall be taken to include all services tending toward the preservation, maintenance or operation of the business, business premises or business property of the employer. The words "trade, business, profession or occupation of his employer" shall be taken to include any undertaking actually engaged in by him with some degree of regularity, the trade name, articles of incorporation or principal business of the employer to the contrary notwithstanding.

(d) **Watchmen.** Watchmen for nonindustrial establishments, paid by subscription by several persons, shall not be held to be employees within the meaning of this act. In other cases where watchmen, paid by subscription by several persons, have at the time of the injury sustained by them taken out and maintained in full force and effect insurance upon themselves as self-employing persons conferring benefits equal to those conferred by this act, the employer shall not be liable under this act.

(e) **Employees of state, etc.** It shall not be a defense to the state, or any political subdivision or institution thereof, or public or quasi-public corporation, that a person injured while rendering service for it was not lawfully employed by reason of the violation of any civil service or other law, rule, or regulation respecting the hiring of employees.

(f) **Workmen under partnership agreement.** Workmen associating themselves under a partnership agreement, the principal purpose of which is the performance of the labor on a particular piece of work, shall be deemed employees of the person having such work executed, and, in the event the average weekly earnings are not otherwise ascertainable, shall be deemed to be employed at an average weekly wage of twelve

dollars; provided, however, that if such workmen shall have taken out and maintained in full force and effect insurance, in an insurance carrier as defined in this act, insuring to themselves and all persons employed by them benefits identical with those conferred by this act, the person for whom such work is to be done shall not be liable as an employer under this act.

§ 9. Medical treatment. Change of physicians. Employer maintaining hospital staff. Where liability for compensation under this act exists, such compensation shall be furnished or paid by the employer and be as provided in the following schedule:

(a) Such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches and apparatus, including artificial members, as may reasonably be required to cure and relieve from the effects of the injury, the same to be provided by the employer, and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same; provided, that if the employee so requests, the employer shall tender him one change of physicians and shall nominate at least three additional practicing physicians competent to treat the particular case, or as many as may be available if three cannot reasonably be named, from whom the employee may choose; the employee shall also be entitled, in any serious case, upon request, to the services of a consulting physician to be provided by the employer; all of said treatment to be at the expense of the employer. If the employee so requests, the employer must procure certification by the commission or a commissioner of the competency for the particular case of the consulting or additional physicians; provided, further, that the foregoing provisions regarding a change of physicians shall not apply to those cases where the employer maintains, for his own employees, a hospital and hospital staff, the adequacy and competency of which have been approved by the commission. Nothing contained in this section shall be construed to limit the right of the employee to provide, in any case, at his own expense, a consulting physician or any attending physicians whom he may desire. Controversies between employer and employee, arising under this section, shall be determined by the commission, upon the request of either party.

(b) **Time of disability payments.** If the injury causes temporary disability, a disability payment which shall be payable for one week in advance as wages on the eighth day after the injured employee leaves work as a result of the injury. If the injury causes permanent disability, a disability payment which shall be payable for one week in advance as wages on the eighth day after the injury. Such indemnity shall thereafter be payable on the employer's regular pay day, but not less frequently than twice in each calendar month, unless otherwise ordered by the commission, subject, however, to the following limitations:

(1) **Disability less than seven days.** If the period of disability does not last longer than seven days from the day the employee leaves work as the result of the injury, no disability payment whatever shall be recoverable.

(2) **Disability more than seven days.** If the period of disability lasts longer than seven days from the day the employee leaves work as the

result of the injury, no disability payment shall be recoverable for the first seven days of disability suffered.

2. Amount of disability payments. The disability payment shall be as follows:

(1) **Temporary disability.** If the injury causes temporary total disability, sixty-five per cent of the average weekly earnings during the period of such disability, consideration being given to the ability of the injured employee to compete in an open labor market;

(2) **Same.** If the injury causes temporary partial disability, sixty-five per cent of the weekly loss in wages during the period of such disability;

(3) **Same.** If the temporary disability caused by the injury is at times total and at times partial the weekly disability payment during the period of each such total or partial disability shall be in accordance with paragraphs one and two of this subdivision respectively;

(4) **Aggregate disability payments.** Paragraphs one, two, and three of this subdivision shall be limited as follows: Aggregate disability payments for a single injury causing temporary disability shall not exceed three times the average annual earnings of the employee, nor shall the aggregate disability period for such temporary disability in any event extend beyond two hundred forty weeks from the date of the injury.

(5) **Computation of payments when disability permanent.** If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the disability payment computed and allowed as follows: For a one per cent disability, sixty-five per cent of the average weekly earnings for a period of four weeks; for a ten per cent disability, sixty-five per cent of the average weekly earnings for a period of forty weeks; for a twenty per cent disability, sixty-five per cent of the average weekly earnings for a period of eighty weeks; for a thirty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred twenty weeks; for a forty per cent disability, sixty-five per cent of the average weekly earnings for a period of one hundred sixty weeks; for a fifty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred weeks; for a sixty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks; for a seventy per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks, and thereafter ten per cent of such weekly earnings during the remainder of life; for an eighty per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter twenty per cent of such weekly earnings during the remainder of life; for a ninety per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter thirty per cent of such weekly earnings during the remainder of life; for a hundred per cent disability, sixty-five per cent of the average weekly earnings for a period of two hundred forty weeks and thereafter forty per cent of such weekly earnings during the remainder of life.

(6) **Same.** The payment for permanent disabilities intermediate to those fixed by the foregoing schedule shall be computed and allowed as follows: If under seventy per cent, sixty-five per cent of the average weekly earnings for four weeks for each one per cent of disability; if seventy per cent or over, sixty-five per cent of the average weekly earnings for two hundred forty weeks, and thereafter one per cent of such weekly earnings for each one per cent of disability in excess of sixty per cent to be paid during the remainder of life.

(7) **Same.** In determining the percentages of permanent disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured employee, and his age at the time of such injury, consideration being given to the diminished ability of such injured employee to compete in an open labor market.

(8) **Only one payment.** Where an injury causes both temporary and permanent disability, the injured employee shall not be entitled to both a temporary and permanent disability payment, but only to the greater of the two.

(9) **Permanent disabilities presumed to be total.** The following permanent disabilities shall be conclusively presumed to be total in character: Loss of both eyes or the sight thereof; loss of both hands or the use thereof; an injury resulting in a practically total paralysis; an injury to the brain resulting in incurable imbecility or insanity. In all other cases, permanent total disability shall be determined in accordance with the fact.

(10) **Computation of percentage of permanent disability.** The percentage of permanent disability caused by any injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any injury previously suffered or any permanent disability caused thereby.

(11) **Schedule for determination of permanent disabilities.** The commission may prepare, adopt, and from time to time amend, a schedule for the determination of the percentages of permanent disabilities, such table to be based upon the proper combinations of the factors indicated in subdivision seven above. Such schedule shall be available for public inspection and without formal introduction in evidence shall be prima facie evidence of the percentage of permanent disability to be attributed to each injury covered by said schedule.

3. Death of injured employee. The death of an injured employee shall not affect the liability of the employer under subsections (a) and (b) of this section, so far as such liability has accrued and become payable at the date of the death, and any accrued and unpaid compensation shall be paid to the dependents, if any, or, if there are no dependents, to the personal representative of the deceased employee or heirs or other persons entitled thereto, without administration, but such death shall be deemed to be the termination of the disability.

(c) **Death benefits.** If the injury causes death, either with or without disability, the burial expense of the deceased employee as hereinafter limited and a death benefit which shall be payable in installments equal to sixty-five per cent of the average weekly earnings of the de-

ceased employee, upon the employer's regular pay day, but not less frequently than twice in each calendar month, unless otherwise ordered by the commission, which death benefit shall be as follows:

(1) **If deceased employee leaves dependents.** In case the deceased employee leaves a person or persons wholly dependent upon him for support, such dependents shall be allowed the reasonable expense of his burial, not exceeding one hundred dollars, and a death benefit, which shall be a sum sufficient, when added to the disability indemnity which at the time of death has accrued and become payable, under the provisions of subsection (b) hereof, and the said burial expense, to make the total disability indemnity, cost of burial and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred thirty-three dollars and thirty-three cents nor more than one thousand six hundred sixty-six dollars and sixty-six cents.

(2) **If employee leaves persons partially dependent.** In case the deceased employee leaves no person wholly dependent upon him for support, but one or more persons partially dependent therefor, the said dependents shall be allowed the reasonable expense of his burial, not to exceed one hundred dollars, and, in addition thereto, a death benefit which shall amount to three times the annual amount devoted by the deceased to the support of the person or persons so partially dependent; provided, that the death benefit shall not be greater than a sum sufficient, when added to the disability indemnity which, at the time of the death, has accrued and become payable under the provisions of subsection (b) hereof, together with the cost of the burial of such deceased employee, to make the total disability indemnity, cost of burial and death benefit equal to three times his average annual earnings, such average annual earnings to be taken at not less than three hundred thirty-three dollars and thirty-three cents nor more than one thousand six hundred sixty-six dollars and sixty-six cents.

(3) **If no dependents.** If the deceased employee leaves no person dependent upon him for support, the death benefit shall consist of the reasonable expense of his burial, not exceeding one hundred dollars and such other benefit as may be provided by law.

(d) **Payments discharge employer.** Payment of compensation in accordance with the order and direction of the commission shall discharge the employer from all claims therefor. [Amendment approved May 22, 1919; Stats. 1919, p. 913.]

§ 10. **Inspection of hospital facilities. Reports of receipts, etc. Facilities declared inadequate.** The commission shall have power to inspect and determine the adequacy of hospitals and hospital facilities supplied by employers or by mutual associations of employees, with or without the concurrence of the employer, for the treatment of injuries coming within the provisions of this act. No part of any contribution paid by employees or deducted from their wages for the maintenance of such hospital facilities shall be devoted to the payment of any portion of the cost of providing compensation prescribed by this act. Nothing contained in this section shall be taken to prevent any hospital association or medical department furnishing the treatment prescribed in this

act free of charge to employees. Every such hospital shall make to the commission from time to time, upon demand, but not less frequently than once a year, reports of receipts, disbursements and services rendered to or for employees. If in the judgment of the commission the services or equipment of any hospital are inadequate to meet the reasonable requirements of medical treatment contemplated in section 9 (a) of this act, the commission may, after notice and an opportunity to be heard, declare such facilities to be inadequate and thereafter injured employees of such employer may procure treatment elsewhere, and the reasonable cost thereof shall be a charge against such employer under said section 9 (a). Any finding of the commission after such notice, determining the fact of such inadequacy, shall be conclusive evidence in any proceeding for compensation of the fact of such inadequacy during the period covered by such finding. Such finding of inadequacy may be amended, modified or rescinded by the commission at any time upon good cause appearing therefor.

§ 11. Right to institute proceedings barred, when. (a) Unless compensation is paid or an agreement for its payment made within the time limited in this section for the institution of proceedings for its collection, the right to institute such proceedings shall be barred; provided, that the filing of an application with the commission for any portion of the benefits prescribed by this act shall render this section inoperative as to all further claims of any person or persons for compensation arising from the same transaction, and the right to present such further claims shall be governed by the provisions of section twenty (d) and section sixty-five (b) of this act.

(b) **Periods within which proceedings for collection may be commenced.** The periods within which proceedings for the collection of compensation may be commenced are as follows:

(1) Proceedings for the collection of the benefit provided by subsection (a) of section 9 or for the collection of the disability payment provided by subsection (b) of said section 9 must be commenced within six months from the date of the injury, except as otherwise provided in this act.

(2) Proceedings for the collection of the death benefit provided by subsection (c) of said section 9 must be commenced within one year from the date of death, and in any event within two hundred forty weeks from the date of the injury, and can only be maintained when it appears that death ensued within one year from the date of the injury, or that the injury causing death also caused disability which continued to the date of the death and for which a disability payment was made, or an agreement for its payment made, or proceedings for its collection commenced within the time limited for the commencement of proceedings for the recovery of the disability payment.

(c) The payment of compensation, or any part thereof, or agreement therefor, shall have the effect of extending the period within which proceedings for its collection may be commenced, six months from the date of the agreement or last payment of such compensation, or any part thereof, or the expiration of the period covered by any such payment; provided, however, that nothing contained in this section shall be construed to bar the right of any injured employee to institute pro-

ceedings for the collection of compensation within two hundred forty-five weeks after the date of the injury upon the grounds that the original injury has caused new and further disability; and the jurisdiction of the commission, in such cases, shall be a continuing jurisdiction at all times within such period; provided, further, that the provisions of this section shall not apply to an employee who is totally disabled and bed-ridden as a result of his injury, during the continuance of such condition or until the expiration of six months thereafter.

(d) **Guardian for minor or incompetent.** If an injured employee, or in the case of his death, one or more of his dependents, shall be under twenty-one years of age or incompetent at any time when any right or privilege accrues to such person under the provisions of this act, a general guardian, appointed by the court, or a guardian ad litem or trustee appointed by the commission or a commissioner may, on behalf of any such person, claim and exercise any such right or privilege with the same force and effect as if no such disability existed; and no limitation of time provided by this act shall run against any such person under twenty-one years of age or incompetent unless and until such guardian or trustee is appointed. The commission shall have power to determine the fact of the minority or incompetency of any injured employee and may appoint a trustee to receive and disburse compensation payments for the benefit of such minor or incompetent and his family.

(e) **Refusal to submit to medical treatment.** No compensation shall be payable in case of the death or disability of an employee if his death is caused, or if and so far as his disability is caused, continued, or aggravated, by an unreasonable refusal to submit to medical treatment, or to any surgical treatment, the risk of which is, in the opinion of the commission, based upon expert medical or surgical advice, inconsiderable in view of the seriousness of the injury.

(f) **Previous disability does not affect later disability.** The fact that an employee has suffered a previous disability, or receives compensation therefor, shall not preclude him from compensation for a later injury, or his dependents from compensation for death resulting therefrom, but in determining compensation for the later injury, or death resulting therefrom, his average annual earnings shall be fixed at such sum as will reasonably represent his annual earning capacity at the time of the later injury.

(g) **Payments not due employee.** Any payment, allowance or benefit received by the injured employee during the period of his incapacity, or by his dependents in the event of his death, which by the terms of this act was not then due and payable or when there is any dispute or question concerning the right to compensation, shall not, in the absence of any agreement, be construed to be an admission of liability for compensation on the part of the employer, or the acceptance thereof as a waiver of any right or claim which the employee or his dependents may have against the employer, but any such payment, allowance or benefit may be taken into account by the commission in fixing the amount of the compensation to be paid.

(h) **Affirmative defense.** The running of the period of limitations prescribed by this section is an affirmative defense and operates to bar the

remedy and not to extinguish the right of the employee. It may be waived, and failure to present such defense prior to the submission of the cause for decision shall be a sufficient waiver.

§ 12. Average annual earnings. (a) The average annual earnings referred to in section 9 hereof shall be fifty-two times the average weekly earnings referred to in said section; in computing such earnings the average weekly earnings shall be taken at not less than six dollars and forty-one cents nor more than thirty-two dollars and five cents, and three times the average annual earnings shall be taken at not less than one thousand dollars nor more than five thousand dollars, and between said limits said average weekly earnings shall be arrived at as follows:

(1) **Average weekly earnings.** If the injured employee has worked in the same employment, whether for the same employer or not, during at least two hundred sixty days of the year preceding his injury, his average weekly earnings shall consist of ninety-five per cent of six times the daily earnings at the time of such injury where the employment is for six full working days a week. Where his employment is for five, five and one-half, six and one-half or seven working days a week, the average weekly earnings shall be ninety-five per cent of five, five and one-half, six and one-half or seven times the daily earnings at the time of the injury, as the case may be.

(2) If the injured employee has not so worked in such employment during at least two hundred sixty days of such preceding year, his average weekly earnings shall be based upon the daily earnings, wage or salary of an employee of the same class working at least two hundred sixty days of such preceding year in the same or a similar kind of employment in the same or a neighboring place, computed in accordance with the provisions of the preceding subdivision.

(3) **If earnings be irregular.** If the earnings be irregular or specified to be by the week, month, or other period, then the average weekly earnings mentioned in subdivisions (1) and (2) above shall be ninety-five per cent of the average earnings during such period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.

(4) **When less than five days or seasonal.** Where the employment is for less than five days per week or is seasonal or where for any reason the foregoing methods of arriving at the average weekly earnings of the injured employee can not reasonably and fairly be applied, such average weekly earnings shall be taken at ninety-five per cent of such sum as shall reasonably represent the average weekly earning capacity of the injured employee at the time of his injury, due consideration being given to his actual earnings from all sources and employments during the year preceding his injury; provided, that the earnings from other occupations shall not be allowed in excess of the rate of wages paid at the time of the injury.

(b) **Overtime, board, etc.** In determining such average weekly earnings, there shall be included overtime and the market value of board, lodging, fuel, and other advantages received by the injured employee, as part of his remuneration, which can be estimated in money, but such average weekly earnings shall not include any sum which the em-

ployer may pay to the injured employee to cover any special expenses entailed on him by the nature of his employment.

(c) **If injured employee is under twenty-one.** If the injured employee is under twenty-one years of age, and his incapacity is permanent, his average weekly earnings shall be deemed, within the limits fixed, to be the weekly sum that under ordinary circumstances he would probably be able to earn after attaining the age of twenty-one years, in the occupation in which he was employed at the time of the injury or in any occupation to which he would reasonably have been promoted if he had not been injured, and if such probable earnings after attaining the age of twenty-one years can not reasonably be determined, such average weekly earnings shall be based upon three dollars a day for a six-day week.

§ 13. Weekly loss in wages in case of temporary partial disability. The weekly loss in wages in case of temporary partial disability shall consist of the difference between the average weekly earnings of the injured employee, computed according to the provisions of section nine, and the weekly amount which the injured employee will probably be able to earn during the disability, to be determined in view of the nature and extent of the injury. In computing such probable earnings due regard shall be given to the ability of the injured employee to compete in an open labor market. If evidence of exact loss of earnings be lacking, such weekly loss in wages may be computed from the proportionate loss of physical ability or earning power caused by the injury.

§ 14. Who are deemed wholly dependent. (a) The following shall be conclusively presumed to be wholly dependent for support upon a deceased employee; provided, that these presumptions shall not apply in favor of aliens who are nonresidents of the United States at the time of the injury.

(1) A wife upon a husband with whom she was living at the time of his injury, or for whose support such husband was legally liable at the time of his injury.

(2) A child or children under the age of eighteen years, or over said age, but physically or mentally incapacitated from earning, upon the parent with whom he or they are living at the time of the injury of such parent or for whose maintenance such parent was legally liable at the time of injury, there being no surviving dependent parent.

(b) In all other cases, questions of entire or partial dependency and questions as to who constitute dependents and the extent of their dependency shall be determined in accordance with the fact, as the fact may be at the time of the injury of the employee.

(c) No person shall be considered a dependent of any deceased employee unless in good faith a member of the family or household of such employee, or unless such person bears to such employee the relation of husband or wife, child, posthumous child, adopted child or stepchild, father or mother, father-in-law or mother-in-law, grandfather or grandmother, brother or sister, uncle or aunt, brother-in-law or sister-in-law, nephew or niece.

(d) **Distribution of death benefit.** 1. If there is one or more persons wholly dependent for support upon a deceased employee, such person

or persons shall receive the entire death benefit, and any person or persons partially dependent shall receive no part thereof.

2. If there is more than one such person wholly dependent for support upon a deceased employee, the death benefit shall be divided equally among them.

3. If there is more than one person partially dependent for support upon a deceased employee, and no person wholly dependent for support, the amount allowed as a death benefit shall be divided among the persons so partially dependent in proportion to the relative extent of their dependency.

(e) **Commission may reassign death benefit.** The commission may, anything in this act contained to the contrary notwithstanding, set apart or reassign the death benefit to any one or more of the dependents in accordance with their respective needs and as may be just and equitable, and may order payment to a dependent subsequent in right, or not otherwise entitled, upon good cause being shown therefor. Such death benefit shall be paid to such one or more of the dependents of the deceased or to a trustee appointed by the commission or a commissioner for the benefit of the person or persons entitled, as may be determined by the commission. The person to whom the death benefit is paid for the use of the several beneficiaries shall apply the same in compliance with the findings and directions of the commission. In the event of the death of a dependent beneficiary of any deceased employee, if there be no surviving dependent, the death of such dependent shall terminate the death benefit, which shall not survive to the estate of such deceased dependent, except that payments of such death benefit accrued and payable at the time of the death of such sole remaining dependent shall be paid upon the order of the commission to the heirs of such dependent or, if none, to the heirs of the deceased employee, without administration. [Amendment approved May 22, 1919; Stats. 1919, p. 917.]

§ 15. Notice to employer. No claim to recover compensation under this act shall be maintained unless within thirty days after the occurrence of the injury which is claimed to have caused the disability or death, notice in writing stating the name and the address of the person injured, the time and the place where the injury occurred, and the nature of the injury, and signed by the person injured or someone in his behalf, or in case of his death, by a dependent or someone in his behalf, shall be served upon the employer; provided, however, that knowledge of such injury, obtained from any source, on the part of such employer, his managing agent, superintendent, foreman, or other person in authority, or knowledge of the assertion of a claim of injury sufficient to afford opportunity to the employer to make an investigation into the facts, shall be equivalent to such service; and provided further, that the failure to give any such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under this act if it is found as a fact in the proceedings for the collection of the claim that there was no intention to mislead or prejudice the employer in making his defense, and that he was not in fact so misled or prejudiced thereby.

§ 16. Medical examination of employee. (a) Whenever the right to compensation under this act would exist in favor of any employee, he shall, upon the written request of his employer, submit from time to

time, as may be reasonable, to examination by a practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any physician selected by the commission or any member or referee thereof.

(b) **If employee refuses to submit to examination.** The request or order for such examination shall fix a time and place therefor, due consideration being given to the convenience of the employee and his physical condition and ability to attend at the time and place fixed. The employee shall be entitled to have a physician provided and paid for by himself present at any examination required by his employer. So long as the employee, after such written request of the employer, shall fail or refuse to submit to such examination or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended; and if he shall fail or refuse to submit to examination after direction by the commission, or any member or referee thereof, or shall in any way obstruct the same, his right to the disability payments which shall accrue during the period of such failure, refusal or obstruction, shall be barred. Any physician who shall make or be present at any such examination may be required to report or testify as to the results thereof.

§ 17. (a) **Hearing on disputes. Service of notice.** Upon the filing with the commission by any party in interest, his attorney, or other representative authorized in writing, of an application in writing stating the general nature of any dispute or controversy concerning compensation, or concerning any right or liability arising out of, or incidental thereto, jurisdiction over which is vested by this act in the commission, a time and place shall be fixed for the hearing thereof, which hearing, unless otherwise agreed to by all the parties thereto, must be held not less than ten days nor more than thirty days after the filing of such application. The person filing such application shall be known as the applicant and the adverse party shall be known as the defendant. A copy of said application, together with a notice of the time and place of hearing thereof, shall forthwith be served upon all adverse parties and may be served either as a summons in a civil action or in the same manner as any other notice that is authorized or required to be served under the provisions of this act. A notice of the time and place of hearing shall also be served upon the applicant.

(b) **Jurisdiction of commission.** The jurisdiction of the commission shall include any controversy relating to or arising out of the provisions of subsection (a) of section nine of this act, unless an express agreement shall have been made between the persons or institutions rendering such treatment and the employer or insurance carrier fixing the amount to be paid for the services.

(c) **But one cause of action.** There shall be but one cause of action for each transaction coming within the provisions of this act, and all claims brought for medical expense, disability payments, death benefits, burial expense, liens or any other matter arising out of such transaction may, in the discretion of the commission, be joined in the same proceeding at any time.

(d) **Death of employer.** The death of an employer subsequent to the sustaining of an injury by an employee shall not impair the right of such

employee to proceed before the commission against the estate of such employer, and the failure of such employee or his dependents to cause the claim to be presented to the executor or administrator of the estate shall not in any way bar or suspend such right. [Amendment approved May 22, 1919; Stats. 1919, p. 918.]

§ 18. Defendant's answer. (a) If any defendant desires to disclaim any interest in the subject matter of the claim in controversy, or considers that the application is in any respect inaccurate or incomplete, or desires to bring any fact, paper or document to the attention of the commission as a defense to the claim, or otherwise, he may, within five days after the service of the application upon him, file with or mail to the commission his answer setting forth the particulars in which the application is inaccurate or incomplete, and the facts upon which he intends to rely. A copy of such answer must be forthwith served upon all adverse parties. Evidence upon matters not pleaded by answer shall be allowed only upon such terms and conditions as may be imposed by the commission or commissioner or referee holding the hearing.

(b) **Application for relief.** If the defendant fails to appear or answer, no default shall be taken against him, but the commission shall proceed to the hearing of the matter upon such terms and conditions as it may deem proper. Such defendant failing to appear or answer, or subsequently contending that no service was made upon him, or claiming to be aggrieved in any other manner by want of notice of the pendency of the proceedings, may apply to the commission for relief substantially in accordance with the provisions of section four hundred seventy-three of the Code of Civil Procedure, and the commission is hereby authorized to afford such relief. No right to relief, including the claim that the findings and award of the commission or judgment entered thereon are void upon their face, shall accrue to such defendant in any court unless prior application shall have been made to the commission in accordance with this subsection, and in no event shall any application to any court be allowed except as prescribed in sections sixty-seven and sixty-eight of this act.

(c) **Dismissal of application.** If upon the filing of an application, such application shows upon its face that the applicant is not entitled to compensation, the commission may, upon its own motion or upon the motion of the adverse party, and after opportunity to the applicant to be heard orally or in writing, and upon good cause appearing therefor, dismiss the application prior to any hearing thereon. The pendency of such motion or notice of intended dismissal shall not, unless otherwise ordered by the commission, delay the hearing upon the application upon its merits.

(d) **Attachment of defendant's property.** Upon the filing of an application by or on behalf of an injured employee or his dependents or any other party in interest, the commission may, in its discretion, in the cases mentioned in section four hundred twelve of the Code of Civil Procedure, direct the county clerk of any county or city and county to issue writs of attachment authorizing the sheriff to attach the property of the defendant in an amount not to exceed the greatest probable award against him in such matter, to be fixed by the commission, as security for the payment of any compensation which may there-

after be awarded. The provisions of part two, title seven, chapter four, of the Code of Civil Procedure of this state, as far as applicable to proceedings before the commission, shall govern the proceedings upon attachment, and the commission shall be substituted for the superior court in said provisions for the purpose of this act. No writ of attachment shall be issued except upon the order of the commission or a commissioner, and such order shall not be made where it appears from the application or affidavit in support thereof that the employer was, at the time of the injury to the employee, insured against liability imposed by this act in any insurance carrier licensed to do business in the state of California. If it should at any time after the levying of an attachment be made to appear that such employer was so insured, and the requisites for dismissing said employer from the proceeding and substituting the insurance carrier as defendant under any of the methods prescribed under section thirty (e) of this act be established, the commission must forthwith discharge the attachment. In levying such attachment, preference must be given to the real property of the employer.

§ 19. Pleadings. Hearing. Testimony. (a) No pleadings, other than the application and answer, shall be required. The hearing on the application may be adjourned from time to time and from place to place in the discretion of the commission or commissioner or referee holding such hearing. Either party shall have the right to be present at any hearing, in person or by attorney or by any other agent, and to present such testimony as shall be pertinent under the pleadings, but the commission may, with or without notice to either party, cause testimony to be taken, or inspection of the premises where the injury occurred to be made, or the time-books and pay-roll of the employer to be examined by any commissioner or referee appointed by the commission, and may from time to time direct any employee claiming compensation to be examined by a regular physician; the testimony so taken and the results of any such inspection or examination to be reported to the commission for its consideration.

(b) **Stipulation of facts.** The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the commission. The commission may thereupon make its findings and award based upon such stipulation, or may in its discretion set the matter down for hearing and take such further testimony or make such further investigations as may be necessary to enable it to completely determine the matter in controversy.

(c) **Evidence.** The commission may receive as evidence, either at or subsequent to a hearing, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing:

(1) Reports of attending or examining physicians.

(2) Reports of special investigators appointed by the commission or a commissioner or referee to investigate and report upon any scientific or medical question.

(3) Reports of employers, containing copies of time sheets, book accounts, reports and other records, properly authenticated.

(4) Properly authenticated copies of hospital records of the case of the injured employee.

(5) All publications of the commission.

(6) All official publications of state and United States governments.

(7) Excerpts from expert testimony received by the commission upon similar issues of scientific fact in other cases and the prior decisions of the commission upon such issues; provided, however, that transcripts of all testimony taken without notice and copies of all reports and other matters added to the record, otherwise than during the course of an open hearing, be served upon the parties to the proceeding, and opportunity be given to produce testimony in explanation or rebuttal before decision is rendered.

(d) **Affirmative defenses.** The burden of proof lies upon the party holding the affirmative of the issue. The following are affirmative defenses, and the burden of proof shall rest upon the employer to establish them:

(1) That an injured person claiming to be an employee is an independent contractor or otherwise excluded from the protection of this act, where there is proof that such injured person was at the time of his injury actually performing service for the alleged employer.

(2) Intoxication of an employee causing his injury.

(3) Willful misconduct of an employee causing his injury.

(4) Aggravation of disability by unreasonable conduct of the employee.

(5) Prejudice to the employer by failure of the employee to give notice, as required by section fifteen.

(e) **Autopsy.** Where it is represented to the commission, either before or after the filing of an application, that an employee has died as a result of injuries sustained in the course of his employment, the commission may require an autopsy, and the report of the physician performing such autopsy may be received in evidence in any proceedings theretofore or thereafter brought. If at the time such autopsy is requested the body of such employee be in the custody of the coroner, the coroner must, upon the request of the commission or of any party interested, afford reasonable opportunity for the attendance of any physicians named by the commission at any autopsy ordered by him. If the coroner should not require, or shall have already performed such autopsy, he shall permit an autopsy or re-examination to be performed by physicians named by the commission. No fee shall be charged by the coroner for any service, arrangement or permission given by him.

If the body is not in the custody of the coroner, the commission shall have authority to authorize the performance of such autopsy and the exhumation of the body for such purpose if necessary. If the dependents, or a majority thereof, of any such deceased employee, having the custody of the body of such deceased employee, shall refuse to allow the performance of such autopsy, such autopsy shall not be held; but upon the hearing of any application for compensation it shall be a disputable presumption that the injury or death was not due to causes entitling the claimants to benefits under this act.

§ 20. Findings and award. (a) After final hearing by the commission, it shall, within thirty days, make and file (1) its findings upon all facts involved in the controversy, and (2) its award which shall state its determination as to the rights of the parties.

(b) The commission in its award may fix and determine the total amount of compensation to be paid and specify the manner of payment, or may fix and determine the weekly disability payment to be made and order payment thereof during the continuance of such disability.

(c) If, in any proceeding under sections six to thirty-one, inclusive, of this act, it is proved that an injury has been suffered for which the employer would be liable to pay compensation if disability had resulted therefrom, but it is not proved that any incapacity had resulted, the commission may, instead of dismissing the application, award a nominal disability indemnity, if it appears that disability is likely to result at a future time.

(d) **Amending orders, etc.** The commission shall have continuing jurisdiction over all its orders, decisions and awards made and entered under the provisions of sections six to thirty-one, inclusive, of this act and may at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter or amend any such order, decision or award made by it upon good cause appearing therefor, such power including the right to review, grant or regrant, diminish, increase or terminate, within the limits prescribed by this act, any compensation awarded, upon the grounds that the disability of the person in whose favor such award was made has either recurred, increased, diminished or terminated; provided, that no award of compensation shall be rescinded, altered or amended after two hundred forty-five weeks from the date of the injury. Any order, decision or award rescinding, altering or amending a prior order, decision or award shall have the same effect as is herein provided for original orders, decisions or awards.

§ 21. Findings filed in superior court. (a) Any party affected thereby may file a certified copy of the findings and award of the commission with the clerk of the superior court of any county, or city and county, and judgment must be entered by the clerk in conformity therewith immediately upon the filing of such findings and award.

(b) **Judgment-roll.** The certified copy of the findings and award of the commission and a copy of the judgment shall constitute the judgment-roll. The pleadings, all orders of the commission, its original findings and award, and all other papers and documents filed in the cause shall remain on file in the office of the commission.

(c) **Stay of execution.** The commission, or any member thereof, may stay the execution of any judgment entered upon an award of the commission, upon good cause appearing therefor and upon such terms and conditions as may be imposed. A certified copy of such order shall be filed with the clerk entering judgment. Where it is deemed desirable to stay the enforcement of an award and a certified copy of said findings and award has not been issued by the commission, the commission, or any member thereof, may order such certified copy to be withheld with the same force and under the same conditions as it might issue a stay of execution if said certified copy had been issued and judgment entered thereon.

(d) **Entry of satisfaction.** When a judgment is satisfied in fact, otherwise than upon an execution, the commission may, upon motion

of either party or of its own motion, order the entry of satisfaction of the judgment to be made, and upon filing a certified copy of such order with the said clerk, he shall thereupon enter such satisfaction and not otherwise.

§ 22. Review of findings, etc. The orders, findings, decisions or awards of the commission made and entered under sections six to thirty-one, inclusive, of this act may be reviewed by the courts specified in sections sixty-seven and sixty-eight hereof and within the time and in the manner therein specified and not otherwise.

§ 23. Fees. Costs. No fees shall be charged by the clerk of any court for the performance of any official service required by this act, except for the docketing of awards as judgments and for certified copies of transcripts thereof. In all proceedings under this act before the commission, costs as between the parties shall be allowed or not in the discretion of the commission and the commission may, in its discretion, where payments of compensation have been unreasonably delayed, allow the beneficiary thereof interest thereon, at not to exceed one and one-half per cent per month, during such period of delay.

§ 24. (a) Claim not assignable. No claim for compensation shall be assignable before payment, but this provision shall not affect the survival thereof, nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled to such compensation, except as hereinafter provided. No compensation, whether awarded or voluntarily paid, shall be paid to any attorney at law or in fact or other agent, but shall be paid directly to the claimant entitled to the same, unless otherwise ordered by the commission. Any payment made to such attorney at law or in fact or other agent in violation of the provisions of this section shall not be credited to the employer.

(b) Lien against amount due as compensation. The commission may fix and determine and allow as a lien against any amount to be paid as compensation:

(1) A reasonable attorney's fee for legal services pertaining to any claim for compensation or application filed therefor and the reasonable disbursements in connection therewith.

(2) The reasonable expense incurred by or on behalf of the injured employee, as defined in subsection (a) of section nine hereof.

(3) The reasonable value of the living expenses of an injured employee or of his dependents, subsequent to the injury.

(4) The reasonable burial expenses of the deceased employee, not to exceed the sum of one hundred dollars.

(5) The reasonable living expenses of the wife or minor children of the injured employee, or both, subsequent to the date of the injury, where such employee has deserted or is neglecting his family, to be allowed in such proportion as the commission shall deem proper, upon application of the wife or guardian of the minor children.

(c) Notice of claim. Award by commission. If notice in writing be given to the employer setting forth the nature and extent of any claim that may be allowed as a lien, the said claim shall be a lien against

any amount thereafter to be paid as compensation, subject to the determination of the amount and approval thereof by the commission. The commission may, in its discretion, order the amount of such claim as fixed and allowed by it paid directly to the person entitled, either in a lump sum or in installments. Where it appears in any proceeding pending before the commission that a lien should be allowed if the same had been duly requested by the party entitled thereto, the commission may, in its discretion, and without any request for such lien having been made, order the payment of such claim to be made directly to the person entitled, in the same manner and with the same effect as though such lien had been regularly requested, and the award to such person shall constitute a lien against unpaid compensation due at the time of service of said award.

(d) **Excessive claim for legal services.** No claim or agreement for the legal services or disbursements mentioned in paragraph (1) of subsection (b) hereof, or for the expense mentioned in paragraph (2) of said subsection (b), in excess of a reasonable amount, shall be valid or binding in any respect, and it shall be competent for the commission to determine what constitutes such reasonable amount.

(e) **Preference of claim for compensation.** A claim for compensation for the injury or death of any employee, or any award of judgment entered thereon, shall have preference over all other unsecured debts of the employer or insurance carrier. [Amendment approved May 22, 1919; Stats. 1919, p. 919.]

§ 25. Liability of principal employers and contractors. The liability of principal employers and contracting employers, general or intermediate, for compensation under this act, when other than the immediate employer of the injured employee, shall be as follows:

(a) When any such employer undertakes to do, or contracts with another to do, or to have done, any work, either directly or through contractors or subcontractors, then such principal employer or contracting employer shall be liable to pay to any employee injured while engaged in the execution of such work, or to his dependents in the event of his death, or to any other person, any compensation which the immediate employer is liable to pay, and the commission shall have jurisdiction to determine all controversies arising under this section.

(b) The person entitled to such compensation shall have the right to recover the same directly from his immediate employer, and in addition thereto the right to enforce in his own name, in the manner provided by this act, the liability for compensation imposed upon other persons by this section, either by making such other persons parties to the original application or by filing a separate application; provided, however, that payment in whole or in part of such compensation by either the immediate employer or other person shall, to the extent of such payment, be a bar to recovery against the other.

(c) When any person, other than the immediate employer, shall have paid any compensation for which he would not have been liable independently of this section, he shall, unless he caused the injury, be entitled to recover the full amount so paid from the person primarily liable therefor, and jurisdiction to determine his claim shall be vested in the commission; provided, that such right of reimbursement against

the person primarily liable for compensation shall not exist in favor of any insurance carrier insuring such other persons upon whom liability is imposed by this section, in any case where the immediate employer shall have joined with any of such other persons in taking out such policy of insurance or shall have contributed to the payment of the premium for such insurance, with the intent of securing joint protection thereby, anything in the policy to the contrary notwithstanding.

(d) **Limitations on liability.** The liability imposed by this section shall be subject to the following limitations:

(1) Such liability shall exist only in cases where the injury occurred on or in or about the premises on which the principal employer or contracting employer, whether general or intermediate, has undertaken to execute or to have executed any work, or when such premises or work are otherwise under his control or management.

(2) Such liability shall not exist in the event that the immediate employer, or other person primarily liable for the compensation shall, previous to the suffering of such injury, have taken out, and maintained in full force and effect, compensation insurance with any insurance carrier, covering his full liability for compensation.

(3) The commission may, in its discretion, order that execution against such principal employer or contracting employer be stayed until execution against the immediate employer shall be returned unsatisfied.

(e) The findings and award of this commission entered against the immediate employer shall be conclusive for or against all persons upon whom liability is imposed by this section as to the fact and extent of liability of such immediate employer.

§ 26. "Employee." Suits for damages from person other than employer. If employee joins in suit. The term "employee," as used in this section, shall include the person injured and any other person in whom a claim may arise by reason of the injury or death of such injured person. The death of the employee, or of any other person, shall not abate any right of action established by this section. The claim of an employee for compensation shall not affect his right of action for damages arising out of injury or death against any person other than the employer; and any employer having paid, or having become obligated to pay, compensation, may likewise bring an action against such other person to recover said damages. If either such employee or such employer shall bring such action against such third person, he shall forthwith notify the other in writing, by personal service or registered mail, of such fact and of the name of the court in which such suit is brought, filing proof thereof in such action, and, if the action be brought by either, the other may, at any time before trial on the facts, join as party plaintiff or must consolidate his action, if brought independently. If the suit be prosecuted by the employer alone evidence of any expenditures which the employer has paid or become obligated to pay by reason of said injury or death shall be admissible, and such expenditures shall be deemed a part of the damages, including a reasonable attorney's fee to be fixed by the court; and if in such suit the employer shall recover more than the amount he has paid or become obligated to pay as compensation he shall pay the excess to the injured employee or other person entitled. If the employee joins in or prosecutes such

suit, evidence of the amount of disability indemnity or death benefit paid by the employer shall not be admissible, but proof of all other expenditures on account of said injury or death shall be admissible and shall be deemed part of the damages. The court shall, on application, allow as a first lien against any judgment recovered by the employee the amount of the employer's expenditures for compensation. When any injury or death shall have been suffered by an employee, no release or settlement of any claim for damages by reason of such injury or death and no satisfaction of judgment in such proceedings, shall be valid without the written consent of either both employer and employee, or one of them, together with the consent of the commission or the court in which any such action may be pending. [Amendment approved May 22, 1919; Stats. 1919, p. 920.]

§ 27. Right to compromise. (a) No contract, rule or regulation shall exempt the employer from liability for the compensation fixed by this act, but nothing in this act contained shall be construed as impairing the right of the parties interested to compromise, subject to the provisions herein contained, any liability which may be claimed to exist under this act on account of such injury or death, or as conferring upon the dependents of any injured employee any interest which such employee may not divert by such compromise or for which he, or his estate, shall, in the event of such compromise by him, be accountable to such dependents or any of them.

(b) **Valid release or compromise agreement.** The compensation herein provided shall be the measure of the responsibility which the employer has assumed for injuries or death that may occur to employees in his employment when subject to the provisions of this act, and no release of liability or compromise agreement shall be valid unless it provide for the payment of full compensation in accordance with the provisions of this act or unless it shall be approved by the commission.

(c) **Award based on release or compromise agreement.** A copy of such release or compromise agreement signed by both parties shall forthwith be filed with the commission. When such release or compromise agreement is filed with the commission and approved by it, the commission may of its own motion, or on the application of either party, without notice, enter its award based upon such release or compromise agreement.

(d) **Contents of release or compromise agreement.** Every such release or compromise agreement shall be in writing, duly executed and attested by two disinterested witnesses, and shall specify the date of the accident, the average weekly wages of the employee, determined according to section twelve hereof, the nature of the disability, whether total or partial, permanent or temporary, the amount paid or due and unpaid to the employee up to the date of the release or agreement or death, as the case may be, and, if any, the amount of the payment or benefits then or thereafter to be made, and the length of time that such payment is to continue. In case of death there shall also be stated in such release or compromise agreement the date of death, the name of the widow, if any, the names and ages of all children, if any, and the names of all other dependents, if any, and whether such dependents be total or partial, and the amount paid or to be paid as a death benefit and to whom such payment is to be made.

§ 28. Compensation payable in lump sum. (a) At the time of making its award, or at any time thereafter, the commission on its own motion, either with or without notice, or upon application of either party with due notice to the other, may, in its discretion, commute the compensation payable under this act to a lump sum, if it appears that such commutation is necessary for the protection of the person entitled thereto, or for the best interest of either party, or that it will avoid undue expense or hardship to either party, or that the employer has sold or otherwise disposed of the greater part of his assets, or is about to do so, or that the employer is not a resident of this state, and the commission may order such compensation paid forthwith or at some future time.

(b) **Determination of amount of commuted payment.** The amount of the commuted payment shall be determined in accordance with the following provisions:

(1) If the injury causes temporary disability, the commission shall estimate the probable duration thereof and the probable amount of the temporary disability payments therefor, in accordance with the provisions of section nine hereof, and shall fix the lump sum payment at such amount so determined.

(2) If the injury causes permanent disability or death, the commission shall fix the total amount of the permanent disability payment or death benefit payable therefor in accordance with the provisions of said section nine, and shall estimate the present value thereof, assuming interest at the rate of six per cent per annum, disregarding the probability of the beneficiary's death in all cases except where the percentage of permanent disability is such as to entitle the beneficiary to a life pension, and then taking into consideration the probability of the beneficiary's death only in estimating the present value of such life pension.

(c) **Manner of making lump sum payment.** The commission in its discretion may order the lump sum payment, determined as hereinbefore provided, paid directly to the injured employee or his dependents, or deposited with any savings bank or trust company authorized to transact business in this state, that will agree to accept the same as a deposit bearing interest, or the commission may order the same deposited with the state compensation insurance fund. Any such amount so deposited, together with all interest derived therefrom, shall thereafter be held in trust for the injured employee, or in the event of his death, for his dependents, and the latter shall have no further recourse against the employer. Payments from said fund, when so deposited, shall be made by the trustee only in the same amounts and at the same time as fixed by order of the commission and until said fund and interest thereon shall be exhausted. In the appointment of the trustee preference shall be given, in the discretion of the commission, to the choice of the injured employee or his dependents. Upon the making of such payment, the employer shall present to the commission a proper receipt evidencing the same, executed either by the injured employee or his dependents, or by the trustee, and the commission shall thereupon issue its certificate in proper form evidencing the same, and such certificate, upon filing with the clerk of the superior court in which any judgment upon an award may have been entered, shall operate as a satisfaction of said award.

and shall fully discharge the employer from any further liability on account thereof.

(d) **Payments from state compensation insurance fund.** The commission may, where the employer is uninsured and the payments of compensation awarded are to be paid for a considerable time in the future, determine the present worth of said future payments, discounted at the rate of three per cent per annum, and order the said present worth paid into the state compensation insurance fund, which fund shall thereafter pay to the beneficiaries of said award the future payments as they become due.

§ 29. (a) **Ways for securing payment of compensation.** Every employer as defined in section seven hereof, except the state and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

1. By insuring and keeping insured against liability to pay compensation in one or more insurance carriers duly authorized to write compensation insurance in this state.

2. By securing from the commission a certificate of consent to self-insure, which may be given upon his furnishing proof satisfactory to the commission of ability to carry his own insurance and pay any compensation that may become due to his employees, the commission may, in its discretion, require such employer to deposit with the state treasurer a bond or securities, but not both a bond and securities, approved by the commission, in an amount to be determined by the commission. Such certificate may be revoked at any time for good cause shown. So long as the certificate of consent to self-insure has not been revoked, and the self-insurer has deposited with the state treasurer such bond or securities, the self-insurer shall not be required or obliged to pay into the state compensation insurance fund any sums covering liability for compensation, excepting life pensions; but shall be permitted, and such permission is hereby given the self-insurer, to fully administer any and all such compensation benefits assessed against the said insurer.

(b) **Action against employer. Right to attach property.** If any employer shall fail so to secure the payment of compensation, any injured employee or his dependents may proceed against such employer by filing an application for compensation with the commission, and, in addition thereto, such injured employee or his dependents may bring an action at law against such employer for damages, the same as if this act did not apply, and shall be entitled in such action to the right to attach the property of the employer, at any time upon or after the institution of such action, in an amount to be fixed by the court, to secure the payment of any judgment which may ultimately be obtained. Such judgment shall include a reasonable attorney's fee to be fixed by the court. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, shall govern the issuance of and proceedings upon such attachment; provided, that if as a result of such action for damages a judgment is obtained against such employer in excess of the compensation awarded under this act, the compensation awarded by the commission, if paid, or if security approved by the court be given for its payment, shall be credited upon such judgment;

provided, further, that in such action it shall be presumed that the injury to the employee was a direct result and grew out of the negligence of the employer, and the burden of proof shall rest upon the employer to rebut the presumption of negligence. In such proceeding it shall not be a defense to the employer that the employee may have been guilty of contributory negligence, or assumed the risk of the hazard complained of, or that the injury was caused by the negligence of a fellow-servant. No contract, rule or regulation shall be allowed to restore to the employer any of the foregoing defenses. [Amendment approved May 22, 1919; Stats. 1919, p. 921.]

§ 30. Right of employer to insure in mutual companies, etc. (a) Nothing in this act shall affect the organization of any mutual or other insurance company, or any existing contract for insurance, or the right of the employer to insure in mutual or other companies, in whole or in part, against liability for the compensation provided by this act; or to provide by mutual or other insurance, or by arrangement with his employees, or otherwise, for the payment to such employees, their families, dependents or representatives, of sick, accident or death benefits, in addition to the compensation provided for by this act; or the right of the employer to waive the waiting period provided for herein by insurance coverage; provided, however, that it shall be unlawful for any employer to exact or receive from any employee any contribution, or make or take any deduction from the earnings of any employee, either directly or indirectly, to cover the whole or any part of the cost of compensation under this act, and it shall be a misdemeanor so to do.

(b) **Liability not reduced by insurance, etc.** Liability for compensation shall not be reduced or affected by any insurance, contribution, or other benefit whatsoever due to or received by the person entitled to such compensation, except as otherwise provided by this act, and the person so entitled shall, irrespective of any insurance or other contract, except as otherwise provided in this act, have the right to recover such compensation directly from the employer, and in addition thereto, the right to enforce in his own name, in the manner provided in this act, either by making the insurance carrier a party to the original application or by filing a separate application, the liability of any insurance carrier, which may, in whole or in part, have insured against liability for such compensation; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance company shall, to the extent thereof, be a bar to recovery against the other of the amount so paid; and provided, further, that as between the employer and the insurance company, payment by either directly to the employee, or to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them.

(c) **Insurance carrier directly liable to employee.** Every contract insuring against liability for compensation, or insurance policy evidencing the same, must contain a clause to the effect that the insurance carrier shall be directly and primarily liable to the employee and, in the event of his death, to his dependents, to pay the compensation, if any, for which the employer is liable; that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowl-

edge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this act, be jurisdiction of the insurance carrier; and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer under the provisions of this act.

(d) **Lien of employee on amount owing on policy.** Such policy must also provide that the employee shall have a first lien upon any amount which shall become owing on account of such policy to the employer from the insurance carrier, and that in case of the legal incapacity or inability of the employer to receive the said amount and pay it over to the employee or his dependents, the said insurance carrier may and shall pay the same directly to the said employee or his dependents, thereby discharging, to the extent of such payment, the obligations of the employer to the employee; and such policy shall not contain any provisions relieving the insurance carrier from payment when the employer becomes insolvent or is discharged in bankruptcy, or otherwise, during the period that the policy is in operation or the compensation remains owing. Every contract insuring against liability for compensation, provided by this act, or insurance policy evidencing the same shall be conclusively presumed to contain all of the provisions required by this act.

(e) **Employer relieved from liability by insurance carrier.** (1) If the employer shall be insured against liability for compensation with any insurance carrier, and if after the suffering of any injury such insurance carrier shall serve or cause to be served upon any person claiming compensation against such employer a notice that it has assumed and agreed to pay the compensation, if any, for which the employer is liable, and shall file a copy of such notice with the commission, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, without notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceedings shall not abate on account of such substitution but shall be continued against such insurance carrier. If at the time of the suffering of an injury for which compensation is claimed, or may be claimed, the employer shall be insured against liability for the full amount of compensation payable, or that may become payable, the employer may serve or cause to be served upon any person claiming compensation on account of the suffering of such injury and upon the insurance carrier a notice that the insurance carrier has in its policy contract or otherwise, assumed and agreed to pay the compensation, if any, for which the employer is liable, and may file a copy of such notice with the commission. If it shall thereafter appear to the satisfaction of the commission that the insurance carrier has, through the issuance of its contract of insurance or otherwise, assumed such liability for compensation, such employer shall thereupon be relieved from liability for compensation to such claimant and the insurance carrier shall, after notice, be substituted in place of the employer in any proceeding theretofore or thereafter instituted by such person to recover such compensation, and the employer shall be dismissed therefrom. Such proceeding shall not abate on account of such substitution, but shall be continued against such insurance carrier.

(2) **Order of commission.** The commission may, with or without the filing of the notice required by the preceding paragraph, enter its order relieving the employer from liability where it appears from the pleadings, stipulations or proof that an insurance carrier joined as party to the proceeding is liable for the full compensation which the employer in such proceeding is liable to pay.

(f) **Insurance carrier subrogated to rights of employer.** Where any employer is insured against liability for compensation with any insurance carrier and such insurance carrier shall have assumed the liability of the employer therefor in the manner provided by this section, or shall have paid any compensation for which the employer is liable, or furnished or provided any medical services required by this act, such insurance carrier shall be subrogated to all the rights and duties of such employer and may enforce any such rights of its own name.

(g) **State fund may insure.** The state compensation insurance fund may insure against any liability fixed under this act to the same extent as any insurance carrier.

§ 31. **"Limited compensation policy."** (a) If any insurance policy shall be issued covering liability for compensation, which policy shall contain any limitation as to the compensation payable, such limitation shall be printed in the body of such policy in bold-face type and in addition thereto the words "limited compensation policy" shall be printed on the top of the policy in bold-face type not less than eighteen point in size. Failure to observe the foregoing requirement shall render such policy unlimited.

(b) No insurance carrier shall insure against the liability of the employer for the additional compensation recoverable under the provisions contained in section 6 (b) hereof.

§ 32. **Organization of state compensation insurance fund.** Nothing contained in this act shall be taken or construed to limit, interfere with, disturb, or render ineffective in any degree, the creation, existence, organization, control, management, contracts, rights, powers, duties and liabilities of the state compensation insurance fund, but all such matters and things are hereby expressly confirmed, saved and continued.

§ 33. **Definitions.** The following terms, as used in sections thirty-three to fifty-four, inclusive, of this act, shall, unless a different meaning is plainly required by the context, be construed as follows:

(1) **"Place of employment."** The phrase "place of employment" shall mean and include every place, whether indoors or out or underground, or elsewhere, and the premises appurtenant thereto, where, either temporarily or permanently, any industry, trade, work or business is carried on, or where any process or operation directly or indirectly related to any industry, trade, work or business, is carried on, including all construction work, and where any person is directly or indirectly employed by another, but shall not include any place where persons are employed solely in household domestic service, or any place of employment, concerning the safety of which jurisdiction may have been vested by law heretofore or hereafter in any other commission or public authority.

(2) **"Employment."** The term "employment" shall mean and include any trade, work, business, occupation or process of manufacture, or any method of carrying on such trade, work, business, occupation or process of manufacture, including construction work, in which any person may be engaged, except where persons are employed solely in household domestic service.

(3) **"Employer."** The term "employer" shall mean and include every person, firm, voluntary association, corporation, officer, agent, manager, representative or other person having control or custody of any employment, place of employment or of any employee.

(4) **"Employee."** The term "employee" shall mean and include every person who may be required or directed by any employer, to engage in any employment, or, to go to work or be at any time in any place of employment.

(5) **"Order."** The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the commission or any other determination arrived at or decision made by such commission under the safety provisions of this act.

(6) **"General order."** The term "general order" shall mean and include such order, made under the safety provisions of this act, as applies generally throughout the state to all persons, employments or places of employment, or all persons, employments or places of employment of a class under the jurisdiction of the commission. All other orders of the commission shall be considered special orders.

(7) **"Local order."** The term "local order" shall mean and include any ordinance, order, rule or determination of any board of supervisors, city council, board of trustees or other governing body of any county, city and county, city, or any school district or other public corporation, or an order or direction of any other public official or board or department upon any matter over which the industrial accident commission has jurisdiction.

(8) **"Safe" and "safety."** The terms "safe" and "safety" as applied to an employment or a place of employment shall mean such freedom from danger to the life or safety of employees as the nature of the employment will reasonably permit.

(9) **"Safety device" and "safeguard."** The terms "safety device" and "safeguard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger. [Amendment approved May 23, 1919; Stats. 1919, p. 922.]

§ 34. Employer to make employment safe. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish a place of employment which shall be safe for employees therein, and shall furnish and use such safety devices and safeguards, and shall adopt and use such practices, means, methods, operations and processes as are reasonably adequate to render such employment and place of employment safe, and shall do every other thing reasonably necessary to protect the life and safety of such employees.

§ 35. Use of safety devices. No employer shall require, permit or suffer any employee to go or be in any employment or place of employ-

ment which is not safe, and no such employer shall fail to furnish, provide and use safety devices and safeguards or fail to adopt and use methods and processes reasonably adequate to render such employment and place of employment safe, and no such employer shall fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees, and no such employer shall occupy or maintain any place of employment that is not safe.

§ 36. Construction of unsafe place. No employer, owner or lessee of any real property in this state shall construct or cause to be constructed any place of employment that is not safe.

§ 37. Employee not to interfere with safety devices. No employee or other person shall remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning, furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of such employees. [Amendment approved May 22, 1919; Stats. 1919, p. 923.]

§ 38. Jurisdiction of commission over places of employment. The commission is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment and place of employment to be safe, and requiring the protection of the life and safety of every employee in such employment or place of employment.

§ 39. Power of commission to prescribe devices, standards, etc. The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise:

(1) To declare and prescribe what safety devices, safeguards or other means or methods of protection are well adapted to render the employees of every employment and place of employment safe as required by law or lawful order.

(2) To fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of employees in employments and places of employment.

(3) To fix and order such reasonable standards for the construction, repair and maintenance of places of employment as shall render them safe.

(4) To require the performance of any other act which the protection of the life and safety of the employees in employments and places of employment may reasonably demand.

(5) To declare and prescribe the general form of industrial injury reports, the injuries to be reported and the information to be furnished

in connection therewith, and the time within which such reports shall be filed. Nothing in this act contained shall be construed to prevent the commission from requiring supplemental injury reports.

§ 40. Notice of hearing to consider general safety order. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and issuing a general safety order or orders as authorized by section thirty-nine hereof, the commission shall cause a notice of such hearing to be published in one or more daily newspapers of general circulation published and circulated in the city and county of San Francisco, and also in one or more daily newspapers of general circulation published and circulated in the county of Los Angeles, such newspapers to be designated by the commission for that purpose. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any general order issued by the commission after hearing had.

§ 41. Order to make employment safe. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any employment or place of employment is not safe or that the practices or means or methods or operations or processes employed or used in connection therewith are unsafe, or do not afford adequate protection to the life and safety of employees in such employment or place of employment, the commission shall make and enter and serve such order relative thereto as may be necessary to render such employment or place of employment safe and protect the life and safety of employees in such employment and place of employment and may in said order direct that such additions, repairs, improvements or change be made and such safety devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe, in the manner and within the time specified in said order.

§ 42. Time for compliance with order. The commission may, upon application of any employer, or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order, and any person affected by such order may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

§ 43. Investigation of unsafe employment. Whenever the commission shall learn or have reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee it may, of its own motion, or upon complaint, summarily investigate the same, with or without notice or hearings, and after a hearing upon such notice as it may prescribe, the commission may enter and serve such order as may be necessary relative thereto, anything in this act to the contrary notwithstanding.

§ 44. Obeying order. Every employer, employee and other person shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in connection with the matters herein specified, or in any way relating to or affecting safety of employments or places of employment, or to protect the life and safety of employees in such employments or places of employment, and shall do everything necessary or proper in

order to secure compliance with and observance of every such order, decision, direction, rule or regulation.

§ 45. Review of orders. The orders of the commission, general or special, its rules or regulations, findings and decisions, made and entered under the safety provisions of this act, may be reviewed by the courts specified in sections sixty-seven and sixty-eight of this act and within the time and in the manner therein specified and not otherwise.

§ 46. Powers of supervisors, etc., not affected. Nothing contained in this act shall be construed to deprive the board of supervisors of any county, or city and county, the board of trustees of any city, or any other public corporation or board or department, of any power or jurisdiction over or relative to any place of employment; provided, that whenever the commission shall, by order, fix a standard of safety for employments or places of employment, such order shall, upon the filing by the commission of a copy thereof with the clerk of the county, city and county, or city to which it may apply, establish a minimum requirement concerning the matters covered by such order and shall be construed in connection with any local order relative to the same matter and to amend or modify any requirement in such local order not up to the standard of the order of the commission.

§ 46½. Restraining injunction against unsafe employments. If the condition of any employment or place of employment or the operation of any machine, device or apparatus shall constitute a serious menace to the lives or safety of persons about it, the commission, or a commissioner, may apply to the superior court of the county in which such place of employment, machine, device or apparatus is situated, for an injunction restraining the use or operation thereof until such condition shall be corrected. The said application accompanied by affidavit showing that such place of employment, machine, device or apparatus is being operated in violation of a general or special safety order of the commission, and that such use or operation constitutes a menace to the life or safety of any person or persons employed thereabout, accompanied by a copy of the order or orders applicable thereto shall constitute a sufficient prima facie showing to warrant, in the discretion of the court, the immediate granting of a temporary restraining order. No bond shall be required from the commission as a prerequisite to the granting of any restraining order. When in the opinion of the industrial accident commission a machine or any part thereof is in a dangerous condition or is not properly guarded or is dangerously placed, the use thereof shall be prohibited by the commission, and a notice to that effect shall be attached thereto. Such notice shall not be removed except by an authorized representative of the commission, nor until the machinery is made safe and the required safeguards or safety appliances or devices are provided, and in the meantime such unsafe or dangerous machinery shall not be used. [New section added May 22, 1919; Stats. 1919, p. 924.]

§ 47. The commission shall have further power and authority:

(1) **Museums of safety and hygiene.** To establish and maintain museums of safety and hygiene in which shall be exhibited safety devices,

safeguards and other means and methods for the protection of the life and safety of employees, and to publish and distribute bulletins on any phase of this general subject.

(2) **Lectures.** To cause lectures to be delivered, illustrated by stereopticon or other views, diagrams or pictures, for the information of employers and their employees and the general public in regard to the causes and prevention of industrial accidents, occupational diseases and related subjects.

(3) **Advisers.** To appoint advisers who shall, without compensation, assist the commission in establishing standards of safety and the commission may adopt and incorporate in its general orders such safety recommendations as it may receive from such advisers.

§ 48. Order admissible as evidence. Every order of the commission, general or special, its rules and regulations, findings and decisions, made and entered under the safety provisions of this act shall be admissible as evidence in any prosecution for the violation of any of the said provisions and shall, in every such prosecution, be conclusively presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety, unless, prior to the institution of the prosecution for such violation or violations, proceedings for a rehearing thereon or a review thereof shall have been instituted as provided in sections sixty-four to sixty-eight, inclusive, of this act and not then finally determined.

§ 49. Penalty for violation. Every employer, employee or other person who, either individually or acting as an officer, agent or employee of a corporation or other person, violates any safety provision contained in sections thirty-four, thirty-five, thirty-six or thirty-seven of this act, or any part of any such provision, or who shall fail or refuse to comply with any such provision or any part thereof, or who, directly or indirectly, knowingly induces another so to do is guilty of a misdemeanor. In any prosecution under this section it shall be deemed prima facie evidence of a violation of any such safety provision, that the accused has failed or refused to comply with any order, rule, regulation or requirement of the commission relative thereto, and the burden of proof shall thereupon rest upon the accused to show that he has complied with such safety provision.

§ 50. Separate and distinct offense. Every violation of the provisions contained in sections thirty-four, thirty-five, thirty-six or thirty-seven of this act, or any part or portion thereof, by any person or corporation is a separate and distinct offense, and, in the case of a continuing violation thereof, each day's continuance thereof shall constitute a separate and distinct offense.

§ 51. Accident prevention fund. Percentage of amount of gross premiums. Estimates submitted to board of control. Revolving fund. All fines imposed and collected under prosecutions for violations of the provisions of sections thirty to fifty-four of this act shall be paid into the state treasury to the credit of the "accident prevention fund," which fund is hereby created. In addition to other sources of income of said accident prevention fund, the state compensation insurance fund shall pay into the said accident prevention fund, on or before the first Mon-

day in July, 1918, and annually thereafter, the sum of two per cent upon the amount of the gross premiums received by it upon its business done in this state during the preceding calendar year, less return premiums and reinsurance in companies or associations authorized to do business in this state, which payment is intended to be the equivalent of the taxes imposed upon private insurance companies by the laws of this state relating to revenue and taxation. The state compensation insurance fund shall also pay into the said accident prevention fund interest from September 1, 1917, at the rate of four per cent per annum, payable quarterly, upon the sum of one hundred thousand dollars heretofore advanced by the state to said state compensation insurance fund as long as the said fund shall retain the said sum of one hundred thousand dollars. The commission is authorized to draw from said accident prevention fund toward the support of its department of safety. The commission shall submit from time to time to the state board of control an estimate of the amount it desires to withdraw from the accident prevention fund, and when such estimate shall be approved by the state board of control, the controller is directed to draw his warrant on said fund in favor of said commission for such amount, and the treasurer is authorized and directed to pay the same. The commission shall account to the state board of control and to the state controller for all moneys so received, furnishing proper vouchers therefor. The said accident prevention fund shall be a revolving fund.

§ 52. Unlawful to divulge confidential information. It shall be unlawful for any member of the commission, or for any officer or employee of the commission, to divulge to any person not connected with the administration of this act any confidential information obtained from any person, concerning the failure of any other person to keep any place of employment safe, or concerning the violation of any order, rule or regulation issued by the commission. Any member of the commission or any officer or employee of the commission divulging such confidential information shall be guilty of a misdemeanor.

§ 53. (a) Reports of injuries. Every employer of labor, without any exceptions, and every insurance carrier, and every physician or surgeon who attends any injured employee, is hereby required to file with the commission, under such rules and regulations as the commission may from time to time make, a full and complete report of every injury to an employee arising out of or in the course of his employment and resulting in loss of life or injury to such person; provided, that such report shall not be required unless disability resulting from such injury lasts through the day of the injury or requires medical service other than ordinary first aid treatment. Where the injury results in death a report shall be made by the employer to the commission by telephone or telegraph forthwith. Such reports shall be furnished to the commission in such form and such detail as the commission shall from time to time prescribe, and shall make specific answers to all questions required by the commission under its rules and regulations. It shall be unlawful for any person, firm, corporation, agent or officer of a firm or corporation, to fail or refuse to comply with any of the provisions of this section, and any such person, firm, corporation, agent or officer of a firm or corporation, who fails or refuses to comply with the provisions of this section shall be guilty of a misdemeanor for each and every offense

and upon conviction thereof shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars. Any such employer or insurance carrier who shall furnish such report shall be exempt from furnishing any similar report or reports authorized or required under the laws of this state.

(b) **Filling out blanks.** Every employer or insurance carrier receiving from the commission any blanks with directions to fill out the same shall cause the same to be properly filled out so as to answer fully and correctly each question propounded therein; in case he is unable to answer any such questions a good and sufficient reason shall be given for such failure.

(c) **Information not open to public inspection.** No information furnished to the commission by an employer or an insurance carrier shall be open to public inspection or made public except on order of the commission, or by a commissioner or referee in the course of a proceeding. Any officer or employee of the commission who, in violation of the provisions of this subsection, divulges any such information shall be guilty of a misdemeanor. [Amendment added May 22, 1919; Stats. 1919, p. 924.]

§ 54. (a) **Investigation of injuries.** The commission shall investigate the cause of all industrial injuries occurring within the state in any employment or place of employment, or directly or indirectly arising from or connected with the maintenance or operation of such employment or place of employment, resulting in disability or death and requiring, in the judgment of the commission, such investigation; and the commission shall have the power to make such orders or recommendations with respect to such injuries as may be just and reasonable; provided, that neither the order nor the recommendation of the commission shall be admitted as evidence in any action for damages or any proceeding to recover compensation, based on or arising out of such injury or death.

(b) **Inspectors, etc., may enter place of employment.** For the purpose of making any investigation which the commission is authorized to make under the provisions of this section, or for the purpose of collecting statistics or examining the provision made for the safety of employees, any member of the commission, or other person designated by the commission for that purpose, may enter any place of employment; and in the performance of such duties shall have the power to subpoena witnesses, administer oaths and take testimony.

(c) **Penalty for violation.** Any employer, insurance carrier, responsible agent or employee of such employer or insurance carrier, or any other person who shall violate or omit to comply with any of the provisions of this section, or who shall in any way obstruct or hamper the commission, any commissioner or other person conducting any investigation authorized to be undertaken or made by the commission, shall be guilty of a misdemeanor. [Amendment approved May 22, 1919; Stats. 1919, p. 925.]

§ 55. **Proceedings instituted before commission.** (a) All proceedings for the recovery of compensation, or concerning any right or liability arising out of or incidental thereto, or for the enforcement against the

employer or an insurance carrier of any liability for compensation imposed upon him by this act in favor of the injured employee, his dependents or any third person, or for the determination of any question as to the distribution of compensation among dependents of other persons, or for the determination of any question as to who are dependents of any deceased employee, or what persons are entitled to any benefit under the compensation provisions of this act, or for obtaining any order which by this act the commission is authorized to make, or for the determination of any other matter, jurisdiction over which is vested by this act in the commission, shall be instituted before the commission, and not elsewhere, except as otherwise in this act provided, and the commission is hereby vested with full power, authority and jurisdiction to try and finally determine all such matters, subject only to the review by the courts in this act specified and in the manner and within the time in this act provided.

(b) **Orders, etc., prima facie lawful.** All orders, rules and regulations, findings, decisions and awards of the commission shall be in force and shall be prima facie lawful; and all such orders, rules and regulations, findings, decisions and awards shall be conclusively presumed to be reasonable and lawful, until and unless they are modified or set aside by the commission or upon a review by the courts in this act specified and within the time and in the manner herein specified.

§ 56. Service of notice, etc. (a) Any notice, order or decision required by this act to be served upon any person or party either before, during or after the institution of any proceeding before the commission, may be served in the manner provided by chapter five, title fourteen of part two of the Code of Civil Procedure of this state, unless otherwise directed by the commission or a member thereof, in which event the same shall be served in accordance with the order or direction of said commission or member thereof. The commission or commissioner may also, in the cases mentioned in the Code of Civil Procedure of this state, order service to be made by publication of the notice of time and place of hearing. Where service is ordered to be made by publication the date of the hearing may be fixed at more than thirty days from the date of filing the application.

(b) Any such notice, order or decision affecting the state or any city and county, city, school district or public corporation therein, shall be served upon the same officer, officers, person or persons, upon whom the service of similar notices, orders or decisions is authorized by law.

(c) **Secretary, etc., have powers of peace officers.** The secretary, assistant secretaries and the inspectors appointed by the commission shall have all the powers conferred by law upon peace officers to carry weapons, make arrests and serve warrants and other process in this state.

§ 57. Powers of commission. (a) The commission shall have full power and authority:

(1) **Rules of practice.** To adopt reasonable and proper rules of practice and procedure.

(2) **Representation of minors, etc.** To regulate and provide the manner, and by whom, minors and incompetent persons shall appear and be represented before it.

(3) **Appoint trustee to appear for minor or incompetent.** To appoint a trustee or guardian ad litem to appear for and represent any such minor or incompetent upon such terms and conditions as it may deem proper; and such guardian or trustee must, if required by the commission or a commissioner, give a bond in the same form and of the same character required by law from a guardian appointed by the courts and in such an amount as the commission or a commissioner may fix and determine, such bond to be approved by the commission or a commissioner, and such guardian or trustee shall not be discharged from liability until he shall have filed an account with the commission or with the probate court and such account shall have been approved. The trustee or guardian shall be entitled to receive such compensation for his services as shall be fixed and allowed by the commission or by the probate court.

(4) **Joinder of interested persons.** To provide for the joinder in the same proceeding of all persons interested therein, whether as employer, insurance carrier, employee, dependent, creditor or otherwise.

(5) **Notices.** To regulate and prescribe the kind and character of notices, where not otherwise prescribed by this act, and the service thereof.

(6) **Proofs.** To regulate and prescribe the nature and extent of the proofs and evidence.

(b) **Controversies over insurance policies. Acting as arbitrator.** The commission shall also have jurisdiction to determine controversies arising out of insurance policies issued to self-employing persons, conferring benefits identical with those prescribed by this act.

The commission may try and determine matters referred to it by the parties under the provisions of part three, title ten, of the Code of Civil Procedure, with respect to controversies arising out of insurance issued to self-employing persons under the provisions of this act. Such controversies may be submitted to it by the signed agreement of the parties, or by the application of one party and the submission of the other to its jurisdiction, with or without an express request for arbitration. The state compensation insurance fund must submit to the commission, the consent of the other party being obtained, all controversies susceptible of being arbitrated under this section. In acting as arbitrator under the provisions of this section, the commission shall have all the powers which it may lawfully exercise in compensation cases, and its findings and award upon such arbitration shall have the same conclusiveness and be subject to the same mode of reopening, review and enforcement as in compensation cases. No fee or cost shall be charged by the commission to any party for arbitrating the issues presented under this section.

§ 58. Controversies over injuries outside of state. The commission shall have jurisdiction over all controversies arising out of injuries suffered without the territorial limits of this state in those cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state, and any such employee or his dependents shall be entitled to the compensation or death benefits provided by this act.

§ 59. Reference of cases. The commission may upon the agreement of the parties, upon the application of either, or of its own motion, and either with or without notice, direct and order a reference in the following cases:

(1) To try any or all of the issues in any proceeding before it, whether of fact or of law, and to report a finding, order, decision or award to be based thereon.

(2) To ascertain a fact necessary to enable the commission to determine any proceeding before it or to make any order, decision or award that the commission is authorized to make under this act, or that is necessary for the information of the commission.

(b) **Referees.** The commission may appoint one or more referees in any proceeding, as it may deem necessary or advisable, and may refer matters arising out of the same proceeding to different referees. It may also, in its discretion, appoint general referees who shall hold office during the pleasure of the commission. Any referee appointed by the commission shall have such powers, jurisdiction and authority as is granted under the law, by the order of appointment and by the rules of the commission, and shall receive such salary or compensation for his services as may be fixed by the commission.

(c) **Objection to appointments.** Any party to the proceeding may object to the appointment of any person as referee upon any one or more of the grounds specified in section six hundred forty-one of the Code of Civil Procedure and such objection must be heard and disposed of by the commission. Affidavits may be read and witnesses examined as to such objections.

(d) **Oath of referee.** Before entering upon his duties, the referee must be sworn before an officer authorized to administer oaths, faithfully and fairly to hear and determine the matters and issues referred to him, and to make just findings and report according to his understanding.

(e) **Report of referee.** The referee must report his findings in writing to the commission within fifteen days after the testimony is closed. Such report shall be made in the form prescribed by the commission and shall include all matters required to be included in the order of reference or by the rules of the commission. The facts found and conclusions of law must be separately stated.

(f) **Order, etc., based on report of referee.** Upon the filing of the report of the referee, the commission may confirm, adopt, modify or set aside the same or any part thereof and may, either with or without further proceedings, and either with or without notice, enter its order, findings, decision or award based in whole or in part upon the report of the referee, or upon the record in the case.

(g) **Hearings by referees.** The provisions of the preceding subdivisions of this section shall not be construed to prevent the commission from requiring its referees merely to hold hearings and to make return of the testimony to the commission.

§ 60. Commission not bound by statutory rules of evidence and procedure. (a) All hearings and investigations before the commission or any member thereof, or any referee appointed thereby, shall be governed

by this act and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission nor any member thereof, nor any referee appointed thereby, shall be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in such manner, through oral testimony and written and printed records, as is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this act. No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, rule or regulation made, approved or confirmed by the commission; nor shall any order, award, rule or regulation be invalidated because of the admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the said common law or statutory rules of evidence and procedure.

(b) **Depositions.** The commission, or a commissioner or referee, or any party to the action or proceedings, may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state, and to that end may compel the attendance of witnesses and the production of books, documents, papers and accounts; provided, that depositions taken outside of the state may be taken before any officers authorized to administer oaths.

§ 61. Power of commission to administer oaths, etc. Witness fees and mileage. The commission and each member thereof, its secretary, assistant secretaries and referees, shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state. Each witness who shall appear, by order of the commission or a member thereof, or a referee appointed thereby, shall be entitled to receive, if demanded, for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed, unless otherwise ordered by the commission. When any witness who has not been required to attend at the request of any party is subpoenaed by the commission, his fees and mileage may be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission, member thereof, or referee as directed in the subpoena. All fees and mileage to which any witness is entitled, under the provisions of this section, may be collected by action therefor instituted by the person to whom such fees are payable.

§ 62. Power of superior court to compel attendance of witnesses, etc. The superior court in and for the county, or city and county, in which

any inquiry, investigation, hearing or proceeding may be held by the commission or any member thereof or referee appointed thereby, shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpoena issued by the commission or member thereof or referee. The commission or any member thereof or the referee, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, may report to the superior court in and for the county, or city and county, in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or the production of said papers, and that the witness has been subpoenaed in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers required by the subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify or produce said papers before the commission. The court, upon the petition of the commission or such member thereof or referee, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the commission, member thereof or referee. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission or member thereof or referee and that the witness was legally bound to comply therewith, the court shall thereupon enter an order that said witness appear before the commission or member thereof or referee at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not be construed to impair or interfere with the power of the commission or a member thereof to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record.

§ 63. General power of commission. (a) The commission is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred upon it under this act.

(b) **Power to issue writs, etc.** The commission and each member thereof shall have power to issue writs or summons, warrants of attachment, warrants of commitment and all necessary process in proceedings for contempt, in like manner and to the same extent as courts of record. The process issued by the commission or any member thereof shall extend to all parts of the state and may be served by any persons authorized to serve process of courts of record, or by any person designated for that purpose by the commission or any member thereof. The person executing any such process shall receive such compensation as

may be allowed by the commission, not to exceed the fees now prescribed by law for similar services, and such fees shall be paid in the same manner as provided herein for the fees of witnesses.

§ 64. Application for rehearing. (a) Any party or person aggrieved directly or indirectly by any final order, decision, award, rule or regulation of the commission, made or entered under any provision contained in this act, may apply to the commission for a rehearing in respect to any matters determined or covered by such final order, decision, award, rule or regulation and specified in the application for rehearing within the time and in the manner hereinafter specified, and not otherwise.

(b) **No cause for action unless application for rehearing.** No cause of action arising out of any such final order, decision or award shall accrue in any court to any person until and unless such person shall have made application for such rehearing, and such application shall have been granted or denied; provided, that nothing herein contained shall be construed to prevent the enforcement of any such final order, decision, award, rule or regulation in the manner provided in this act.

(c) **Grounds for application.** Such application shall set forth specifically and in full detail the grounds upon which the applicant considers said final order, decision, award, rule or regulation is unjust or unlawful, and every issue to be considered by the commission. Such application must be verified upon oath in the same manner as required for verified pleadings in courts of record and must contain a general statement of any evidence or other matters upon which the applicant relies in support thereof. The applicant for such hearing shall be deemed to have finally waived all objections, irregularities and illegalities concerning the matter upon which such rehearing is sought other than those set forth in the application for such rehearing.

(d) **Service upon adverse parties.** A copy of such application for rehearing shall be served forthwith upon all adverse parties by the party applying for such rehearing, and any such adverse party may file an answer thereto within ten days thereafter. Such answer must likewise be verified. The commission may require the application for rehearing to be served on such other persons or parties as may be designated by it.

(e) **Rehearing.** Upon filing of an application for a rehearing, if the issues raised thereby have theretofore been adequately considered by the commission, it may determine the same by confirming without hearing its previous determination, or if a rehearing is necessary to determine the issues raised, or any one or more of such issues, the commission shall order a rehearing thereon and consider and determine the matter or matters raised by such application. If at the time of granting such rehearing it shall appear to the satisfaction of the commission that no sufficient reason exists for taking further testimony, the commission may reconsider and redetermine the original cause without setting a time and place for such further rehearing. Notice of the time and place of such hearing, if any, shall be given to the applicant and adverse parties, and to such other persons as the commission may order.

(f) **Changing order, etc. Action within thirty days.** If after such rehearing and a consideration of all the facts, including those arising since

the making of the order, decision or award involved, the commission shall be of the opinion that the original order, decision or award, or any part thereof, is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order, decision or award made after such rehearing, abrogating, changing or modifying the original order, decision or award, shall have the same force and effect as an original order, decision or award, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order, decision or award, unless so ordered by the commission. An application for a rehearing shall be deemed to have been denied by the commission unless it shall have been acted upon within thirty days from the date of filing; provided, however, that the commission may, upon good cause being shown therefor, extend the time within which it may act upon such application for not exceeding thirty days.

§ 65. Grounds for rehearing of order awarding compensation. (a) At any time within twenty days after the service of any final order or decision of the commission awarding or denying compensation, or arising out of or incidental thereto, any party or parties aggrieved thereby may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

- (1) That the commission acted without or in excess of its powers.
- (2) That the order, decision or award was procured by fraud.
- (3) That the evidence does not justify the findings of fact.
- (4) That the applicant has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.
- (5) That the findings of fact do not support the order, decision or award.

(b) Nothing contained in this section shall, however, be construed to limit the grant of continuing jurisdiction contained in subsection (d) of section twenty of this act.

§ 66. Grounds for rehearing of order not pertaining to compensation.

(a) At any time within twenty days after the service of any final order, decision, rule or regulation, other than an order or award pertaining to compensation, any party or parties, person or persons, aggrieved thereby or otherwise affected, directly or indirectly, may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

- (1) That the commission acted without or in excess of its powers.
- (2) That the order or decision was procured by fraud.
- (3) That the order, decision, rule or regulation is unreasonable.

(b) **Right of commission to adopt new rules, etc.** Nothing contained in this section shall be construed to limit the right of the commission, at any time and from time to time, to adopt new or different rules or regulations or new or different standards of safety, or to abrogate, change or modify any existing rule, regulation or standard, or any part thereof, or deprive the commission of continuing jurisdiction over the same, or to prevent the enforcement in the manner provided by this act, of any rules, regulations or standards of the commission, or any part thereof, when so adopted, or changed, or modified.

§ 67. Application for writ of review. (a) Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, any party affected thereby may apply to the supreme court of this state, or to the district court of appeal of the appellate district in which such person resides, for a writ of certiorari or review, hereinafter referred to as a writ of review, for the purpose of having the lawfulness of the original order, rule, regulation, decision or award, or the order, rule, regulation, decision or award on rehearing inquired into and determined.

(b) **Record of commission.** Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard in the court unless for good cause the same be continued. No new or additional evidence may be introduced in such court, but the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether:

- (1) The commission acted without or in excess of its powers.
- (2) The order, decision or award was procured by fraud.
- (3) The order, decision, rule or regulation was unreasonable.
- (4) If findings of fact are made, such findings of fact support the order, decision or award under review.

(c) **Judgment of court.** The findings and conclusions of the commission on questions of fact shall be conclusive and final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing the court shall enter judgment either affirming or setting aside the order, decision or award or may remand the case for further proceedings before the commission.

(d) **Jurisdiction of courts limited.** The provisions of the Code of Civil Procedure of this state relating to writs of review shall, so far as applicable and not in conflict with this act, apply to proceedings in the courts under the provisions of this section. No court of this state, except the supreme court and the district courts of appeal to the extent herein specified, shall have jurisdiction to review, reverse, correct or annul any order, rule, regulation, decision or award of the commission, or to suspend or delay the operation or execution thereof, or to restrain, enjoin or interfere with the commission in the performance of its duties; provided, that a writ of mandamus shall lie from the supreme court or the district courts of appeal in all proper cases.

§ 68. Order, etc., suspended by application for rehearing. The filing of an application for a rehearing shall have the effect of suspending the order, decision, award, rule or regulation affected, in so far as the same applies to the parties to such application, unless otherwise ordered by the commission, for a period of ten days, and the commission may, in its discretion and upon such terms and conditions as it may by order direct, stay, suspend or postpone the same during the pendency of such rehearing.

(b) **Stay of order by court.** The filing of an application for, or the pendency of, a writ of review, shall not of itself stay or suspend the operation of the order, decision, award, rule or regulation of the commission subject to review, but the court before which such application is filed may, in its discretion, stay or suspend in whole or in part the operation of the order, decision, award, rule or regulation of the commission subject to review, upon such terms and conditions as it may by order direct, except as provided in the following subsection.

(c) **Written undertaking by petitioner.** The operation of any order or award entered by the commission under the provisions of sections six to thirty-one, inclusive, of this act, or any judgment entered thereon, shall not at any time be stayed by the court to which petition is made for a writ of review, unless a written undertaking be executed on the part of the petitioner by two or more sureties, to the effect that they are bound in double the amount named in such order, award or judgment; that if the order, award or judgment appealed from, or any part thereof, be affirmed, or the proceeding upon review be dismissed, the petitioner shall pay the amount directed to be paid by the order, award or judgment, or the part of such amount as to which the order, award or judgment is affirmed, if affirmed only in part, and all damages and costs which may be awarded against the petitioner; and that, if the said petitioner does not make such payment within thirty days after the filing with the commission of the remittitur from the reviewing court, judgment may be entered, on motion of the adverse party, in his favor, and to which the said undertaking may be transferred, in any superior court in which a certified copy of the order or award may be filed against the sureties for such amount, together with interest that may be due thereon, and the damages and costs which may be awarded against the said petitioner. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, are applicable to said undertaking. Such undertaking shall be filed with the commission, and the certificate of the commission, or any proper officer thereof, of the filing and approval of such undertaking, is sufficient evidence of the compliance of the petitioner with the provisions of this subsection.

§ 69. **Interpretation by court.** (a) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court with the purpose of extending the benefits of the act for the protection of persons injured in the course of their employment.

(b) **Constitutionality.** If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

(c) **Employers engaged in interstate commerce.** This act shall not be construed to apply to employers or employments which, according to law, are so engaged in interstate commerce as not to be subject to the legislative power of the state, or to employees injured while they are so

engaged, except in so far as this act may be permitted to apply under the provisions of the constitution of the United States or the acts of congress.

§ 70. Other employers may come under provisions of act. (a) Any employer, having in his employment any employee not included within the term "employee" as defined by section eight of this act or not entitled to compensation under this act, and any such employee, may, by their joint election, elect to come under the compensation provisions of this act in the manner hereinafter provided.

(b) **Other employers may come under provisions of act.** Such election on the part of the employer shall be made by filing with the commission a written statement to the effect that he accepts the compensation provisions of this act, which, when filed, shall operate, within the meaning of section six of this act, to subject him to the compensation provisions thereof, and of all acts amendatory thereof, for the term of one year from the date of filing, and thereafter without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or succeeding year, file in the office of the commission a notice in writing that he withdraws his election. Such acceptance shall be held to include employees whose employment is both casual and not in the course of the trade, business, profession or occupation of the employer, unless expressly excluded therefrom. In case any employer is insured against liability for compensation under this act, he shall be deemed to have so elected during the period that such policy shall remain in force, without filing such written notice with the commission, as to all classes of employees covered by such policy of insurance, anything in this act to the contrary notwithstanding.

(c) **Other employers subject to compensation privileges when.** Any employee in the service of any employer who has made an election in either of the modes above prescribed, shall be deemed to have accepted, and shall, within the meaning of section six of this act, be subject to the compensation provisions of this act, and of any act amendatory thereof, if, at the time of the injury for which liability is claimed:

(1) The employer charged with such liability is subject to the compensation provisions of this act, whether the employee has actual notice thereof or not; and

(2) Such employee shall not, at the time of entering into the employment, have given to his employer notice in writing that he elects not to be subject to the compensation provisions of this act; or, in the event that such employment was entered into in advance of the election by the employer, such employee shall have given to his employer notice in writing that he elects to be subject to such provisions, or without giving either of such notices, shall have remained in the service of such employer for five days after the employer has filed his election, in which case the time at which the employee becomes subject to said compensation provisions shall be deemed to be at the beginning of said period.

(d) **State employments.** The state, and all political or other subdivisions thereof, as defined in section seven, and all state institutions, shall be conclusively presumed to have elected to come within the provisions of this act as to all employments otherwise excluded from this act.

the making of the order, decision or award involved, the commission shall be of the opinion that the original order, decision or award, or any part thereof, is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same. An order, decision or award made after such rehearing, abrogating, changing or modifying the original order, decision or award, shall have the same force and effect as an original order, decision or award, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order, decision or award, unless so ordered by the commission. An application for a rehearing shall be deemed to have been denied by the commission unless it shall have been acted upon within thirty days from the date of filing; provided, however, that the commission may, upon good cause being shown therefor, extend the time within which it may act upon such application for not exceeding thirty days.

§ 65. Grounds for rehearing of order awarding compensation. (a) At any time within twenty days after the service of any final order or decision of the commission awarding or denying compensation, or arising out of or incidental thereto, any party or parties aggrieved thereby may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

- (1) That the commission acted without or in excess of its powers.
- (2) That the order, decision or award was procured by fraud.
- (3) That the evidence does not justify the findings of fact.
- (4) That the applicant has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.
- (5) That the findings of fact do not support the order, decision or award.

(b) Nothing contained in this section shall, however, be construed to limit the grant of continuing jurisdiction contained in subsection (d) of section twenty of this act.

§ 66. Grounds for rehearing of order not pertaining to compensation.

(a) At any time within twenty days after the service of any final order, decision, rule or regulation, other than an order or award pertaining to compensation, any party or parties, person or persons, aggrieved thereby or otherwise affected, directly or indirectly, may apply for such rehearing upon one or more of the following grounds and upon no other grounds:

- (1) That the commission acted without or in excess of its powers.
- (2) That the order or decision was procured by fraud.
- (3) That the order, decision, rule or regulation is unreasonable.

(b) **Right of commission to adopt new rules, etc.** Nothing contained in this section shall be construed to limit the right of the commission, at any time and from time to time, to adopt new or different rules or regulations or new or different standards of safety, or to abrogate, change or modify any existing rule, regulation or standard, or any part thereof, or deprive the commission of continuing jurisdiction over the same, or to prevent the enforcement in the manner provided by this act, of any rules, regulations or standards of the commission, or any part thereof, when so adopted, or changed, or modified.

§ 67. Application for writ of review. (a) Within thirty days after the application for a rehearing is denied, or, if the application is granted, within thirty days after the rendition of the decision on the rehearing, any party affected thereby may apply to the supreme court of this state, or to the district court of appeal of the appellate district in which such person resides, for a writ of certiorari or review, hereinafter referred to as a writ of review, for the purpose of having the lawfulness of the original order, rule, regulation, decision or award, or the order, rule, regulation, decision or award on rehearing inquired into and determined.

(b) **Record of commission.** Such writ shall be made returnable not later than thirty days after the date of the issuance thereof, and shall direct the commission to certify its record in the case to the court. On the return day the cause shall be heard in the court unless for good cause the same be continued. No new or additional evidence may be introduced in such court, but the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether:

- (1) The commission acted without or in excess of its powers.
- (2) The order, decision or award was procured by fraud.
- (3) The order, decision, rule or regulation was unreasonable.
- (4) If findings of fact are made, such findings of fact support the order, decision or award under review.

(c) **Judgment of court.** The findings and conclusions of the commission on questions of fact shall be conclusive and final and shall not be subject to review; such questions of fact shall include ultimate facts and the findings and conclusions of the commission. The commission and each party to the action or proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing the court shall enter judgment either affirming or setting aside the order, decision or award or may remand the case for further proceedings before the commission.

(d) **Jurisdiction of courts limited.** The provisions of the Code of Civil Procedure of this state relating to writs of review shall, so far as applicable and not in conflict with this act, apply to proceedings in the courts under the provisions of this section. No court of this state, except the supreme court and the district courts of appeal to the extent herein specified, shall have jurisdiction to review, reverse, correct or annul any order, rule, regulation, decision or award of the commission, or to suspend or delay the operation or execution thereof, or to restrain, enjoin or interfere with the commission in the performance of its duties; provided, that a writ of mandamus shall lie from the supreme court or the district courts of appeal in all proper cases.

§ 68. Order, etc., suspended by application for rehearing. The filing of an application for a rehearing shall have the effect of suspending the order, decision, award, rule or regulation affected, in so far as the same applies to the parties to such application, unless otherwise ordered by the commission, for a period of ten days, and the commission may, in its discretion and upon such terms and conditions as it may by order direct, stay, suspend or postpone the same during the pendency of such rehearing.

(b) **Stay of order by court.** The filing of an application for, or the pendency of, a writ of review, shall not of itself stay or suspend the operation of the order, decision, award, rule or regulation of the commission subject to review, but the court before which such application is filed may, in its discretion, stay or suspend in whole or in part the operation of the order, decision, award, rule or regulation of the commission subject to review, upon such terms and conditions as it may by order direct, except as provided in the following subsection.

(c) **Written undertaking by petitioner.** The operation of any order or award entered by the commission under the provisions of sections six to thirty-one, inclusive, of this act, or any judgment entered thereon, shall not at any time be stayed by the court to which petition is made for a writ of review, unless a written undertaking be executed on the part of the petitioner by two or more sureties, to the effect that they are bound in double the amount named in such order, award or judgment; that if the order, award or judgment appealed from, or any part thereof, be affirmed, or the proceeding upon review be dismissed, the petitioner shall pay the amount directed to be paid by the order, award or judgment, or the part of such amount as to which the order, award or judgment is affirmed, if affirmed only in part, and all damages and costs which may be awarded against the petitioner; and that, if the said petitioner does not make such payment within thirty days after the filing with the commission of the remittitur from the reviewing court, judgment may be entered, on motion of the adverse party, in his favor, and to which the said undertaking may be transferred, in any superior court in which a certified copy of the order or award may be filed against the sureties for such amount, together with interest that may be due thereon, and the damages and costs which may be awarded against the said petitioner. The provisions of the Code of Civil Procedure, except in so far as they may be inconsistent with this act, are applicable to said undertaking. Such undertaking shall be filed with the commission, and the certificate of the commission, or any proper officer thereof, of the filing and approval of such undertaking, is sufficient evidence of the compliance of the petitioner with the provisions of this subsection.

§ 69. **Interpretation by court.** (a) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court with the purpose of extending the benefits of the act for the protection of persons injured in the course of their employment.

(b) **Constitutionality.** If any section, subsection, subdivision, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

(c) **Employers engaged in interstate commerce.** This act shall not be construed to apply to employers or employments which, according to law, are so engaged in interstate commerce as not to be subject to the legislative power of the state, or to employees injured while they are so

engaged, except in so far as this act may be permitted to apply under the provisions of the constitution of the United States or the acts of congress.

§ 70. Other employers may come under provisions of act. (a) Any employer, having in his employment any employee not included within the term "employee" as defined by section eight of this act or not entitled to compensation under this act, and any such employee, may, by their joint election, elect to come under the compensation provisions of this act in the manner hereinafter provided.

(b) **Other employers may come under provisions of act.** Such election on the part of the employer shall be made by filing with the commission a written statement to the effect that he accepts the compensation provisions of this act, which, when filed, shall operate, within the meaning of section six of this act, to subject him to the compensation provisions thereof, and of all acts amendatory thereof, for the term of one year from the date of filing, and thereafter without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or succeeding year, file in the office of the commission a notice in writing that he withdraws his election. Such acceptance shall be held to include employees whose employment is both casual and not in the course of the trade, business, profession or occupation of the employer, unless expressly excluded therefrom. In case any employer is insured against liability for compensation under this act, he shall be deemed to have so elected during the period that such policy shall remain in force, without filing such written notice with the commission, as to all classes of employees covered by such policy of insurance, anything in this act to the contrary notwithstanding.

(c) **Other employers subject to compensation privileges when.** Any employee in the service of any employer who has made an election in either of the modes above prescribed, shall be deemed to have accepted, and shall, within the meaning of section six of this act, be subject to the compensation provisions of this act, and of any act amendatory thereof, if, at the time of the injury for which liability is claimed:

(1) The employer charged with such liability is subject to the compensation provisions of this act, whether the employee has actual notice thereof or not; and

(2) Such employee shall not, at the time of entering into the employment, have given to his employer notice in writing that he elects not to be subject to the compensation provisions of this act; or, in the event that such employment was entered into in advance of the election by the employer, such employee shall have given to his employer notice in writing that he elects to be subject to such provisions, or without giving either of such notices, shall have remained in the service of such employer for five days after the employer has filed his election, in which case the time at which the employee becomes subject to said compensation provisions shall be deemed to be at the beginning of said period.

(d) **State employments.** The state, and all political or other subdivisions thereof, as defined in section seven, and all state institutions, shall be conclusively presumed to have elected to come within the provisions of this act as to all employments otherwise excluded from this act.

(e) **Acceptance of act of 1913 continued.** All written acceptances filed by employers with the commission prior to the taking effect of this act, accepting the provisions of the workmen's compensation, insurance and safety act, chapter one hundred seventy-six, Statutes of 1913, and all acts amendatory thereof, shall, unless written notice be given to the contrary by said employer within sixty days after the taking effect of this act, be deemed acceptances of the provisions of this act, and all acts amendatory thereof, in accordance with the provisions of this section.

§ 71. Repealed. Continued. Sections two, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-two, seventy-three, seventy-four, seventy-five, seventy-five a, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six and eighty-seven of chapter one hundred seventy-six, Statutes of 1913, and all other acts and parts of acts inconsistent herewith, are hereby repealed; provided, that nothing contained in this act shall be construed as limiting or repealing sections one, three, four, five, six, seven, eight, nine, ten, eleven, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, eighty-eight and ninety of the said chapter one hundred seventy-six, Statutes of 1913.

§ 72. Proceedings, etc., under act of 1913 not disturbed. Nothing contained in this act shall be construed to limit, interfere with, disturb, or render ineffective in any degree, any matter, proceeding or transaction pending, done or performed under the provisions of chapter one hundred seventy-six, Statutes of 1913, and all acts amendatory thereof, or supplementary thereto, by the industrial accident commission, or any department or division thereof, or to affect any right or liability accrued or accruing or to accrue under said acts, but each and every part thereof are hereby expressly saved and continued under the jurisdiction of said industrial accident commission, with full power, authority and jurisdiction, and with the right and duty in said industrial accident commission to fully administer and dispose of the same.

§ 73. Injuries sustained prior to passage of act. The compensation provisions of this act, except procedural provisions, shall not apply to any injury sustained prior to the taking effect hereof.

§ 74. In effect, when. This act shall take effect on the first day of January, 1918.

ACT 2143d.

An act to prohibit employers or certain agents or representatives of employers from demanding or receiving any money or other consideration from an employee as a condition of employment or of continuing to perform services in such employment; and to provide for the en-

enforcement of this act by the commissioner of the bureau of labor statistics; and to provide a penalty for the violation thereof; and to repeal an act entitled "An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments, to demand or receive any fee, gift or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics," approved April 12, 1915.

[Approved May 5, 1917. Stats. 1917, p. 257. In effect July 27, 1917.]

§ 1. Employer receiving gifts or part of tips from employees guilty of misdemeanor. Any employer or agent or representative of an employer or other person having authority from his employer to hire, employ or direct the services of other persons in the employment of said employer, who shall demand or receive directly or indirectly from any person then in the employment of said employer, any fee, gift or other remuneration or other consideration, or any part or portion of any tips or gratuities received by such employee while in the employment of said employer, in consideration or as a condition of such employment or hiring or employing any person to perform such services for such employer or of permitting said person to continue in such employment, is guilty of a misdemeanor and upon conviction thereof shall be fined not more than three hundred (\$300) dollars for such offense, or by imprisonment for not more than six months or by both fine and imprisonment. All fines imposed or collected under provision of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

§ 2. Employment agencies excepted. Nothing contained in this act shall be construed to apply to employment agencies or employment agents licensed and operating under the laws of the state of California.

§ 3. Enforcement. This act shall be enforced by the commissioner of the bureau of labor statistics.

§ 4. Stats. 1915, p. 61, repealed. An act entitled "An act to forbid managers, superintendents, foremen and other persons having authority from their respective employers to hire, employ, or direct the services of other persons in such employments to demand or receive any fee, gift, or other remuneration in consideration of any such hiring, employment or permission to continue to perform work or services in such employment; and to provide for the enforcement of this act by the commissioner of the bureau of labor statistics," approved April 12, 1915, and designated chapter fifty-six of the Statutes of 1915, is hereby repealed.

ACT 2143e.

An act establishing and defining the jurisdiction of the industrial accident commission of the state of California and of the railroad commission of the state of California over the safety of employees of public utilities.

[Approved May 9, 1917. Stats. 1917, p. 296. In effect July 27, 1917.]

§ 1. Jurisdiction of industrial accident commission over safety of employees of public utilities. The industrial accident commission of the state of California is hereby vested with jurisdiction, as provided in the workmen's compensation, insurance and safety act of one thousand nine hundred seventeen, and acts amendatory thereof, subject to the provisions of section three hereof, over the safety of employees of steam railroads employed in shops devoted to the construction or repair of railroad equipment; the safety of employees of electric interurban or street railroads, employed in the generation, transmission or distribution of electric energy, or in shops devoted to the repair of railroad equipment, or in any nonpublic utility operation of such railroads; and the safety of employees of all other public utilities as such utilities are defined in the public utilities act.

§ 2. Jurisdiction of railroad commission not affected. The jurisdiction vested in the industrial accident commission of the state of California by section one hereof shall in no instance, except those affecting exclusively the safety of employees, be construed to impair, diminish or in any way affect the jurisdiction of the railroad commission of the state of California over the construction, reconstruction, replacement, maintenance or operation of the properties of public utilities as defined in the public utilities act, or over any matter affecting the relationship between such public utilities and their customers or the general public.

§ 3. Power of railroad commission. If the industrial accident commission, in the exercise of the authority and jurisdiction conferred by this act, makes or issues any order, decision, ruling or direction, which, in the judgment of the railroad commission, unduly and prejudicially interferes with the construction or operation of any public utility affected thereby, or with the public, or with a consumer or other patron of a public utility affected thereby, the railroad commission, of its own motion, or upon application of any utility or person so affected, may suspend, modify, alter, or annul such order, decision, ruling or direction of the industrial accident commission, and the action of the railroad commission in that regard shall supersede and control the order, decision, ruling or direction of the industrial accident commission previously made in the premises.

§ 4. Act of April 22, 1911, unaffected. This act shall not be construed to repeal or modify the act entitled "An act regulating the placing, erection, use and maintenance of electric poles, wires, cables and appliances, and providing the punishment for the violation thereof," approved April 22, 1911, as amended.

ACT 2143f.

An act to provide for the protection of beneficiaries of workmen's compensation insurance policies against the default or insolvency of insurance carriers issuing such policies by requiring such carriers to provide security for the payment of such compensation.

[Approved May 9, 1917. Stats. 1917, p. 292. In effect July 27, 1917.]
Amended 1919, p. 611.

§ 1. Workmen's compensation insurance carrier to file bond. Every insurance carrier except the state compensation insurance fund, trans-

acting the business of workmen's compensation insurance in this state, shall as a prerequisite to doing business in this state, file and maintain on file in the office of the insurance commissioner of this state a bond in favor of said insurance commissioner as trustee for the beneficiary or of awards of compensation rendered by the industrial accident commission, executed by said carrier and some surety company or companies, approved by said insurance commissioner and authorized to transact the business of suretyship in this state. Said bond shall be in an amount not less than the reserve for outstanding losses of said insurance carrier on compensation insurance in this state on December thirty-first of the preceding year, calculated as prescribed by the laws of this state, nor more than double the amount of said reserve, but in no case for less than the sum of one hundred thousand dollars, whether such company has previously done such business in this state or not. [Amendment approved May 15, 1919; Stats. 1919, p. 611.]

§ 2. Bond to provide for payment of awards by surety. It shall be provided in said bond that, in the event said insurance carrier shall fail to pay any award or awards which shall be rendered against it by said industrial accident commission, within thirty days after the same become final, the said surety will forthwith pay, to the extent of its liability under said bond, said award or awards to said insurance commissioner as trustee for said beneficiaries. Said bond shall further provide that, if said insurance carrier shall suspend payment or become insolvent or a receiver shall be appointed therefor, the said surety will pay said awards, to the extent of its liability under said bond, upon the expiration of thirty days after the same become final, without regard to any proceedings for the liquidation or reinstatement of said insurance carrier. It shall be further provided in said bond, but as a cumulative remedy only, that, in the event said insurance carrier shall fail to pay any award which shall be rendered against it by said industrial accident commission within thirty days after the same becomes final, an award may be rendered by said commission against said surety and in favor of said insurance commissioner as trustee for the beneficiary of said award without notice to said surety for the amount of the unpaid portion of said award against said carrier. Said industrial accident commission is hereby vested with the same full power, authority and jurisdiction as to such awards against said sureties in such cases as it has over said insurance carrier, and it shall issue a certified copy thereof upon the application of any party affected thereby. Said party may file a certified copy of any such award in the office of the clerk of the superior court of any county or city and county of the state of California, and, upon the filing of the same, said clerk shall immediately enter a judgment thereon against said surety. Said certified copy of said award and said judgment shall constitute the judgment-roll and shall conclusively establish the liability of said surety without any additional evidence in any and all proceedings to renew said judgment or to enforce the payment thereof. Said bond shall provide for the payment of all legal costs, including reasonable attorneys' fees, incurred in all actions or proceedings taken to enforce payment of said bonds or payment of said awards or said judgments against said surety. No stay of execution of any such judgment shall be granted except upon the order of said industrial accident commission. Nothing herein contained shall operate to enlarge the

liability of said surety beyond the penal sum of its bond. Payment of awards by said surety aggregating the amount of its bond shall constitute a full discharge of all liability under said bond.

§ 3. Filing of new bond each year. Every such insurance carrier shall on or prior to the first day of July of the year A. D. 1918, and of each succeeding year, file in the office of the insurance commissioner of this state a new bond conditioned as aforesaid in an amount not less than the amount of the reserve for outstanding losses of said insurance carrier on compensation insurance in this state on the thirty-first day of the month of December of the preceding year, as shown by its last report of said business filed in the office of said insurance commissioner, nor for more than double the amount of said reserve, but in no case for less than the sum of one hundred thousand dollars, except where said insurance carrier has ceased to do such business in this state, in which case said bond shall be fixed by said insurance commissioner at such amount as he may deem sufficient for the protection of the beneficiaries of the policies of such insurance carrier. Upon the filing of said new bond, approved as herein required, and not until such filing and approval, all liability under the previous bond shall thereby terminate. Said new bond shall embrace the entire liability of said previous bond except in so far as the same may have been paid or discharged.

§ 4. Financial ability of surety. Said insurance commissioner shall, before approving any such bond, satisfy himself of the financial ability of the surety to assume the obligations imposed thereby, and no company shall be accepted by him as surety which shall have assumed obligations in excess of the limits prescribed by standards of suretyship recognized as reasonable and proper and which it shall be the duty of said commissioner to promulgate for uniform application in such cases.

§ 5. No authorization issued until bond filed. No authorization shall be issued or renewed to any insurance carrier to transact the business of workmen's compensation insurance in this state, until it has filed said bond with the insurance commissioner and the same has been approved by him. It shall be the duty of the insurance commissioner to notify the industrial accident commission of the approval and filing of every bond given pursuant to the provisions of this act.

§ 6. Additional bond. The insurance commissioner shall have the right, and it shall be his duty, to require any such insurance carrier at any time to file an additional bond, conditioned as aforesaid, if the amount of the bond then on file is in his judgment insufficient to cover the liability of said insurance carrier for said compensation, or if the surety on said bond has become insufficient in the judgment of the said commissioner.

§ 7. Liability of two or more sureties. Two or more surety companies may be accepted as sureties on said bond, or separate bonds may be executed by different sureties for amounts aggregating the sum specified by the said commissioner. In such cases each of said sureties shall be jointly and severally liable to the extent of the amount of the liability assumed by it.

§ 8. Liability of sureties. The liability of the sureties under the bonds hereby required to be given shall be the entire liability of the

principals named therein, not exceeding the amount of said bonds or the limit of the liability assumed by any such surety, for the payment of awards of compensation rendered or to be rendered against said principals by said industrial accident commission under the terms of the workmen's compensation insurance and safety act and acts amendatory thereof and supplementary thereto, without regard to the time when the injury upon which an award was based may have occurred, but said bond shall not include any other liability of said carrier nor shall any payment made under any such bond by said surety be applied otherwise than in satisfaction of awards of compensation rendered by said industrial accident commission.

§ 9. Insurance commissioner may act as trustee. Full power and authority is hereby conferred upon said insurance commissioner to act as trustee for all beneficiaries under awards rendered by said industrial accident commission, and he may take assignments in his own name as trustee and as such he shall have the authority to institute and maintain actions against said sureties, and, upon the collection by him by suit or otherwise of the amount of said awards, he shall pay the same to the parties entitled thereto. The payment of any such award or part thereof by said insurance commissioner shall constitute a satisfaction thereof to the extent of the payment made and, in the event any judgment shall have been entered on any such award, the said commissioner shall file a satisfaction thereof, to the extent of said payment, in the office of the clerk of the court wherein such judgment has been entered.

§ 10. Right of surety to require new bond of principal. Any such surety shall have the right to require the principal on its bond, on thirty days' notice, to furnish a new bond, to be approved by the insurance commissioner as in other cases, and, in the event of a failure to do so, said principal shall forfeit the right to continue to issue compensation policies in this state.

§ 11. Deposit of security with state treasurer. Any compensation insurance carrier may, in lieu of said bond and subject to the same conditions, deposit with the state treasurer, through the insurance commissioner, from time to time as may be demanded by said commissioner, cash or approved interest-bearing securities readily convertible into cash, equal to the reserves for outstanding losses required by section six hundred two (a) of the Political Code at the time of said deposit, on the compensation business of said carrier in the state of California, calculated as hereinbefore provided, as security for the payment of its obligations on said business done in this state, and said deposit shall not be withdrawn except upon the written order of the insurance commissioner in payment of compensation claims, but shall be forthwith payable by the state treasurer to the insurance commissioner upon such order; provided, that any such deposit, or any remainder thereof, may be repaid to such carrier upon satisfactory showing to the insurance commissioner that every liability to pay compensation shall have been reinsured with a solvent carrier or fully paid and discharged. Said deposit shall be used only for the payment of compensation claims so long as there shall remain unpaid any such claim or any part thereof.

§ 12. Revocation of certificate. The insurance commissioner shall have power to revoke the certificate of authority to transact compensa-

tion insurance business in this state of any insurance carrier failing to comply with the requirements of this act.

ACT 2144a.

An act to promote the general welfare of the people of this state as affected by accident causing the injury or death of employees in the course of their employment, by creating a liability on the part of employers to compensate such employees and their dependents for such accidental injury or death irrespective of the fault of either party, and providing the means and methods of enforcing such liability; and creating a "state compensation insurance fund" to insure employers against such liability and providing for its administration and regulating such insurance by other insurance carriers; and requiring safety in all employments and places of employment in this state and providing the means and methods of enforcing such safety; and requiring reports of industrial accidents; and providing penalties for offenses by employers, their officers, agents, and by employees and other persons and corporations; and creating an industrial accident commission, providing for its organization, defining its powers and duties and providing for a review of its orders, decisions and awards; and appropriating moneys to carry out the provisions of this act; and repealing all acts and parts of acts inconsistent with the provisions of this act.

[Approved May 26, 1913. Stats. 1913, p. 279.]

Amended 1915, pp. 913, 1079, 1302.

Sections 2, 12-35, 51-87 repealed May 23, 1917. Stats. 1917, p. 831. See Act 2143c.

ACT 2144g.

An act requiring employers who provide hospital service for their employees and who make a charge therefor, to keep books, records and accounts of all such charges, and to make an annual written report thereof; requiring each such charge to be just and reasonable and to be devoted to no other purpose than such hospital service; and prescribing penalties for violations of the provisions thereof.

[Approved June 8, 1915. Stats. 1915, p. 1310.]

Amended 1917; Stats. 1917, p. 83.

The amendment of 1917 follows:

§ 3. Hospital charges must be just. Every such hospital charge demanded, collected or received by an employer shall be just and reasonable. The railroad commission is hereby given authority to decide what is an unreasonable charge in all cases where such charge is made by a hospital maintained by a common carrier by rail, and in all cases where the charge is made by a hospital maintained by other than a common carrier by rail, the industrial accident commission is hereby given authority to decide what is an unreasonable charge. [Amendment approved April 6, 1917; Stats. 1917, p. 83.]

§ 5. Common carrier subject to railroad commission. Other employees under industrial accident commission. Every common carrier by rail

employer who is under a duty to render the report referred to in section two of this act shall be subject to the jurisdiction, control and regulation of the railroad commission in respect to auditing and inspection of all books, records and accounts and to enforce its orders in the same manner and to the same extent as said commission now possesses over any public utility that is subject to the provisions of the "public utilities acts" of this state, approved December 23, 1911, as amended June 11, 1913, and June 14, 1913, and all acts amendatory thereof or supplemental thereto. Every employer coming under the provisions of this act shall be required to post a copy of this statement or report upon all bulletin-boards at terminals or in a conspicuous place where employees can read such statement or report. Every employer other than a common carrier by rail, who is under a duty to render the report referred to in section two of this act, shall be subject to the jurisdiction, control and regulation of the industrial accident commission in respect to the auditing and inspection of all books, records and accounts and the authority is hereby conferred upon said industrial accident commission to enforce by appropriate orders and processes the provisions of this act. The written report required by section two hereof when made by a common carrier by rail shall be filed with the railroad commission. All other written reports required by section two hereof shall be filed with the industrial accident commission. [Amendment approved April 6, 1917; Stats. 1917, p. 83.]

ACT 2144h.

An act to provide for the support of vocational re-education and rehabilitation of workmen disabled in industry in this state, and to create a fund for these purposes to be known as the "industrial rehabilitation fund" by fixing an additional liability upon all employers liable under said act in cases where employees receive fatal compensable injury and leave no dependents.

[Approved May 2, 1919. Stats. 1919, p. 273.]

§ 1. "Industrial rehabilitation fund" created. Whenever any fatal compensable injury is suffered by any employee coming under the provisions of said compensation, insurance and safety act and such deceased employee does not leave surviving him any person entitled to a death benefit, the employer, or his insurance carrier, if he be insured under said compensation act, shall pay into the treasury of the state of California the sum of three hundred fifty dollars for each such fatal injury in addition to any other payments under the provisions of said compensation act; provided, that the total payments shall not exceed three times the average annual earnings of said deceased employee. Said moneys paid into the state treasury under the provisions of this section shall be covered into a special fund to be known as the "industrial rehabilitation fund," which fund is hereby created and appropriated for the purposes set forth in this act.

§ 2. Purpose. The industrial accident commission may draw upon said fund for the promotion of vocational re-education and rehabilitation of persons disabled in industry in this state, in addition to any other money appropriated for such purposes. The controller is hereby ordered to draw his warrant on said fund from time to time in accord-

ance with the direction of the commission, and the treasurer is hereby authorized and directed to pay the same.

§ 3. Disposition of remainder. The treasurer shall place the remainder, if any, of the fund, after making the payments required by the preceding sections of this act, semi-annually, to the credit of the accident prevention fund, established by said compensation act.

§ 4. Revolving fund. Expense of administration. As soon as the sum of five thousand dollars shall have accumulated in said fund, the treasurer shall, upon the order of the industrial accident commission, deposit the same with the state compensation insurance fund as a revolving fund. The state compensation insurance fund shall, upon the order or award of the industrial accident commission, make the payments required by sections two, three and four from said revolving fund, accounting therefor to the state board of control as in other cases, and the state treasurer shall from time to time, upon the order of the commission, reimburse said state compensation insurance fund from the industrial rehabilitation fund for expenditures made from said revolving fund. The reasonable expense of administration of the said state compensation insurance fund in carrying out the duties imposed by this act shall, upon the auditing and approval thereof by the state board of control, be paid from said industrial rehabilitation fund in the same manner as is provided in this section for other payments. The controller is hereby directed to draw his warrant from time to time in favor of the state compensation insurance fund in accordance with the direction of said commission, and the treasurer is hereby authorized and directed to pay the same.

§ 5. Proceedings to collect amount or determine liability. If claim of dependency established. If any proceedings are necessary to collect from any employer the amount mentioned in the preceding section, or to determine the liability of any employer under said compensation act with respect to said amount, such proceedings shall be instituted before the industrial accident commission of its own motion or by the attorney general on behalf of the people of the state of California and such proceedings shall be tried and determined in the same manner and with the same effect as any other proceeding to collect compensation; provided, that if proceedings be instituted by any other person to collect benefits under the compensation act on account of such fatal injury, the commission may, if it finds said sum of three hundred fifty dollars payable to the state treasurer, award said sum to the state of California without the people of the state of California being a party to said proceedings; and provided, further, that if said sum of three hundred fifty dollars shall be paid into the treasury and at any time thereafter any person claiming to be a dependent of the deceased employee shall establish such dependency and secure an award therefor, the commission may make an award against the state of California in favor of said dependent for said sum of three hundred fifty dollars, or as much thereof as may be necessary to meet the claim of such dependent, said sum to be applied to said death benefit and to relieve to that extent the employer or his insurance carrier against liability therefor.

§ 6. Authority of industrial accident commission. The industrial accident commission of the state of California is hereby vested with

full jurisdiction and authority to hear and determine any and all questions and controversies arising under this act and to make and enter all orders and awards necessary to carry out the purposes herein set forth.

TITLE 336.

MEDICINE.

ACT 2164.

An act to regulate the examination of applicants for license, and the practice of those licensed, to treat diseases, injuries, deformities, or other physical or mental conditions of human beings; to establish a board of medical examiners, to provide for their appointment and prescribe their powers and duties, and to repeal an act entitled "An act for the regulation of the practice of medicine and surgery, osteopathy, and other systems or modes of treating the sick or afflicted, in the state of California, and for the appointment of a board of medical examiners in the matter of said regulations," approved March 14, 1907, and acts amendatory thereof, and also to repeal all other acts and parts of acts in conflict with this act.

[Approved June 2, 1913. Stats. 1913, p. 722.]

Amended 1915, p. 184; 1917, p. 93; 1919, pp. 1296, 1299.

The amendments of 1917 and 1919 follow:

§ 2. Board of medical examiners organized. Meetings. Applications for certificates. Directory of practitioners. Fees. Forfeiture of license and restoration. Surplus receipts. The board shall be organized on or before the first Tuesday of September, 1913, by electing from its number a president, vice-president, and a secretary who shall also be the treasurer, who shall hold their respective positions during the pleasure of the board. The board shall hold one meeting annually beginning on the third Monday in October in the city of Sacramento and at least two additional meetings annually, one of which shall be held in the city of Los Angeles, and the other in the city of San Francisco, with power of adjournment from time to time until its business is concluded; provided, however, that examinations of applications for certificates may, in the discretion of the board, be conducted in any part of the state designated by the board. Special meetings of the board may be held at such time and place as the board may designate. Notice of each regular or special meeting shall be given twice a week for two weeks next preceding each meeting in one daily paper published in the city of San Francisco, one published in the city of Sacramento, and one published in the city of Los Angeles, which notice shall also specify the time and place of holding the examination of applicants. The secretary of the board upon an authorization from the president of the board or the chairman of a committee, may call meetings of any duly appointed committee of the board at a specified time and place and it shall not be necessary to advertise such committee meetings. The board shall receive through its secretary applications for certificates provided to be issued under this act and shall, on or before the first day of January of each year, transmit to the governor a full report of all its proceedings together with a report of its receipts and disbursements. The board shall, on or before the first

day of January of each year, compile and may thereafter publish and sell, a complete directory giving the addresses of all persons within the state of California who hold unrevoked licenses to practice under any medical practice act of the state of California, which license shall in any manner authorize the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions. The board is hereby authorized to require said persons to furnish such information as it may deem necessary to enable it to compile the directory. The directory shall contain in addition to the names and addresses of said persons, the names and symbols indicating the title, name or names, school or schools, which such person has attended and from which graduated, the date of issuance of the license, the present residence of said person and a statement of the form of certificate held. The directory shall be prima facie evidence of the right of the person or persons named therein to practice. It shall be the duty of every person holding a license to practice under any medical act of this state, or who may hereafter be so licensed to practice, to report immediately each and every change of residence, giving both the old and the new address. To comply with the provisions of this section relating to the compilation, publication and sale of a directory in addition to the fee required for the filing of any application, or the issuance of any certificate hereinafter provided for, each licentiate granted a certificate under the provisions of this act, or any preceding medical practice act of the state of California, shall, on or before the first day of January of each year, pay to the secretary-treasurer of the board of medical examiners an annual tax and registration fee of two dollars (\$2). Receipt or acknowledgment of payment by the secretary-treasurer shall be evidence that the holder and possessor of such certificate is entitled to practice the particular system for which he was granted such certificate for a period of one year from the first day of January; but notwithstanding the possession by any certificate-holder of such receipt or acknowledgment of payment, the license or certificate issued to such licentiate to practice any system recognized by this or any preceding medical practice act of the state of California, may, at any time, be forfeited or revoked for a violation of the further provisions and requirements of this act. The failure, neglect and refusal of any person holding a license or certificate to practice a system under this or any preceding medical practice act of the state of California, to pay said annual tax of two dollars (\$2) during the time his or her license remains in force, shall, after a period of sixty days from the first day of January of each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor, and the payment to the said board of a fee of ten dollars (\$10) except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of sixty days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate. It shall be the duty of the executive officer herein designated as the secretary-treasurer of said board of medical examiners to mail to the last known address of each licentiate who has paid said annual tax a copy of the said directory, and all new issues thereof and copies of all supplements thereto. The receipts of the said annual tax referred to herein shall be paid into

the contingent fund of the board of medical examiners of California, and after the expenses of issuing said directories have been paid, in the event that there shall be a surplus of such funds, the board may from time to time, in its discretion, apply said surplus for any other expenses incurred by the board under the provisions of this act. [Amendment approved April 11, 1917; Stats. 1917, p. 94.]

§ 8. Forms of certificates. "Physician and surgeon certificate." "Drugless practitioner certificate." Chiropody certificate. Midwifery certificate. Reciprocity certificate. Four forms of certificates shall be issued by said board under the seal thereof and signed by the president and secretary; first, a certificate authorizing the holder thereof to use drugs or what are known as medicinal preparations in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, or other physical or mental conditions, which certificate shall be designated "physician and surgeon certificate"; second, a certificate authorizing the holder thereof to treat diseases, injuries, deformities, or other physical or mental conditions without the use of drugs or what are known as medicinal preparations and without in any manner severing or penetrating any of the tissues of human beings except the severing of the umbilical cord, which certificate shall be designated "drugless practitioner's certificate"; third, a certificate authorizing the holder thereof to practice chiropody; for the purpose of this act chiropody is defined to be the surgical treatment of abnormal nails and superficial excrescences occurring on the feet, such as corns, callosities, and the treatment of bunions; but it shall not confer the right to operate upon the feet for congenital or acquired deformities, or for conditions requiring the use of anesthetics other than local, or incisions involving structures below the level of the true skin; fourth, a certificate to practice midwifery which shall be in the form designated by the board and in conformity with this act. Such certificate shall entitle the holder thereof to attend cases of childbirth. As used in this act, the practice of midwifery means the furthering or undertaking by any person to assist a woman in normal childbirth, but it does not include at any childbirth the use of any instrument, except such instrument as is necessary in severing the umbilical cord, nor the assisting of childbirth by any artificial, forcible or mechanical means, nor the performance of any version, nor the removal of adherent placenta, nor the administering, prescribing, advising or employing in childbirth of any drug, other than a disinfectant or cathartic. The provisions hereof shall not authorize any midwife to practice medicine and surgery. A "reciprocity certificate" shall also be issued under the provisions hereinafter specified. Any of these certificates on being recorded in the office of the county clerk, as hereinafter provided, shall constitute the holder thereof a duly licensed practitioner in accordance with the provisions of his certificate. [Amendment approved April 11, 1917; Stats. 1917, p. 94.]

§ 9. Applicants must file testimonials, diplomas, etc. Preliminary education. Work in physics, chemistry and biology. Every applicant must file with the board, at least two weeks prior to the regular meeting thereof, satisfactory testimonials of good moral character, and a diploma or diplomas issued by some legally chartered school or schools approved

by the board, the requirements of which school or schools shall have been at the time of granting such diploma or diplomas in no degree less than those required under this act, or satisfactory evidence of having possessed such diploma or diplomas, and must file an affidavit stating that he is the person named in said diploma or diplomas, and that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination without fraud or misrepresentation; provided, that in addition thereto, each applicant for a "physician and surgeon certificate" must show that he has attended four courses of study, each such course to have been of not less than thirty-two weeks duration, but not necessarily pursued continuously, or consecutively, and that at least ten months shall have intervened between the beginning of any course and the beginning of the preceding course; provided, further, that an applicant for a "drugless practitioner certificate" must show that he has attended two courses of study, each such course to have been of not less than thirty-two weeks duration, but not necessarily pursued continuously or consecutively, and that at least ten months shall have intervened between the beginning of any course and the beginning of the preceding course; the course in chiropody is to consist of not less than thirty-nine weeks consisting of not less than six hundred sixty-four hours; provided, further, that an applicant for a certificate to practice midwifery must show that the applicant has attended a one-year course in a hospital recognized as reputable by the board, and that a course of instruction in anatomy, physiology, obstetrics and hygiene and sanitation as set forth in section ten hereof has been taken, covering a period of one year; provided, further, that in lieu thereof, an applicant who can submit satisfactory proof of the possession of a diploma from a recognized reputable hospital, and who in addition thereto has attended a course of instruction in the subjects enumerated in section ten hereof and satisfactory proof that such instruction has been taken covering a period of at least three months; and provided, further, that in lieu thereof an applicant may present proof satisfactory to the board that the applicant has taken a course of instruction with the minimum requirements as designated in section ten of any school or schools approved by the board as giving a course of instruction in said subjects for a certificate to practice medicine and surgery; provided, also, that before July 1, 1918, in lieu of the diploma or diplomas and preliminary requirements herein referred to where the applicant can show to the satisfaction of the board of medical examiners that he has taken courses hereinafter required in a school or schools approved by the board totaling for applicants for "drugless practitioner certificate" not less than sixty-four weeks consisting of not less than two thousand hours and for "physician and surgeon certificate" totaling not less than one hundred twenty-eight weeks consisting of not less than four thousand hours, it being required that all applicants shall have received passing grades in all such courses, that the applicant or applicants shall be admitted to examination for their respective form of certificates.

The said application shall be made upon a blank furnished by said board and it shall contain such information concerning the medical instruction and the preliminary education of the applicant as the board may by rule prescribe. In addition to the requirements hereinabove provided for, applicants for any form of certificate hereunder shall present

to said board at the time of making such application a diploma from a California high school or other school in the state of California requiring and giving a full four years' course of same grade, or other schools elsewhere, requiring and giving a full four years' standard high school course, or its equivalent, approved by the board, together with satisfactory proof that he is the lawful holder of such diploma, and that the same was procured in the regular course of instruction. The passing of an examination before the entrance examining board for the entrance to the academic department of the University of California, or Stanford University or the University of Southern California, or the possession of documentary evidence of admission to the academic department of such institutions as a regular student or in full standing shall be sufficient basic or preliminary educational qualifications. In lieu of such diploma, the applicant may present: (1) a certificate from the college entrance examination board, or the college examining board of any state or territory showing that such applicant has successfully passed the examination of said board; or (2) if such applicant be thirty years or more of age he may show to the satisfaction of the board of medical examiners proof of preliminary education equivalent in training power to the foregoing requirements. After January 1, 1919, every applicant for a "physician and surgeon certificate" shall in addition to the foregoing requirements, present to the board satisfactory evidence that before beginning the last half of the second year in the study of medicine he has completed a course which includes at least one year of work, of college grade, in each of the subjects of physics, chemistry, and biology. The preliminary or basic educational requirements for a chiropodist, shall be as follows: On and after July 5, 1915, the successful completion of one year of high school work or its equivalent; on and after July 1, 1918, two years of high school work or its equivalent; on and after July 1, 1920, three years of high school work or its equivalent; on and after July 1, 1922, four years of high school work or its equivalent.

The preliminary or basic educational qualifications for an applicant to practice midwifery in this state shall be the completion of one year of high school work or its equivalent, and after October, 1918, the presentation to the board of a diploma from a California high school giving a full four years' standard high school course or its equivalent. [Amendment approved April 11, 1917; Stats. 1917, p. 97.]

§ 10. Course of instruction. Physicians and surgeons. Drugless practitioners. Chiropodists. Midwives. Hours required. Applicants for any form of certificate shall file satisfactory evidence of having pursued in any legally chartered school or schools, approved by the board, a course of instruction covering and including the following minimum requirements:

For a "Physician and Surgeon Certificate."

Group 1. 775 hours.

Anatomy	550 hours
Embryology	75 hours
Histology	150 hours

Group 2. 620 hours.

Elementary chemistry and toxicology.....	140 hours
Advanced chemistry	180 hours
Physiology	300 hours

Group 3. 450 hours.

Elementary bacteriology	60 hours
Advanced bacteriology	80 hours
Hygiene	60 hours
Pathology	250 hours

Group 4. 240 hours.

Materia medica	80 hours
Pharmacology	105 hours
Therapeutics	55 hours

Group 5. 940 hours.

Dermatology and syphilis.....	45 hours
General medicine and general diagnosis.....	600 hours
Genito-urinary diseases	45 hours
Nervous and mental diseases.....	110 hours
Pediatrics	140 hours

Group 6. 680 hours.

Laryngology, otology, rhinology.....	60 hours
Ophthalmology	60 hours
Surgery and surgical diagnosis.....	500 hours
Orthopedic surgery	30 hours
Physical therapy, including electrotherapy, X-ray, radiography, hydrotherapy	30 hours

Group 7. 265 hours.

Gynecology	100 hours
Obstetrics	165 hours

Miscellaneous. 30 hours.

Ethics, jurisprudence, etc.....	30 hours
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Total	4,000 hours
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For a "Drugless Practitioner Certificate."

Group 1. 600 hours.

Anatomy	485 hours
Histology	115 hours

Group 2. 270 hours.

Elementary chemistry and toxicology.....	70 hours
Physiology	200 hours

Group 3. 235 hours.

Elementary bacteriology	40 hours
Hygiene	45 hours
Pathology	150 hours

Group 4. 370 hours.

Diagnosis	370 hours
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Group 5. 260 hours.

Manipulative and mechanical therapy.....	260 hours
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Group 6. 265 hours.

Gynecology	100 hours
Obstetrics	165 hours
Total	2,000 hours

For a Certificate to Practice Chiropraxy.**Group 1. 117 hours.**

Anatomy	78 hours
Histology	39 hours

Group 2. 156 hours.

Chemistry and toxicology.....	78 hours
Physiology	78 hours

Group 3. 103 hours.

Bacteriology	39 hours
Hygiene	25 hours
Pathology	39 hours

Group 4. 44 hours.**Diagnosis:**

Syphilis	20 hours
Dermatology	24 hours

Group 5. 215 hours.**Manipulative and mechanical therapy:**

Didactic and clinical chiropraxy.....	136 hours
Orthopedics	20 hours
Surgery	59 hours

Group 6. 29 hours.

Materia medica and therapeutics.....	29 hours
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Total	664 hours
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For a Certificate to Practice Midwifery.**Group 1. 150 hours.**

Anatomy	75 hours
Physiology	75 hours

Group 2. 265 hours.

Hygiene and sanitation.....	100 hours
Obstetrics	165 hours

Total	415 hours
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In the course of study herein outlined the hours required shall be actual work in the classroom, laboratory, clinic or hospital, and at least eighty (80) per cent of actual attendance shall be required; provided, that the hours herein required in any subject need not exceed seventy-five (75) per cent of the number specified, but that the total number of hours in all the subjects of each group shall not be less than the total number specified for such group. [Amendment approved April 11, 1917; Stats. 1917, p. 99.]

§ 104. Board must approve schools meeting requirements. Action in event of disapproval. The board must approve every school which shall

comply with the requirements of section ten of this act and must admit to the examination every applicant who shall comply with the requirements of sections nine and ten of this act. Nothing in this act shall prohibit the board from considering the quality of the course of instruction outlined in section ten hereof. If any school should be disapproved by the board or any applicant for examination rejected by it, then such school so disapproved or such applicant so rejected may commence an action in the superior court against said board to compel the board to approve such school or to admit such applicant to examination or for any other appropriate relief. In any such action, the court shall have full power to investigate and decide all facts anew without regard to any previous determination of the board thereon. Such action shall be speedily determined by said court and shall take precedence over all matters pending therein save and except criminal cases, applications for injunction or other matters to which special precedence may be given by law. [New section added May 27, 1919; Stats. 1919, p. 1299.]

§ 11. Additional requirements for physicians and surgeons. For drugless practitioners. Exceptions. Examination for chiropodists. Examination for midwives. Re-examination. Admission to drugless practitioner examination. Admission without examination. Examination papers kept on file. Secretary not to be examiner. Form of certificates. In addition to above requirements, all applicants for "physician and surgeon certificate" must pass an examination to be given by the board in the following subjects:

1. Anatomy and histology.
2. Physiology.
3. Bacteriology and pathology.
4. Chemistry and toxicology.
5. Obstetrics and gynecology.
6. Materia medica and therapeutics, pharmacology, including prescription-writing.
7. General medicine, including clinical microscopy.
8. Surgery.
9. Hygiene and sanitation.

All applicants for "drugless practitioner certificates" must pass an examination in the following subjects:

1. Anatomy and histology.
2. Physiology.
3. General diagnosis.
4. Pathology and elementary bacteriology.
5. Obstetrics and gynecology.
6. Toxicology and elementary chemistry.
7. Hygiene and sanitation.

Provided, that a person who holds a "drugless practitioner certificate," issued upon satisfactory proof of the course of instruction and minimum requirements demanded in section ten hereof and who presents evidence of having successfully completed the additional courses required for the "physician and surgeon certificate" as hereinbefore provided, shall be permitted to take his examination in subjects required for a "physician and surgeon certificate" without being re-examined in "drugless practitioner" subjects.

The subjects for such examination shall be:

1. Advanced chemistry.
2. Advanced bacteriology.
3. Surgery.
4. Materia medica and therapeutics, pharmacology, including prescription writing.
5. General medicine, including clinical microscopy.

All applicants for a certificate to practice chiropody must pass an examination in the following subjects:

1. Anatomy and histology.
2. Physiology, chemistry and hygiene.
3. Pathology and bacteriology.
4. Dermatology and syphilis.
5. Orthopedics and surgery.
6. Chiropody and therapeutics.

All applicants for a certificate to practice midwifery must pass an examination in the following subjects:

1. Anatomy and physiology.
2. Obstetrics.
3. Hygiene and sanitation.

All examinations shall be practical in character and designed to ascertain the applicant's fitness to practice his profession, and shall be conducted in the English language, and at least a portion of the examination in each of the subjects shall be in writing. The board in its discretion upon the submission of satisfactory proof from the applicant that he is unable to meet the requirements of the examination in the English language, may allow the use of an interpreter either to be present in the examination room or to thereafter interpret and transcribe the answers of the applicant. The selection of such interpreter is to be left entirely to the board and the expenses thereof to be borne by the applicant, the payment therefor to be made before such examination is held. There shall be at least ten questions on each subject, the answers to which shall be marked on a scale of zero to one hundred. Each applicant must obtain no less than a general average of seventy-five per cent, and not less than sixty per cent in any two subjects; provided, that any applicant shall be granted a credit of one per cent upon the general average for each year of actual practice since graduation; provided, further, that any applicant for "physician and surgeon certificate" obtaining seventy-five per cent each in seven subjects and any applicant for "drugless practitioner certificate" obtaining seventy-five per cent each in five subjects and an applicant for a certificate to practice chiropody obtaining over seventy-five per cent in seven subjects, and an applicant for a certificate to practice midwifery obtaining seventy-five per cent in one subject, shall be subsequently re-examined in those subjects only in which he failed, and without additional fee. Any person who at any time prior to January 1, 1916, shall pay to the secretary of said board the fee of twenty-five dollars and submits satisfactory proof of good moral character and of a resident one-year course of not less than one thousand hours in a legally chartered school approved by the board and satisfactory proof of three years of actual practice of a drugless system of the healing art, such three years of actual practice

to have been in the state of California, shall be admitted to the drugless practitioner examination; provided, however, that in the event of a license being granted to such applicant he will not be eligible thereafter for the physician's and surgeon's certificate without a full and complete compliance with the terms and provisions of sections nine and ten hereof. Anyone who shall pay the fee of fifty dollars to the secretary of the board prior to January 1, 1916, and submits to the board satisfactory proof of good moral character and proof of six years' actual practice of a drugless system of the healing art, three years of which must have been in the state of California, and satisfactory proof of a resident one-year course of not less than one thousand hours in a legally chartered school approved by the board and upon proof of competency in a drugless system may be granted a certificate to practice a drugless system in this state; provided, however, that such licensee shall not be permitted to take the physician's and surgeon's examination without a full and complete compliance with the terms of sections nine and ten hereof.

The examination papers shall form a part of the records of the board, and shall be kept on file by the secretary for a period of one year after each examination. In said examination the applicant shall be known and designated by number only, and the name attached to the number shall be kept secret until after the board has finally voted upon the application. The secretary of the board shall in no instance participate as an examiner in any examination held by the board. All questions on any subject in which examination is required under this act shall be provided by the board of medical examiners upon the morning of the day upon which examination is given in such subject, and when it shall be shown that the secretary or any member of the board has in any manner given information in advance of or during examination to any applicant it shall be the duty of the governor to remove such person from the board of medical examiners, or from the office of secretary.

All certificates issued hereunder must state the extent and character of practice which is permitted thereunder and shall be in such form as shall be prescribed by the board. [Amendment approved April 11, 1917; Stats. 1917, p. 102.]

§ 12. Army and navy surgeons authorized to practice. Fee. When certificate may be refused. Exceptions. Any medical director, medical inspector, passed assistant surgeon, or assistant surgeon of the United States navy, honorably discharged or temporarily detached, or placed upon the retired list without being discharged or on active duty, from the medical department of the United States navy, or who by resignation has honorably severed all connection with the service, and any surgeon of the United States army, honorably discharged, or temporarily detached or placed upon the retired list without being discharged or on active duty from the medical department of the United States army, or who by resignation has honorably severed all connection with the service and any commissioned officer, viz.: surgeon general, assistant surgeon general, senior surgeon, surgeon, passed assistant surgeon and assistant surgeon of the United States public health service on active duty with such service, temporarily detached or who has honorably severed all connection with the United States public health service, is hereby authorized to practice medicine and surgery within the state of California by filing a sworn copy of his discharge, if he be discharged, or of

the order temporarily detaching him or the order placing him upon the retired list, with the state board of medical examiners or by proving to the satisfaction of the board that by resignation he has honorably left the service, of either the army or navy, and paying said board a fee of fifty dollars; provided, that when it appears to the satisfaction of the board, that in the year in which the applicant was appointed or commissioned in the United States army, navy or public health service, that the requirements of such service for such appointment or commission, were in any degree or particular less than those which were required for the issuance of a similar certificate to practice in California at the date of such issuance, then the board in its discretion may refuse to issue such certificate; provided, further, that the provisions of this section shall not apply to any contract surgeon in the United States army, navy or public health service, and shall not apply to any officer of the medical reserve corps of said army, navy or public health service. [Amendment approved April 11, 1917; Stats. 1917, p. 104.]

§ 12½. **Chiropody certificate for persons already practicing, Midwifery certificate to persons already practicing. Investigation of moral character. Applicants to practice osteopathy. Examination.** Any person who at any time within ninety days from and after the passing of this act shall pay to said board, the registration fee of fifty dollars, as herein provided, and furnish to said board satisfactory proof of the fact that such applicant has been actually engaged in the practice of chiropody in the state of California for the period of one year prior to July 1, 1915, and that such applicant possesses a good moral character and competency in the practice of chiropody, shall be entitled to practice chiropody, and said board must issue to him a chiropody certificate.

Any person who at any time within one hundred eighty days from and after the passing of this act shall pay to said board the registration fee of twenty dollars as herein provided, and furnish to said board satisfactory proof that such applicant has been actually engaged in the practice of midwifery in the state of California for at least a period of one year, and that such applicant possesses a good moral character and competency in the practice of midwifery, shall be entitled to practice midwifery, and said board must issue to such applicant a midwifery certificate.

The actual practice referred to herein shall consist in satisfactory proof that the applicant has attended at least twenty-five cases of labor and has had the care of at least twenty-five mothers and new-born infants during the lying-in period. The lying-in period referred to herein shall consist of a period of ten days following delivery. The good moral character referred to herein shall be evidenced by the certificates of two physicians and surgeons or practitioners licensed under this or any preceding medical practice act of this state, and the certificate of one layman, preferably a clergyman, priest, rabbi or recognized minister of the gospel. The competency referred to herein shall be evidenced by affidavits of reputable citizens preferably physicians of the vicinity wherein the applicant has recently resided. The board, however, may disregard such certificates and in its discretion may give an oral, practical or clinical examination. The proof of the attendance and completion of the twenty-five cases of labor referred to herein shall be evidenced, if the board shall so require of any applicant, by the submission of the name

of the mother, and a reference to the birth certificate required under the law. The board shall have the power to disregard the certificates of moral character referred to herein and may order that an investigation under the direction of the board be held upon the moral character of the applicant. If the said investigation should result in an adverse report to applicant, the applicant shall be entitled to a hearing before said board and after such hearing the board shall be the judges of the moral fitness of the applicant to receive a certificate to practice midwifery. In the event that a certificate to practice midwifery shall not be granted under the provisions of this section, the applicant will be entitled to a refund of ten dollars. Any person who files an application for a "physician and surgeon certificate" two weeks prior to a regular or special meeting, and who submits satisfactory proof to the board that the applicant has been licensed to practice osteopathy under the provisions of an act entitled "An act to regulate the practice of osteopathy in the state of California and to provide for the state board of osteopathic examiners, and to license osteopaths who practice in this state, and to punish persons violating the provisions of this act," which became a law under constitutional provision without the governor's approval March 9, 1901, or who submits satisfactory proof that the applicant has been licensed to practice osteopathy under an act entitled "An act to provide for the regulation of the practice of medicine and surgery, osteopathy and other systems or modes of treating the sick or afflicted in the state of California, and for the appointment of a board of medical examiners in the matter of said regulation, approved March 14, 1907, and who submits satisfactory testimonials of good moral character and a diploma or diplomas issued by some legally chartered school or schools approved by the board, or satisfactory evidence of having possessed such diploma or diplomas and that he is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination without fraud or misrepresentation, and that the applicant has complied with the provisions of sections nine, ten and eleven of this act, may be granted an oral, practical or clinical examination for the "physician and surgeon certificates"; provided, that the board must accept in lieu thereof the educational qualifications enumerated in this section or in sections nine, ten and eleven of this act satisfactory proof to the board of actual practice in the system of treatment known and designated as osteopathy for a period of four years, and upon the presentation of such proof the applicant will be entitled to an oral, practical or clinical examination for a "physician and surgeon certificate." The fee for filing such application shall be twenty-five dollars, fifteen dollars to be returned to the applicant in the event that a certificate is not issued under the provisions hereof. [Amendment approved April 11, 1917; Stats. 1917, p. 105.]

§ 13. **Certificates to applicants licensed to practice since August 1, 1901. Requirements. Contracts of reciprocity. Applicant with certificate prior to August 1, 1901. Examination. Fee.** Said board must also issue a certificate to practice a system or mode of treating the sick or afflicted recognized by this act or any preceding practice act in the state of California to any applicant, without any examination, authorizing the holder thereof to practice a system or mode of treating the sick or afflicted in the state of California, upon payment of a registration fee of one hundred dollars, upon the following terms and conditions and

upon satisfactory proof thereof, viz.: The applicant shall produce a certificate entitling him to practice a system or mode of treating the sick or afflicted, as provided in this act or any preceding practice act of the state of California, issued either by the medical examining board, or by any other board or officer authorized by the law to issue a certificate entitling such applicant to practice a system or mode for treating the sick or afflicted either in the District of Columbia or in any state or territory of the United States, or if such certificate shall have been lost, then a copy thereof, with proof satisfactory to the board of medical examiners of the state of California that the copy is a correct copy. Said certificate must not have been issued to such applicant prior to the first day of August, 1901, and the requirements from the college from which such applicant may have graduated, and the requirements of the board which was legally authorized to issue such certificate permitting such applicant to practice a system or mode of treating the sick or afflicted shall not have been at the time such certificate was issued, in any degree or particular less than those which were required for the issuance of a similar certificate to practice a system or mode of treating the sick or afflicted in the state of California at the date of the issuance of such certificate, or which may hereafter be required by law and which may be in force at the date of the issuance of any such certificate; and provided, further, that said applicant shall furnish from the board which issued said certificate, evidence satisfactory to the board of medical examiners of the state of California showing what the requirements were of the college and of the board, issuing such certificate at the date of such issuance. If, after an examination of such certificate, and the production on the part of the applicant of such further reasonable evidence of the said requirements as may be deemed necessary by the board of medical examiners of the state of California and any other or further examination or investigation which said board may see fit to make on its own part, it shall be found that the requirements of the board issuing such certificate were, when said certificate was issued, in any degree or particular less than the requirements provided by the law of the state of California at the date of the issuance of such certificate or that the applicant has not been a resident of the state from which the application is based for a period of one year subsequent to the issuance of such certificate he will not be entitled to practice within the state of California without an examination. An oral examination shall not be deemed to be of equal merit with a written examination and no certificate shall be issued in the case where a written examination was given in California and an applicant was given an oral examination in another state at the same time. The board is hereby authorized to enter into a contract or contracts of reciprocity with other states wherein the standard of such states is not in any degree or particular less than were the requirements in the state of California in the same year, for the issuance of a certificate to practice a system or mode of treating the sick or afflicted, such certificate to be similar in scope of practice as the certificate issued in the other state; provided, however, that an application based upon a certificate to practice any system or mode of treating the sick or afflicted issued in the District of Columbia or in any state or territory prior to March 4, 1907, if refused or denied by reason of the insufficiency of the standard of such state or territory then such applicant may have the privilege of either a written or oral examination

before the board at the option of the applicant. Any person may file an application with the said board to practice medicine and surgery within the state of California, in the event that such applicant has been duly licensed prior to August 1, 1901, and has practiced medicine and surgery in another state or territory, or the District of Columbia, for a period of time commencing prior to the first day of August, 1901. Such application shall be verified and shall contain a statement showing: (a) the full name of the applicant; (b) all institutions at which he has studied and the period of such study, and all institutions from which he has graduated; (c) a statement of whatever certificate or certificates to practice medicine and surgery may have been issued to him, together with the date of such certificate and a description of the same, and, if required by the board, the certificates themselves, or satisfactory proof of their issuance; (d) a statement of all places in which said applicant has practiced medicine and surgery; (e) such other general information as to his past practice, as may be required by the said board. The said board shall make such independent investigation of the character, ability and standing of the applicant as it may deem proper and necessary, and if it shall find after such investigation that said applicant has been a practicing physician and surgeon in any other state or territory or the District of Columbia, prior to August 1, 1901, and prior to said last-named date has been duly licensed so to practice, and that his reputation as such physician and surgeon is good in the community in which he has so practiced medicine and surgery, and has been a resident of his last state of residence for a period of one year prior to date of filing his application in the state of California, they shall afford him an examination on a day suiting the convenience of the board not more than six months subsequent to the presentation of said application. Said examination shall be oral, practical, and clinical in nature, and full consideration shall be given to the duration and character of the applicant's practice. If after such last-mentioned examination it is determined by a majority vote of the said medical examiners conducting said examination, that such applicant is so qualified to practice medicine and surgery within the state of California, and that his reputation and standing in the community in which he has previously practiced is good, the said applicant shall be entitled to receive a "physician and surgeon certificate." Each applicant on making such application shall pay to the secretary of the board, a fee of one hundred dollars, which shall be paid to the treasurer of the board, of which sum ninety dollars shall be returned to him should he not receive a certificate hereunder. All certificates issued pursuant to this section shall be marked across the face thereof "reciprocity certificate." Any person granted a "reciprocity certificate" to practice any system or mode for treating the sick or afflicted recognized by this or any preceding medical practice act in this state, such certificates not being of equal scope with the certificates known and designated as the "physician and surgeon certificate," will not be eligible for the "physician and surgeon certificate" as designated in this act without a full and complete compliance with the terms and provisions of sections nine, ten and eleven hereof.

§ 14. Refusal of certificate for unprofessional conduct. Refusal to obey subpoena. Revocation of certificate for unprofessional conduct. Said board must refuse a certificate to any applicant guilty of unprofessional

conduct. On the filing with the secretary of a sworn complaint, charging the applicant with having been guilty of unprofessional conduct, the secretary must forthwith issue a citation, under the seal of the board, and make the same returnable at the next regular session of said board, occurring at least thirty days next after filing the complaint. Such citation shall notify the applicant when and where the charges of said unprofessional conduct will be heard, and that the applicant shall file his written answer, under oath, within twenty days next after the service on him of said citation or that default will be taken against him and his application for a certificate refused. The attendance of witnesses at such hearing may be compelled by subpoenas issued by the secretary of the board under its seal. Said citation and said subpoenas shall be served in accordance with the statutes of this state then in force as to the service of citation and subpoenas generally, and all the provisions of the statutes of this state then in force relating to subpoenas and to citations are hereby made applicable to the subpoenas and citations provided for herein. Upon the secretary's certifying to the fact of refusal of any person to obey a subpoena or citation to the superior court of the county in which the service was had, said court shall thereupon proceed to hear said matter in accordance with the statutes of this state then in force as to contempts for disobedience of process of the court, and should said court find that the subpoena or citation has been legally served, and that the party so served has willfully disobeyed the same, it shall proceed to impose such penalty as provided in cases of contempt of court. In all cases of alleged unprofessional conduct, arising under this act, depositions of witnesses may be taken, the same as in civil cases and all the provisions of the statutes of this state then in force as to the taking of depositions are hereby made applicable to the taking of depositions under this act. If the applicant shall fail to file with the secretary of said board his answer, under oath, within twenty days after service on him of said citation, or within such further time as the board may allow, and the charges on their face shall be deemed sufficient by the board, default shall be entered against him, and his application refused. If the charges on their face be deemed sufficient by the board, and issue be joined thereon by answer, the board shall proceed to determine the matter, and to that end shall hear such proper evidence as may be adduced before it; and if it appear to the satisfaction of the board that the applicant is guilty as charged, no certificate shall be issued to him. Whenever any holder of a certificate herein provided for is guilty of unprofessional conduct, as the same is defined in this act, and the said unprofessional conduct has been brought to the attention of the board granting said certificate, in the manner hereinafter provided or whenever a certificate has been procured by fraud or misrepresentation, or issued by mistake, or the person holding such certificate is found to be practicing contrary to the provisions thereof and of this act, it shall be the duty of said board either to suspend the right of the holder of said certificate to practice for a period not exceeding one year, or in its discretion to revoke his certificate. In the event of such suspension, the holder of such certificate shall not be entitled to practice thereunder during the term of suspension; but, upon the expiration of the term of said suspension, he shall be reinstated by the board and shall be entitled to resume his practice, unless it shall be established to the satisfaction

of the board that said person so suspended from practice, has, during the term of such suspension, practiced in the state of California, in which event the board shall revoke the certificate of such person. No such suspension or revocation shall be made unless such holder is cited to appear and the same proceedings are had as is hereinbefore provided in this section in case of refusal to issue certificates. Said secretary in all cases of suspension or revocation shall enter on his register the fact of such suspension or revocation, as the case may be, and shall certify the fact of such suspension or revocation under the seal of the board, to the county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person, the following: "The holder of this certificate was on the — day of — suspended for —," or, "This certificate was revoked on the — day of —," as the case may be, giving the day, month and year of such revocation or length of suspension, as the case may be, in accordance with said certification to him by said secretary. The record of such suspension or revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of said board in the matter of said suspension or revocation. The words "unprofessional conduct" as used in this act, are hereby declared to mean:

First—The procuring or aiding or abetting or attempting or agreeing or offering to procure a criminal abortion.

Second—The willfully betraying of a professional secret.

Third—All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, and so be harmful or injurious to public morals or safety.

Fourth—All advertising of any medicine or of any means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

Fifth—Conviction of any offense involving moral turpitude in which case the record of such conviction shall be conclusive evidence.

Sixth—Habitual intemperance or excessive use of cocaine, opium, morphine, codeine, heroin, alpha eucaine, beta eucaine, novocaine or chloral hydrate or any of the salts, derivatives or compounds of the foregoing substances or the prescribing, selling, furnishing, giving away or offering to prescribe, sell, furnish, or give away such substances to a habitue who is not under the direct personal and continuous treatment and care of the physician for the cure of the above-mentioned drugs.

Seventh—The personation of another licensed practitioner or permitting or allowing another person to use his certificate in the practice of any system or mode of treating the sick or afflicted.

Eighth—The use, by the holder of any certificate, in any sign or advertisement in connection with his said practice or in any advertisement or announcement of his practice, of any fictitious name, or any name other than his own.

Ninth—The use by the holder of a "drugless practitioner certificate" of drugs or what are known as medicinal preparations, in or upon any human being, or the severing or penetrating by the holder of said "drugless practitioner certificate" of the tissues of any human being in the treatment of any disease, injury, deformity, or other physical or mental

condition of such human being, excepting the severing of the umbilical cord.

Tenth—Advertising, announcing or stating, directly, indirectly, or in substance, by any sign, card, newspaper, advertisement or other written or printed sign or advertisement, that the holder of such certificate or any other person, company, or association by which he is employed or in whose service he is, will cure or attempt to cure, or will treat, any venereal disease, or will cure or attempt to cure or treat any person or persons for any sexual disease, for lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of, any person, firm, association, or corporation so advertising, announcing or stating.

Eleventh—The use by the holder of any certificate of any letter, letters, word, words, or term or terms used either as prefix or affix or suffix indicating that such certificate holder is entitled to practice a system or mode of treating the sick or afflicted for which he was not licensed in the state of California.

Twelfth—The employment of "cappers" or "steerers" or other persons in procuring practice for a practitioner for a system or mode of treating the sick or afflicted provided for in this act.

Thirteenth—The certificate issued herein for the practice of midwifery may be revoked when it appears to the satisfaction of the board that in any case or cases that the licentiate may have treated, that due caution and circumspection was not used or that the holder of said certificate in its treatment of any case or cases had not used proper aseptic and antiseptic precautions.

Fourteenth—The certificate to practice midwifery herein may be revoked upon conviction for the violation of any health statute, order or ordinance or for the neglect or refusal to comply with the health rules and regulations of any state, county, city and county, city or township.

Fifteenth—The certificate issued herein for the practice of midwifery may be revoked for the treatment by any midwife in any case of labor in which case there is a complicated vertex presentation in which said licentiate did not call or attempt to call a licentiate licensed to practice a system including the practice of obstetrics under this act or any preceding medical practice act in this state.

Sixteenth—The certificate issued herein for the practice of midwifery may be revoked for a failure to refer to a licentiate under this act or any preceding act in the state of California licensed to practice a system including obstetrics, a case which during pregnancy has, or develops any of the following conditions: a contracted pelvis or other deformity that will interfere with labor; bleeding from the uterus; swelling of the face and hands; excessive vomiting; persistent headache; dimness of vision; convulsions; or for failure to call or summons a physician if any of the following conditions exist or develop at the beginning of or during labor: Complicated presentation of a vertex (head); convulsions, excessive bleeding; prolapse of the cord; a swelling or tumor that obstructs the birth of the child; signs of exhaustion or collapse; unduly prolonged labor; or the failure to refer to a licentiate in this act or any preceding act in the state of California licensed to practice a system including obstetrics, a case, which during the lying-in period, develops the following conditions: Convulsions; excessive bleeding; foul smelling

discharge (lochia); persistent rise of temperature to one hundred one degrees Fahrenheit for twenty-four hours; swelling and redness of the breasts; severe chill (rigor) with rise of temperature; inability to nurse the child; or for a failure to refer to a licentiate under this act or any preceding act in the state of California licensed to practice a system including obstetrics, a case where the child has or develops any of the following conditions: Deformities or malformations or injuries; inability to suckle or nurse; inflammation around or discharge from the navel; swelling and redness of the eyelids with a discharge of pus from the eyes (ophthalmia neonatorum); bleeding from the mouth, naval or bowels; inability to urinate.

Seventeenth—The certificate issued herein for the practice of midwifery may be revoked for the treatment by the said midwife licentiate known as the introduction of the hand into the vagina or uterus to remove placenta or membranes.

Eighteenth—The certificate issued herein for the practice of midwifery may be revoked for the failure to have the following equipment (in each case): Nail brush; wooden or bone nail cleaner; jar of green or soft castile soap; rubber gloves; tube of sterile vaseline; clinical thermometer; agate or glass douche reservoir; two rounded vaginal douche nozzles; two rectal nozzles, large and small; one soft rubber catheter; blunt scissors for cutting cord; either lysol, carbolic acid or bichloride of mercury tablets; boric acid powder; one per cent solution of nitrate of silver; medicine dropper; narrow tape or soft twine for tying cord; absorbent cotton (preferably in one-quarter pound packages); no other instruments are to be used, owned or possessed by a midwife. [Amendment approved April 11, 1917; Stats. 1917, p. 109.]

§ 15. **Certificates to be recorded.** Every person holding a certificate under the laws of this state authorizing him to practice any system or mode of treating the sick or afflicted in this state must have it recorded in the office of the county clerk of the county or counties in which the holder of said certificate is practicing his profession, and the fact of such recordation shall be indorsed on the certificate by the county clerk recording the same. Any person holding a certificate as aforesaid, who shall practice or attempt to practice any system, or mode of treating the sick or afflicted in this state, without having first filed his certificate with the county clerk, as herein provided, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter designated in this act. [Amendment approved April 11, 1917; Stats. 1917, p. 113.]

§ 17. **Practice without license. Penalty.** Any person who shall practice or attempt to practice, or who advertises or holds himself out as practicing, any system or mode of treating the sick or afflicted in this state, or who shall diagnose, treat, operate for, or prescribe for, any disease, injury, deformity, or other mental or physical condition of any person, without having at the time of so doing a valid unrevoked certificate as provided in this act, or who shall in any sign or in any advertisement use the word "doctor," the letters or prefix "Dr.," the letters "M.D.," or any other term or letters indicating or implying that he is a doctor, physician, surgeon or practitioner, under the terms of this or any other act, or that he is entitled to practice hereunder, or under any other law without having at the time of so doing a valid unrevoked certificate

as provided in this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as designated in this act. [Amendment approved April 11, 1917; Stats. 1917, p. 114.]

§ 18. Penalty for selling certificate. Altering of certificate. Practice under false name. Records of associates of practitioner. Any person, or any member of any firm, or official of any company, association, organization or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punishable as designated in this act, who, individually or in his official capacity, shall himself sell or barter, or offer to sell or barter, any certificate authorized to be granted hereunder, or any diploma, affidavit, transcript, certificate or any other evidence required in this act for use in connection with the granting of certificates or diplomas, or who shall purchase or procure the same either directly or indirectly with intent that the same shall be fraudulently used, or who shall with fraudulent intent alter any diploma, certificate, transcript, affidavit, or any other evidence to be used in obtaining a diploma or certificate required hereunder or who shall use or attempt to use fraudulently any certificate, transcript, affidavit, or diploma, whether the same be genuine or false, or who shall practice or attempt to practice any system or treatment of the sick or afflicted, under a false or assumed name, or any name other than that prescribed by the board of medical examiners of the state of California on its certificate issued to such person authorizing him to administer such treatment, or who shall assume any degree or title not conferred upon him in the manner and by the authority recognized in this act, with intent to represent falsely that he has received such degree or title, or who shall willfully make any false statement on any application for examination, license or registration under this act, or who shall engage in the treatment of the sick or afflicted without causing to be displayed in a conspicuous manner and in a conspicuous place in his office the name of each and every person who is associated with or employed by him in the practice of medicine and surgery or other treatment of the sick or afflicted, or who shall, within ten days after demand made by the secretary of the board, fail to furnish to said board the name and address of all such persons associated with or employed by him or by any company or association with which he is or has been connected at any time within sixty days prior to said notice, together with a sworn statement showing under and by what license or authority said person or persons, or said employee or employees, is or are, or has or have been practicing medicine or surgery, or any other system of treatment of the sick or afflicted. It shall be the duty of any person or persons upon whom the board of medical examiners may make a demand for the name or names and address or addresses of a person or persons associated or employed by him or them to make affidavit that there are no such person or persons associated or employed by him or them, if such be the fact; provided, that such affidavit shall not be used as evidence against said person or employee in any proceedings under this action. [Amendment approved April 11, 1917; Stats. 1917, p. 114.]

§ 22. To whom act is not applicable. Nothing in this act shall be construed to prohibit service in the case of emergency, or the domestic administration of family remedies; nor shall this act apply to any com-

missioned medical officer in the United States army, navy or marine hospital, or public health service, in the discharge of his official duties; nor to any licensed dentist when engaged exclusively in the practice of dentistry. Nor shall this act apply to any practitioner from another state or territory, when in actual consultation with a licensed practitioner of this state, if such practitioner is, at the time of such consultation, a licensed practitioner in the state or territory in which he resides; provided, that such practitioner shall not open an office or appoint a place to meet patients or receive calls within the limits of this state. Nor shall this act be construed so as to discriminate against any particular school of medicine or surgery, or any other treatment, nor to regulate, prohibit or to apply to, any kind of treatment by prayer, nor to interfere in any way with the practice of religion. Nothing in this act shall be construed to prevent a student regularly matriculated in any legally chartered school or schools approved by the board from treating without compensation to such student the sick or afflicted as a part of his course of study. [Amendment approved May 27, 1919; Stats. 1919, p. 1297.]

§ 24. Title of act. Penalties. Disposition of fines. This act when referred to, cited or amended may be designated as the state medical practice act, and for a violation of any provision of this act, the said violator shall be guilty of a misdemeanor, unless otherwise specifically provided in this act, and shall be punished by a fine of not less than one hundred dollars nor more than six hundred dollars or by imprisonment for a term of not less than sixty days nor more than one hundred eighty days or by both such fine and imprisonment. The fines or forfeitures of bail in any case wherein any person is charged with a violation of the provisions of this act shall be paid upon the collection by the proper officer of the court seventy-five per cent thereof to the state treasurer to be deposited to the credit of the contingent fund of the board of medical examiners and such payment to said treasurer shall be made without placing such fine or forfeiture of bail in any special or contingent or general fund of any county, city and county, city, or township. The balance or twenty-five per cent of such fines or forfeitures of bail shall be paid to the county wherein the case is pending. [New section added April 11, 1917; Stats. 1917, p. 115.]

ACT 2165.

An act authorizing the state board of medical examiners to refund taxes, fees and penalties collected by mistake, error or inadvertence, and providing an appropriation therefor.

[Approved May 6, 1919. Stats. 1919, p. 324. In effect July 22, 1919.]

§ 1. Refund of money collected through error. The state board of medical examiners is hereby authorized, empowered and directed to refund any taxes, penalties or fees collected by the state board of medical examiners illegally, by mistake, inadvertence or error.

§ 2. Payments from contingent fund. The state board of medical examiners is hereby authorized to expend out of its contingent fund whatever sum may be necessary to carry out the provisions of this act, and the state treasurer, and all other officials having custody of such

funds are hereby authorized upon request or direction of the state board of medical examiners to pay out such refunds or approve such payments from said contingent fund.

TITLE 343.

MILITARY COMPANIES.

ACT 2203.

An act creating a state defense guard, providing for its control and compensation, prescribing its duties and making an appropriation therefor. [Approved May 28, 1917. Stats. 1917, p. 1279.]

Repealed 1919; Stats. 1919, p. 255.

TITLE 345.

MINES AND MINING.

ACT 2213b.

An act establishing and creating a department of the state mining bureau for the protection of the natural resources of petroleum and gas from waste and destruction through improper operations in production; providing for the appointment of a state oil and gas supervisor; prescribing his duties and powers; fixing his compensation; providing for the appointment of deputies and employees; providing for their duties and compensation; providing for the inspection of petroleum and gas wells; requiring all persons operating petroleum and gas wells to make certain reports; providing procedure for arbitration of departmental rulings; creating a fund for the purposes of the act; providing for assessment of charges to be paid by operators and providing for the collection thereof; and making an appropriation for the purposes of this act.

[Approved June 10, 1915. Stats. 1915, p. 1404.]

Amended June 1, 1917; Stats. 1917, p. 1586; 1919, p. 1166.

The amendments of 1917 and 1919 follow:

§ 1. Department of petroleum and gas created. A separate department of the state mining bureau is hereby established and created, to be known as the department of petroleum and gas. Such department shall be under the general jurisdiction of the state mineralogist. He shall appoint a supervisor who shall be either a competent engineer or geologist experienced in the development and production of petroleum, or a competent oil operator, having had not less than five years' actual practical experience in California oil fields, and who shall be designated the "state oil and gas supervisor," and whose term of office shall be four years from the date of his appointment. [Amendment approved May 25, 1919; Stats. 1919, p. 1166.]

§ 2. State mineralogist's compensation. Secretary's added compensation. Supervisor's salary. For his services in the general supervision of said department, the state mineralogist shall receive as compensation one thousand four hundred dollars annually which shall be in addition to his compensation fixed in section two of the act of June 16, 1913, relating to the state mining bureau.

The secretary of the state mining bureau shall receive for his services in connection with the department of petroleum and gas, a sum not to exceed six hundred dollars annually, which sum shall be in addition to his compensation paid from the funds of the state mining bureau.

The supervisor shall receive an annual salary of six thousand dollars, and shall be allowed his necessary traveling expenses. The state mineralogist may, at the request of the state oil and gas supervisor, and subject to the civil service laws of the state, appoint one chief clerk at a salary of not to exceed one thousand eight hundred dollars annually; twelve office assistants or stenographers each at a salary of not to exceed one thousand two hundred dollars annually; four geological draftsmen each at a salary not to exceed one thousand five hundred dollars annually; four petroleum engineers each at a salary not to exceed two thousand four hundred dollars annually; twelve inspectors each at a salary not to exceed one thousand eight hundred dollars annually.

The additional salary herein authorized to be paid to the state mineralogist and the secretary of the state mining bureau and the salaries of the supervisor and of the deputies, clerks, stenographers, assistants and other employees shall be paid out of the funds hereinafter provided for at the times and in the manner that salaries of other state officers and employees are paid. [Amendment approved June 1, 1917; Stats. 1917, p. 1586.]

§ 4. Deputies. It shall be the duty of the state oil and gas supervisor to appoint one chief deputy and five field deputies, one for each of the districts hereinafter provided for, and prescribe their duties and fix their compensation, which shall not exceed four thousand dollars per annum for the chief deputy, and not to exceed three thousand six hundred dollars per annum for each field deputy. Such deputies shall serve during the pleasure of the supervisor. He shall also employ an attorney at a compensation not exceeding three thousand dollars per year, payable out of said fund. The supervisor and the deputies shall not be subject to the civil service act. [Amendment approved May 25, 1919; Stats. 1919, p. 1166.]

This section was also amended in 1917. See Stats. 1917, p. 1587.

§ 5. Qualifications of deputies. The chief deputy appointed by the supervisor shall be a competent engineer or geologist experienced in the development and production of petroleum; and each field deputy shall be either a competent engineer or geologist, experienced in the development and production of petroleum, or shall be a competent and experienced oil operator, having had not less than five years' actual experience in the oil fields of the state of California. At the time any field deputy is appointed, notice of such appointment shall be transmitted in writing to the board of commissioners of the district for which said deputy is appointed, which field deputy shall maintain an office in the district for which he is appointed, convenient of access to the petroleum and gas operators therein. The office shall be open and the deputy shall be present at certain specified times, which shall be posted at such office. [Amendment approved May 25, 1919; Stats. 1919, p. 1166.]

This section was also amended in 1917. See Stats. 1917, p. 1587.

§ 7. Records open to inspection. The records of any and all operators, when filed with the deputy supervisor as hereinafter provided, shall be

open to inspection to those authorized in writing by such operators, to the state officers, and to the board of commissioners hereinafter provided for. Such records shall in no case other than those hereinafter and in this section provided, be available as evidence in court proceedings and no officer or employee or member of any board of commissioners shall be allowed to give testimony as to the contents of said records, except at such court proceedings as are hereinafter provided for in the review of the decision of the state oil and gas supervisor, or a board of commissioners, or in any proceedings initiated for the enforcement of an order of the supervisor, or any proceeding initiated for the enforcement of a lien created by this act, or any proceeding for the collection of the assessment levied under and pursuant to the provisions of this act or in criminal proceedings arising out of such records, or the statements upon which they are based. [Amendment approved June 1, 1917; Stats. 1917, p. 1588.]

§ 8. Tests and remedial work. It shall be the duty of the supervisor to order such tests or remedial work as in his judgment are necessary to protect the petroleum and gas deposits from damage by underground water, to the best interests of the neighboring property owners, and the public at large. The order shall be in written form, signed by the supervisor, and shall be served upon the owner of the well, or the local agent appointed by such owner, either personally or by mailing a copy of said order to the postoffice address given at the time the local agent is designated, or if no such local agent has been designated, by mailing a copy of said order to the last known postoffice address of said owner, or if the owner be unknown by posting a copy of said order in a conspicuous place upon the property, and publishing the same in some newspaper of general circulation throughout the county in which said well is located, once a week for two successive weeks. Said order shall specify the condition sought to be remedied and the work necessary to protect such deposits from damage from underground waters. For this purpose each operator or owner shall designate an agent, giving his postoffice address, who resides within the county where the well or wells are located, upon whom all orders or notices provided for in this act may be served.

Whenever the supervisor or any deputy supervisor or inspector makes any written recommendation or gives any written direction concerning the drilling, testing or other operation in any oil or gas well drilled, in process of drilling or being abandoned, and the operator, owner or representative of either, serves written notice, either personally or by mail, addressed to the supervisor or his deputy at his office in the district, requesting that a definite order be made upon such subject, the supervisor or his deputies shall, within five days after such notice, deliver a final written order on such subject matter in such manner and form that an appeal may be taken at once therefrom, to the board of oil and gas commissioners of the district created under this chapter. [Amendment approved May 25, 1919; Stats. 1919, p. 1167.]

This section was also amended in 1917. See Stats. 1917, p. 1588.

§ 9. Owner's Objections. The well owner, or his or its local agent, may, within ten days from the date of the service of any order from the supervisor or his chief deputy or field deputy, file with the supervisor or his deputy in the district where the property is located, a written

statement that the order is not acceptable, and that appeal from said order is taken to the board of commissioners of said district under the provisions of this chapter. Such appeal shall operate as a stay of any order issued under or pursuant to the provisions of this act. Immediately upon filing of such notice of appeal, the deputy supervisor of the district, as secretary ex-officio of the board of oil and gas commissioners, shall immediately call a meeting of said commissioners to hear and pass upon said appeal. The hearing upon said appeal before said district board of oil and gas commissioners, shall be de novo and at such place in the district as the commissioners may designate, and within ten days from the taking of such appeal; five days' notice in writing shall be given to the appellant of the time and place of such hearing, and for good cause the commissioners may postpone such hearing on the application of appellant, or the state oil and gas supervisor, or the field deputy in said district, for not exceeding five days. [Amendment approved May 25, 1919; Stats. 1919, p. 1165.]

This section was also amended in 1917. See Stats. 1917, p. 1588.

§ 10. State divided into five districts. For the purposes of this act, the state shall be divided into five districts, as follows:

District No. 1, including the counties of Los Angeles, Riverside, Orange, San Diego, Imperial, and San Bernardino.

District No. 2, the county of Ventura.

District No. 3, including the counties of Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, San Benito, Santa Clara, Contra Costa, San Mateo, Alameda, and San Francisco.

District No. 4, including the counties of Tulare, Inyo, and Kern.

District No. 5, including the counties of Fresno, Madera, Kings, Mono, Mariposa, Merced and all other counties in California not included in any of said other districts.

District oil and gas commissioners. Election. Attorney expenses. Successors. Recall. Vacancy. Advice of supervisor. There shall be elected, at the times and in the manner hereinafter provided, district oil and gas commissioners for each such districts, as follows: For district number one, five; for district number two, five; for district number three, five; for district number four, seven; for district number five, five.

Said district oil and gas commissioners shall be elected by vote of the companies, individuals, copartnerships or associations, who shall have been assessed, and whose names shall appear on the last record of assessments (next preceding such election) for and on account of the fund in this act provided to be raised, within said districts respectively, said vote to be taken at a meeting to be held in each of said districts, respectively, and on the third Monday in September of each year, such place and the time and details of such meeting to be fixed by the state oil and gas supervisor, and of which meeting at least two weeks previous notice shall have been given by letter addressed to each of said persons, corporations, copartnerships and associations, entitled to vote as aforesaid, at his or its postoffice address or principal place of business.

At said meeting each of those entitled to vote as herein provided may be represented by one person holding the written authority of such voter to act for him at such meeting. At said meeting each voter shall

be entitled to one vote for each member of the board of district oil and gas commissioners who are required to be selected for such district. In addition thereto, in each district in which five commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which said voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the two commissioners who are elected for three years; and in each district in which seven commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which such voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the three commissioners who are elected for three years. In all subsequent elections the qualification of voters in the election of a commissioner shall be the same as in the election of the commissioner whose successor in office is being elected. Said meeting shall select by ballot, by a majority vote of the votes represented, the number of persons as hereinbefore specified to act as district oil and gas commissioners for such district. In any district entitled to seven commissioners, two shall be chosen for a term of one year, two for two years and three for three years. In any district entitled to five commissioners, one shall be chosen for a term of one year, two for two years and two for three years.

The chairman and secretary of the meeting shall issue a written certificate to the state oil and gas supervisor, setting forth the result of such election, and the name and address of each of the persons elected at said meeting as the district oil and gas commissioners for said district, and the term for which each has been elected. No person shall be eligible as a district oil and gas commissioner who is not a resident of the district for which he is elected, nor shall any person be eligible for such position who is not actually engaged in the business of oil or gas development or production within the district. Upon receipt of the certificate so made by the chairman and secretary of any such meeting, the state oil and gas supervisor shall issue a certificate of election to the respective persons in said district named as the district oil and gas commissioners for said district, and for the periods of one, two or three years from and after the first Monday in October, 1917, as shall be shown in such certificate, and until their respective successors shall have been elected.

Within thirty days after their appointment by the state oil and gas supervisor, the district oil and gas commissioners for each district shall meet at a time and place within the district to be designated by the state oil and gas supervisor, and shall thereupon select one of the number as chairman. The deputy supervisor of the district shall be ex officio secretary of said board, and shall keep a record of its proceedings, and his office shall be the office of the commissioners.

Each board of commissioners may appoint one of its number as assistant secretary who shall, in the absence of the secretary, keep the minutes of said board, and shall perform such further secretarial duties as the board, by resolution, may direct.

In case of any litigation in which any district board of oil and gas commissioners shall be a party, such board shall have full authority to employ a competent attorney for each such litigation, and to fix his compensation, either before or after his services shall be concluded, and said compensation shall, when certified by the chairman of said board

and by the state board of control, be paid from the fund created by this chapter.

Said commissioners shall serve without compensation, except their necessary traveling expenses and other actual expenses incident to their office.

In case of any hearing upon appeal before any board of district oil and gas commissioners, they shall have authority to employ a competent stenographer to take the testimony and proceedings, and in case either party shall take proceedings in the superior court, by writ of certiorari, from any order or decision of such board, it shall cause the stenographer so employed to make a full transcript of the testimony and proceedings before said board of commissioners, and three copies in addition to the original thereof. The original and one copy shall be for the use of said board of commissioners, and one copy shall be furnished to the state oil and gas supervisor, and one copy shall be furnished to the owner of the well in question. The cost and expense of employing any such stenographer, and the transcribing of his notes and making said copies, shall be part of the expenses of said commissioners, and when certified by the chairman of said board, and audited by the state board of control, shall be paid from said fund.

The traveling expenses of said commissioners, and all actual expenses incurred by or under the order of said commissioners, in the hearing and determination and carrying out of orders appealed to them, shall be certified by the deputy supervisor and the chairman of such board of supervisors, to the state supervisor, and when audited by him and by the state board of control, shall be paid from said fund.

Successors elected. On the third Tuesday in September of each year at an hour and place in said respective districts to be fixed by the state oil and gas supervisor, and of which notices shall have been given as hereinbefore specified, the successor of each of the district oil and gas commissioners whose term of appointment shall expire that year, shall be elected and qualified in the manner and subject to the provisions hereinbefore set forth, and the term of each shall be for a period of three years from and after the first Monday in October next succeeding.

Recall of commissioners. All, either or any of the district oil and gas commissioners elected in any district may be recalled by the votes of a majority of the qualified votes of the district entitled to vote as to such commissioners, respectively. In case there shall be filed in the office of the state oil and gas supervisor, a written petition, signed by not less than forty per cent of those entitled to vote as to the election of any commissioner or commissioners, asking the recall of such commissioner or commissioners, said state oil and gas supervisor shall, within ten days thereafter, order and give notice of, a special election in such district to fill the office or offices of the commissioner or commissioners named in said petition for recall; and shall cause notice to be given of said election in the manner and for the time required for regular election, and said notice shall fix the time and place of such election. At such election, the commissioner or commissioners named in such petition for recall shall be voted upon as though candidates for election for the unexpired portion of the term for which they, respectively, were originally elected, and any other candidate or candidates may, at the same time, be voted upon. It shall require a majority of all the qualified

votes entitled to vote for such commissioners, respectively, to constitute an election. In case less than a majority of all qualified votes shall be cast for any candidate, said recall shall be deemed to have failed as to the commissioner concerning whose office such vote was taken; and in case such commissioner himself shall receive a majority of the votes, said recall shall be deemed to have failed, and in either of such cases, such commissioner shall continue to serve until the expiration of his term, as though no such special election had been held. But in case any person other than such commissioner shall receive a majority of the votes for such unexpired term, then such recall shall become effective and the office of the commissioner so recalled shall be vacant and upon written certificate of such election being filed with the state oil and gas supervisor, the person so chosen and elected for such unexpired term shall become the successor of the commissioner so recalled, and a certificate of his election for such unexpired term shall be issued and transmitted to him by the state oil and gas supervisor. And like proceedings shall be had in case more than one commissioner shall be included in said petition for recall.

In all recall elections, qualifications for voters and the number of votes which they will be entitled to cast shall be the same as they respectively were in the election of the commissioner as to whom such recall election is being held.

In case of vacancy caused by the death, resignation or removal from district or ceasing to be engaged in the business of development or production of oil or gas in the district as to the office of any commissioner, such vacancy shall be filled until the next annual election by the remaining commissioners of such district.

Upon any subject in which any commissioner is personally interested, or upon which any corporation, copartnership, association or individual by whom he is employed is directly interested as a party, such commissioner shall not be entitled to sit or vote. The board of commissioners shall be entitled to call upon the supervisor for advice, and written report upon any matter referred to the board of commissioners, and the supervisor shall be entitled to call meetings of the commissioners at the office of the field supervisor, upon five days' written notice, to obtain their written advice upon any matters relating to his work within their district. [Amendment approved May 25, 1919; Stats. 1919, p. 1168.]

This section was also amended in 1917. See Stats. 1917, p. 1589.

§ 11. Investigation upon complaint. Upon receipt by the supervisor or deputy supervisor of a written complaint specifically setting forth the condition complained against, signed by a person, firm, corporation or association owning land or operating wells within a radius of one mile of any well or group of wells complained against, or upon the written complaint specifically setting forth the condition complained against, signed by any one of the board of commissioners for the district in which said well or group of wells complained against is situated, the supervisor must make an investigation of said well or wells and render a written report stating the work required to repair the damage complained of, or stating that no work is required. A copy of said order must be delivered to the complainant, or if more than one, each of said complainants, and if the supervisor order the damage repaired, a copy

and by the state board of control, be paid from the fund created by this chapter.

Said commissioners shall serve without compensation, except their necessary traveling expenses and other actual expenses incident to their office.

In case of any hearing upon appeal before any board of district oil and gas commissioners, they shall have authority to employ a competent stenographer to take the testimony and proceedings, and in case either party shall take proceedings in the superior court, by writ of certiorari, from any order or decision of such board, it shall cause the stenographer so employed to make a full transcript of the testimony and proceedings before said board of commissioners, and three copies in addition to the original thereof. The original and one copy shall be for the use of said board of commissioners, and one copy shall be furnished to the state oil and gas supervisor, and one copy shall be furnished to the owner of the well in question. The cost and expense of employing any such stenographer, and the transcribing of his notes and making said copies, shall be part of the expenses of said commissioners, and when certified by the chairman of said board, and audited by the state board of control, shall be paid from said fund.

The traveling expenses of said commissioners, and all actual expenses incurred by or under the order of said commissioners, in the hearing and determination and carrying out of orders appealed to them, shall be certified by the deputy supervisor and the chairman of such board of supervisors, to the state supervisor, and when audited by him and by the state board of control, shall be paid from said fund.

Successors elected. On the third Tuesday in September of each year at an hour and place in said respective districts to be fixed by the state oil and gas supervisor, and of which notices shall have been given as hereinbefore specified, the successor of each of the district oil and gas commissioners whose term of appointment shall expire that year, shall be elected and qualified in the manner and subject to the provisions hereinbefore set forth, and the term of each shall be for a period of three years from and after the first Monday in October next succeeding.

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votes entitled to vote for such commissioners, respectively, to constitute an election. In case less than a majority of all qualified votes shall be cast for any candidate, said recall shall be deemed to have failed as to the commissioner concerning whose office such vote was taken; and in case such commissioner himself shall receive a majority of the votes, said recall shall be deemed to have failed, and in either of such cases, such commissioner shall continue to serve until the expiration of his term, as though no such special election had been held. But in case any person other than such commissioner shall receive a majority of the votes for such unexpired term, then such recall shall become effective and the office of the commissioner so recalled shall be vacant and upon written certificate of such election being filed with the state oil and gas supervisor, the person so chosen and elected for such unexpired term shall become the successor of the commissioner so recalled, and a certificate of his election for such unexpired term shall be issued and transmitted to him by the state oil and gas supervisor. And like proceedings shall be had in case more than one commissioner shall be included in said petition for recall.

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Upon any subject in which any commissioner is personally interested, or upon which any corporation, copartnership, association or individual by whom he is employed is directly interested as a party, such commissioner shall not be entitled to sit or vote. The board of commissioners shall be entitled to call upon the supervisor for advice, and written report upon any matter referred to the board of commissioners, and the supervisor shall be entitled to call meetings of the commissioners at the office of the field supervisor, upon five days' written notice, to obtain their written advice upon any matters relating to his work within their district. [Amendment approved May 25, 1919; Stats. 1919, p. 1168.]

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of such order shall be delivered to each of the owners, operators or agents having in charge the well or wells upon which the work is to be done. Said order shall contain a statement of the conditions sought to be remedied or repaired and a statement of the work required by the supervisor to repair such condition. Service of such copies shall be made by mailing to such persons at the postoffice address given. [Amendment approved June 1, 1917; Stats. 1917, p. 1592.]

§ 12. Oaths and subpoenas. Depositions. Refusal to comply with order, etc., misdemeanor. In any proceeding before the board of commissioners as herein provided, or in any other proceeding or proceedings instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this act, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly drilled, operated, maintained or conducted, the supervisor and the chairman of the board of commissioners shall have the power to administer oaths and may apply to a judge of the superior court of the state of California, in and for the county in which said proceeding or investigation is pending, for a subpoena for witnesses to attend at said proceeding or investigation. Upon said application of said supervisor or said chairman of said board of commissioners, said judge of said superior court must issue a subpoena directing said witness to attend said proceeding or investigation; provided, however, that no person shall be required to attend upon such proceeding, either with or without such books, papers, documents or accounts unless residing within the same county or within thirty miles of the place of attendance. But the supervisor or the chairman of the board of commissioners may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state, and to that end may, upon application to a judge of the superior court of the county within which said proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of books, papers and documents at such places as he may designate within the limits hereinbefore prescribed. Witnesses shall be entitled to receive the fees and mileage fixed by law in civil causes, payable from the fund hereinafter created. In case of failure or neglect on the part of any person to comply with any order of the supervisor as hereinbefore provided, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, or upon refusal or neglect to appear and attend at any proceeding or hearing on the day specified, after having received a written notice of not less than ten days prior to such proceeding or hearing, or upon his failure, refusal or neglect to produce books, papers or documents as demanded in said order or subpoena upon such day, such failure, refusal or neglect shall constitute a misdemeanor and each day's further failure, refusal or neglect shall be and be deemed to be a separate and distinct offense, and it is hereby made the duty of the district attorney of the county in which said proceeding, hearing or investigation is to be held, to prosecute all persons guilty of violating this section by continuous prosecution until such person appears or attends or produces such books, papers or documents or complies with said subpoena or order

of the supervisor or chairman of the board of commissioners. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 13. **Decision of board.** Within ten days after hearing the evidence, the board of commissioners must make a written decision with respect to the order appealed from and in case the same is affirmed or modified, shall retain jurisdiction thereof until such time as the work ordered to be done by such order shall be finally completed. This written decision shall be served upon the owner or his agent and shall supersede the previous order of the supervisor. In case no written decision be made by said board of commissioners within thirty days after the date of notice by the supervisor as provided in section ten hereof, the order of the supervisor shall be effective and subject only to review by writ of certiorari from the superior court as provided in section fourteen hereof. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 14. **Commencement of work. Review of decision. Extent of review. Lien enforced.** On or before thirty days after the date of serving an order of the supervisor, provided for in section eight hereof, or in case of appeal to the board of commissioners, on or before thirty days after date of serving the decision of the board, as provided in sections 12 and 13 hereof, or in the event review be taken of the order of the board of commissioners within ten days after affirmance of such order, the owner shall commence in good faith the work ordered and continue until completion. If the work has not been so commenced and continued to completion, the supervisor shall appoint agents as he deems necessary who shall enter the premises and perform the work. Accurate account of such expenditures shall be kept and the amount paid from the fund hereinafter created upon the warrant of the state controller. Any amount so expended shall constitute a lien against the property upon which the work is done. The decision of the board of commissioners in such case may be reviewed by writ of certiorari from the superior court of the county in which the district is situated, if taken within ten days after the service of the order upon said owner, operator or agent of said owner or operator as herein provided; or within ten days after decision by the board of commissioners upon petitions by the supervisor. Such writ shall be made returnable not later than ten days after the issuance thereof and shall direct the district board of oil and gas commissioners to certify their record in the cause to such court. On the return day the cause shall be heard by the court unless for good cause the same be continued, but no continuance shall be permitted for a longer period than thirty days. No new or additional evidence shall be introduced in the court before the cause shall be heard upon the record of the district board of oil and gas commissioners. The review shall not be extended further than to determine whether or not—

1. The commission acted without or in excess of its jurisdiction.
2. The order, decision or award was procured by fraud.
3. The order, decision, rule or regulation is unreasonable.
4. The order, decision, regulation or award is clearly unsupported by the evidence.

If no review be taken within ten days, or if taken in case the decision of the board is affirmed, the lien upon the property shall be enforced in the same manner as the other liens on real property are enforced, and

of such order shall be delivered to each of the owners, operators or agents having in charge the well or wells upon which the work is to be done. Said order shall contain a statement of the conditions sought to be remedied or repaired and a statement of the work required by the supervisor to repair such condition. Service of such copies shall be made by mailing to such persons at the postoffice address given. [Amendment approved June 1, 1917; Stats. 1917, p. 1592.]

§ 12. Oaths and subpoenas. Depositions. Refusal to comply with order, etc., misdemeanor. In any proceeding before the board of commissioners as herein provided, or in any other proceeding or proceedings instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this act, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly drilled, operated, maintained or conducted, the supervisor and the chairman of the board of commissioners shall have the power to administer oaths and may apply to a judge of the superior court of the state of California, in and for the county in which said proceeding or investigation is pending, for a subpoena for witnesses to attend at said proceeding or investigation. Upon said application of said supervisor or said chairman of said board of commissioners, said judge of said superior court must issue a subpoena directing said witness to attend said proceeding or investigation; provided, however, that no person shall be required to attend upon such proceeding, either with or without such books, papers, documents or accounts unless residing within the same county or within thirty miles of the place of attendance. But the supervisor or the chairman of the board of commissioners may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state, and to that end may, upon application to a judge of the superior court of the county within which said proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of books, papers and documents at such places as he may designate within the limits hereinbefore prescribed. Witnesses shall be entitled to receive the fees and mileage fixed by law in civil causes, payable from the fund hereinafter created. In case of failure or neglect on the part of any person to comply with any order of the supervisor as hereinbefore provided, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, or upon refusal or neglect to appear and attend at any proceeding or hearing on the day specified, after having received a written notice of not less than ten days prior to such proceeding or hearing, or upon his failure, refusal or neglect to produce books, papers or documents as demanded in said order or subpoena upon such day, such failure, refusal or neglect shall constitute a misdemeanor and each day's further failure, refusal or neglect shall be and be deemed to be a separate and distinct offense, and it is hereby made the duty of the district attorney of the county in which said proceeding, hearing or investigation is to be held, to prosecute all persons guilty of violating this section by continuous prosecution until such person appears or attends or produces such books, papers or documents or complies with said subpoena or order

of the supervisor or chairman of the board of commissioners. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 13. Decision of board. Within ten days after hearing the evidence, the board of commissioners must make a written decision with respect to the order appealed from and in case the same is affirmed or modified, shall retain jurisdiction thereof until such time as the work ordered to be done by such order shall be finally completed. This written decision shall be served upon the owner or his agent and shall supersede the previous order of the supervisor. In case no written decision be made by said board of commissioners within thirty days after the date of notice by the supervisor as provided in section ten hereof, the order of the supervisor shall be effective and subject only to review by writ of certiorari from the superior court as provided in section fourteen hereof. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 14. Commencement of work. Review of decision. Extent of review. Lien enforced. On or before thirty days after the date of serving an order of the supervisor, provided for in section eight hereof, or in case of appeal to the board of commissioners, on or before thirty days after date of serving the decision of the board, as provided in sections 12 and 13 hereof, or in the event review be taken of the order of the board of commissioners within ten days after affirmance of such order, the owner shall commence in good faith the work ordered and continue until completion. If the work has not been so commenced and continued to completion, the supervisor shall appoint agents as he deems necessary who shall enter the premises and perform the work. Accurate account of such expenditures shall be kept and the amount paid from the fund hereinafter created upon the warrant of the state controller. Any amount so expended shall constitute a lien against the property upon which the work is done. The decision of the board of commissioners in such case may be reviewed by writ of certiorari from the superior court of the county in which the district is situated, if taken within ten days after the service of the order upon said owner, operator or agent of said owner or operator as herein provided; or within ten days after decision by the board of commissioners upon petitions by the supervisor. Such writ shall be made returnable not later than ten days after the issuance thereof and shall direct the district board of oil and gas commissioners to certify their record in the cause to such court. On the return day the cause shall be heard by the court unless for good cause the same be continued, but no continuance shall be permitted for a longer period than thirty days. No new or additional evidence shall be introduced in the court before the cause shall be heard upon the record of the district board of oil and gas commissioners. The review shall not be extended further than to determine whether or not—

1. The commission acted without or in excess of its jurisdiction.
2. The order, decision or award was procured by fraud.
3. The order, decision, rule or regulation is unreasonable.
4. The order, decision, regulation or award is clearly unsupported by the evidence.

If no review be taken within ten days, or if taken in case the decision of the board is affirmed, the lien upon the property shall be enforced in the same manner as the other liens on real property are enforced, and

shall first be enforced against the owner of the well, against the operator and against the personal property and fixtures used in the construction or operation thereof, and then if there be any deficiency against the land upon which the work is done, upon the request of the supervisor, the state controller must, in the manner provided in section forty-four of this act, bring an action for the enforcement of said lien. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 15. Wells to be cased. Shut-off test. It shall be the duty of the owner of any well now drilled, or that may be drilled in the state of California, on lands producing or reasonably presumed to contain petroleum or gas, to properly case such well or wells with metal casing, in accordance with methods approved by the supervisor, and to use every effort and endeavor in accordance with the most approved methods to effectually shut off all water overlying or underlying the oil or gas-bearing strata, and to effectually prevent any water from penetrating such oil or gas-bearing strata.

Whenever it appears to the supervisor that any water is penetrating oil or gas-bearing strata, he may order a test of water shut off and designate a day upon which the same shall be held. Said order shall be in written form and served upon the owner of said well at least ten days prior to the day designated in said order as the day upon which said shut-off test shall be held. Upon the receipt of such order it shall be the duty of the owner to hold said test in the manner and at the time prescribed in said order. [Amendment approved June 1, 1917; Stats. 1917, p. 1594.]

§ 16. Abandonment of well. It shall be the duty of the owner of any well referred to in this act, before abandoning the same, or before removing the rig, derrick or other operating structure therefrom, or removing any portion of the casing therefrom, to use every effort and endeavor in accordance with methods approved by the supervisor, to shut off and exclude all water from entering oil-bearing strata encountered in the well. Before any well is abandoned the owner shall give written notice to the supervisor, or his local deputy, of his intention to abandon such well and of his intention to remove the derrick or any portion of the casing from such well and the date upon which such work of abandonment or removal shall begin. The notice shall be given to the supervisor, or his local deputy, at least five days before such proposed abandonment or removal. The owner shall furnish the supervisor, or his deputy with such information as he may request showing the condition of the well and proposed method of abandonment or removal. The supervisor, or his deputy, shall before the proposed date of abandonment or removal, furnish the owner with a written order of approval of his proposal or a written order stating what work will be necessary before approval to abandon or remove will be given. If the supervisor shall fail within the specified time to give the owner a written order such failure shall be considered as an approval of the owner's proposal to abandon the well, or to remove the rig or casing therefrom. [Amendment approved June 1, 1917; Stats. 1917, p. 1596.]

§ 17. Notice of intention to drill. The owner or operator of any well referred to in this act shall, before commencing the work of drilling an oil or gas well, file with the supervisor, or his local deputy, a written

notice of intention to commence drilling. Such notice shall also contain the following information: (1) Statement of location and elevation above sea level of the floor of the proposed derrick and drill rig; (2) the number or other designation by which such well shall be known, which number or designation shall not be changed after filing the notice provided for in this section, without the written consent of the supervisor being obtained therefor; (3) the owner's or operator's estimate of the depth of the point at which water will be shut off, together with the method by which such shut-off is intended to be made and the size and weight of casing to be used; (4) the owner's or operator's estimate of the depth at which oil or gas producing sand or formation will be encountered.

After the completion of any well the provisions of this section shall also apply, as far as may be, to the deepening or redrilling of any well, or any operation involving the plugging of any well or any operations permanently altering in any manner the casing of any well; and provided, further, that the number or designation by which any well heretofore drilled has been known, shall not be changed without first obtaining a written consent of the supervisor. [Amendment approved June 1, 1917; Stats. 1917, p. 1596.]

§ 18. Drilling log. Prospect wells. It shall be the duty of the owner or operator of any well referred to in this act, to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formation passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water-bearing strata, together with the character of the water encountered from time to time (so far as ascertained) and to show at what point such water was shut off, if at all, and if not, to so state in such log, and show completely the amounts, kinds and size of casing used, and show the depth at which oil-bearing strata are encountered, the depth and character of same, and whether all water overlying and underlying such oil-bearing strata was successfully and permanently shut off so as to prevent the percolation or penetration into such oil-bearing strata; such log shall be kept in the local office of the owner or operator, and together with the tour reports of said owner or operator, shall be subject, during business hours, to the inspection of the supervisor, or any of his deputies, or any of the commissioners of the district, except in the case of a prospect well as hereinafter defined. Upon the completion of any well, or upon the suspension of operations upon any well, for a period of six months if it be a prospect well, or for thirty days, if it be in proven territory, a copy of said log in duplicate, and in such form as the supervisor may direct, shall be filed within ten days after such completion, or after the expiration of said thirty-day period with the field supervisor, and a like copy shall be filed upon the completion of any additional work in the deepening of any such well.

The state oil and gas supervisor shall determine and designate what wells are prospect wells within the meaning of this act and no reports shall be required from such prospect wells until six months after the completion thereof.

The owner or operator of any well drilled previous to the enactment of this act shall furnish to the supervisor or his deputy a complete and correct log in duplicate and in such form as the supervisor may

direct, or his deputy, of such well, so far as may be possible, together with a statement of the present condition of said well. [Amendment approved June 1, 1917; Stats. 1917, p. 1597.]

§ 19. Notice of shut-off test. It shall be the duty of the owner or operator of any well referred to in this act to notify the deputy supervisor of the time at which the owner or operator shall test the shut-off of water in any such well. Such notice shall be given at least five days before such test. The deputy supervisor or an inspector designated by the supervisor shall be present at such test and shall render a report in writing of the result thereof to the supervisor, a duplicate of which shall be delivered to the owner. If any test shall be unsatisfactory to the supervisor he shall so notify the owner or operator in said report and shall within five days after the completion of such test, order additional tests of such work as he deems necessary to properly shut off the water in such well and in such order shall designate a day upon which the owner or operator shall again test the shut-off of water in any such well, which day may, upon the application of the owner, be changed from time to time in the discretion of the deputy supervisor. [Amendment approved June 1, 1917; Stats. 1917, p. 1597.]

§ 20. Statement of oil produced. It shall be the duty of every person, association or corporation producing oil in the state of California, to file with the supervisor, at his request but not oftener than once in each month, a statement showing amount of oil produced during the period indicated from each well, together with its gravity and the amount of water produced from each well, estimated in accordance with methods approved by the supervisor, and the number of days during which fluid was produced from each well, the number of wells drilling, producing, idle or abandoned, owned or operated by said person, association or corporation; provided, that, upon request and satisfactory showing a longer interval may be fixed by the state oil and gas supervisor as to such reports in the case of any specific owner or operator.

This information shall be in such form as the supervisor may designate. [Amendment approved June 1, 1917; Stats. 1917, p. 1598.]

§ 21a. Primary interest of state. The charges hereinafter provided for are directed to be levied by the state of California as necessary in the exercise of its police power and to provide a means by which to supervise and protect deposits of petroleum and gas within the state of California, in which deposits the people of the state of California are hereby declared to have a primary and supreme interest. [New section added June 1, 1917; Stats. 1917, p. 1598.]

§ 22. Charges for support of department. Charges levied, assessed and collected as hereinafter provided upon the properties of every person, firm, corporation or association operating any well or wells for the production of petroleum in this state, or operating any well or wells for the production of natural gas in this state which gas wells are situate on lands situate within two miles, as near as may be, of any petroleum or gas well the production of which is chargeable under this act, shall be used exclusively for the support and maintenance of the department of petroleum and gas hereinbefore created, and shall be assessed and levied by the state mineralogist, and collected in the manner hereinafter

after provided. [Amendment approved June 1, 1917; Stats. 1917, p. 1598.]

§ 24. Annual charge on gas. Every person, firm, corporation or association operating any gas well or wells in this state shall annually pay a charge to the state treasurer based upon the amount of gas sold in the preceding calendar year, at a fixed rate per thousand cubic feet, at the times and in the manner hereinafter provided, based upon a verified report as herein provided. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 27. Estimate of moneys required. The state mineralogist shall annually, on or before the first Monday in March, acting in conjunction with the state board of control, make an estimate of the amount of moneys which shall be required to carry out the provisions of this act.

At the time of making such estimate, the state mineralogist shall report to the state board of control the amount of money in the petroleum and gas fund on the day such estimate is made, less the amount of money necessary for the support of the department of petroleum and gas for the remainder of the fiscal year, and the amount of such estimate shall in no event exceed the difference between the amount thus determined as remaining in the petroleum and gas fund at the end of the fiscal year and the sum of one hundred fifty thousand dollars. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 31. Penalty. Any person, firm, corporation or association failing or refusing to make or furnish any report which may be required pursuant to the provisions of this act, or who willfully renders a false or fraudulent report, shall be guilty of a misdemeanor and subject to a fine of not less than three hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not exceeding six months, or both such fine and imprisonment for each such offense. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 33. Determination of rate. On or before the third Monday before the first Monday in July of each year, the state mineralogist shall determine the rate or rates which shall produce the sums necessary to be raised as provided in section twenty-seven of this act. Within the same time the said state mineralogist shall extend into the proper column of the record of assessments hereinafter provided for, the amount of charges due from each person, firm, corporation or association. [Amendment approved June 1, 1917; Stats. 1917, p. 1599.]

§ 36. Notice of assessment published. On the third Monday before the first Monday in July of each year the state mineralogist shall cause to be published a notice, one or more times, in a daily, or weekly, or semi-weekly newspaper of general circulation published in the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under and pursuant to the terms and provisions of this act, if one be published therein, otherwise in a newspaper of general circulation published in the county nearest to such county designated herein in which no such paper is published, that the assessment of property and levy of charges under and in pursuance of this act has been completed and

direct, or his deputy, of such well, so far as the charges due will be de- with a statement of the present condi- of Monday in July, and that if approved June 1, 1917; Stats. 1917

§ 19. Notice of shut-off test. operator of any well referred to by the supervisor of the time at which the of water in any such well. before such test. The der the supervisor shall be in writing of the result shall be delivered to the supervisor he s and shall within ditional tests of the water in which the ov any such w changed f

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is dissatisfied with the assess- mineralogist, he or it may, at any ly, apply to said board of review, the same corrected in any particular. power at any time before said first Mon- record of assessments and may increase or charge therein if in its judgment the evi- warrants such action. Costs of such pub- be paid from the petroleum and gas fund; omission to publish said notice as hereinbe- provided, shall not affect the validity of any or pursuant to the provisions of this act approved June 1, 1917; Stats. 1917, p. 1600.]

of assessments and charges. The state mineralogist year a book in one or more volumes, to be called the "Record of assessments and charges for the petroleum and gas fund," in which must be entered, either in writing or printing, or both writing and printing, each assessment and levy or charge made by him upon the property assessed, and such assessments may be classified and entered in such separate parts of said record as said state mineralogist shall pre- scribe. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

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§ 38. Record delivered to controller. On the first Monday in July the state mineralogist must deliver to the state controller the record of assessments and charges for the petroleum and gas fund, certified to by said state mineralogist, which certificate shall be substantially as follows: "I, —, state mineralogist, do hereby certify that between the first Monday in March and the first Monday in July, 19—, made diligent inquiry and examination to ascertain all property and persons, firms, corporations and associations subject to assessment for the purpose of the petroleum and gas fund as required by the provisions of the act of legislature approved June 10, 1915, providing for the assessment and collection of charges for oil protection; that I have faithfully complied with all the duties imposed upon me by law; that I have not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any person, firm, corporation or association or property to escape a just assessment or charge through favor or regard, or otherwise." But the failure to subscribe such certificate to such record of assessments and charges for oil protection, or any certificate, shall not in any manner affect the validity of any assessment or charge. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 40. Publication of controller's notice. Within ten days after the receipt of the record of assessments and charges for oil protection, the state controller must begin the publication of a notice to appear daily for five days, in one daily newspaper of general circulation published in each of the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under or pursuant to the terms and provisions of this act, if one be published therein, otherwise for at least two times

semi-weekly paper of general circulation published to be neither a daily nor weekly nor semi-weekly paper published in any one of such counties, then the notice for such county shall be made in a similar paper of general circulation published in the county, specifying: (1) That he has received from the state record of assessments and charges for oil protection; charges therein assessed and levied are due and payable Monday in July and that one-half thereof will be delinquent with Monday after the first Monday in July at six o'clock P. M., and unless paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent will be added to the amount thereof; and that the remaining one-half of said charges will become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock P. M. and if not paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof. Costs of such publication in any county shall be paid from the petroleum and gas fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1601.]

§ 41. Assessments constitute lien. The assessments and charges levied under the provisions of this act shall constitute a lien upon all the property of every kind and nature belonging to the persons, firms, corporations and associations assessed under the provisions hereof, which lien shall attach on the first Monday in March of each year. Such lien shall be enforced and said charges collected by an action by the state controller as provided in section forty-four of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1601.]

§ 42. Charges paid to state treasurer. All charges assessed and levied under the provisions of this act shall be paid to the state treasurer upon the order of the state controller. The controller must mark the date of payment of any charge on the record of assessments for the petroleum and gas fund and shall give a receipt for such payment in such form as the controller may prescribe. Errors appearing upon the face of any assessment on said record of assessments or overcharges may be corrected by the controller by and with the consent of the state board of control, in such manner and at such time as said controller and said board shall agree upon. [Amendment approved June 1, 1917; Stats. 1917, p. 1602.]

§ 43. Action to recover damages. Procedure. Failure to bring action. Any person, firm, corporation or association claiming and protesting as herein provided that the assessment made or charges assessed against him or it by the state mineralogist is void, in whole or in part, may bring an action against the state treasurer for the recovery of the whole or any part of such charges, penalties or costs paid on such assessment, upon the grounds stated in said protest, but no action may be brought later than the third Monday in February next following the day upon which the charges were due, nor unless such person, firm, corporation or association shall have filed with the state controller at the time of payment of such charges, a written protest stating whether the whole

that the records of assessments containing the charges due will be delivered to the state controller on the first Monday in July, and that if any person, firm, corporation or association is dissatisfied with the assessment made or charge fixed by the state mineralogist, he or it may, at any time before said first Monday in July, apply to said board of review, correction and equalization to have the same corrected in any particular. The said board shall have the power at any time before said first Monday in July to correct the record of assessments and may increase or decrease any assessment or charge therein if in its judgment the evidence presented or obtained warrants such action. Costs of such publication in any county shall be paid from the petroleum and gas fund; provided, however, that the omission to publish said notice as hereinbefore and in this section provided, shall not affect the validity of any assessment levied under or pursuant to the provisions of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 37. **Record of assessments and charges.** The state mineralogist must prepare each year a book in one or more volumes, to be called the "Record of assessments and charges for the petroleum and gas fund," in which must be entered, either in writing or printing, or both writing and printing, each assessment and levy or charge made by him upon the property provided to be assessed and charged under this act, describing the property assessed, and such assessments may be classified and entered in such separate parts of said record as said state mineralogist shall prescribe. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 38. **Record delivered to controller.** On the first Monday in July the state mineralogist must deliver to the state controller the record of assessments and charges for the petroleum and gas fund, certified to by said state mineralogist, which certificate shall be substantially as follows: "I, —, state mineralogist, do hereby certify that between the first Monday in March and the first Monday in July, 19—, made diligent inquiry and examination to ascertain all property and persons, firms, corporations and associations subject to assessment for the purpose of the petroleum and gas fund as required by the provisions of the act of legislature approved June 10, 1915, providing for the assessment and collection of charges for oil protection; that I have faithfully complied with all the duties imposed upon me by law; that I have not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any person, firm, corporation or association or property to escape a just assessment or charge through favor or regard, or otherwise." But the failure to subscribe such certificate to such record of assessments and charges for oil protection, or any certificate, shall not in any manner affect the validity of any assessment or charge. [Amendment approved June 1, 1917; Stats. 1917, p. 1600.]

§ 40. **Publication of controller's notice.** Within ten days after the receipt of the record of assessments and charges for oil protection, the state controller must begin the publication of a notice to appear daily for five days, in one daily newspaper of general circulation published in each of the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under or pursuant to the terms and provisions of this act, if one be published therein, otherwise for at least two times

in a weekly or semi-weekly paper of general circulation published therein, or if there be neither a daily nor weekly nor semi-weekly paper of general circulation published in any one of such counties, then the publication of the notice for such county shall be made in a similar manner in a newspaper of general circulation published in the county nearest such county, specifying: (1) That he has received from the state mineralogist the record of assessments and charges for oil protection; (2) that the charges therein assessed and levied are due and payable on the first Monday in July and that one-half thereof will be delinquent on the sixth Monday after the first Monday in July at six o'clock P. M., and that unless paid to the state treasurer at the capital prior thereto, fifteen per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock P. M., an additional five per cent will be added to the amount thereof; and that the remaining one-half of said charges will become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock P. M. and if not paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof. Costs of such publication in any county shall be paid from the petroleum and gas fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1601.]

§ 41. Assessments constitute lien. The assessments and charges levied under the provisions of this act shall constitute a lien upon all the property of every kind and nature belonging to the persons, firms, corporations and associations assessed under the provisions hereof, which lien shall attach on the first Monday in March of each year. Such lien shall be enforced and said charges collected by an action by the state controller as provided in section forty-four of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1601.]

§ 42. Charges paid to state treasurer. All charges assessed and levied under the provisions of this act shall be paid to the state treasurer upon the order of the state controller. The controller must mark the date of payment of any charge on the record of assessments for the petroleum and gas fund and shall give a receipt for such payment in such form as the controller may prescribe. Errors appearing upon the face of any assessment on said record of assessments or overcharges may be corrected by the controller by and with the consent of the state board of control, in such manner and at such time as said controller and said board shall agree upon. [Amendment approved June 1, 1917; Stats. 1917, p. 1602.]

§ 43. Action to recover damages. Procedure. Failure to bring action. Any person, firm, corporation or association claiming and protesting as herein provided that the assessment made or charges assessed against him or it by the state mineralogist is void, in whole or in part, may bring an action against the state treasurer for the recovery of the whole or any part of such charges, penalties or costs paid on such assessment, upon the grounds stated in said protest, but no action may be brought later than the third Monday in February next following the day upon which the charges were due, nor unless such person, firm, corporation or association shall have filed with the state controller at the time of payment of such charges, a written protest stating whether the whole

assessment or charge is claimed to be void, or if a part only, what part, and the grounds upon which such claim is founded, and when so paid under protest the payment shall in no case be regarded as voluntary.

Whenever, under the provisions of this section, an action is commenced against the state treasurer, a copy of the complaint and of the summons must be served upon the treasurer, or his deputy. At the time the treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The attorney employed by the state oil and gas supervisor must defend such action; provided, however, the said mineralogist may at the request of the said oil and gas supervisor employ additional counsel, the expense of which employment shall be paid from the petroleum and gas fund. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

A failure to begin such action within the time herein specified shall be a bar against the recovery of such charges. In any such action the court shall have the power to render judgment for the plaintiff for any part or portion of the charge, penalties, or costs found to be void and so paid by plaintiff upon such assessment. [Amendment approved June 1, 1917; Stats. 1917, p. 1602.]

§ 44. Action to collect delinquent charges. Procedure. The state controller shall, on or before the thirtieth day of May next following the delinquency of any charge as provided in this act, bring an action in a court of competent jurisdiction, in the name of the people of the state of California, in the county in which the property assessed is situated, to collect any delinquent charges or assessments, together with any penalties or costs, which have not been paid in accordance with the provisions of this act and appearing delinquent upon the records of assessments and charges for the petroleum and gas fund in this action provided for.

The attorney for the state oil and gas supervisor shall commence and prosecute such action to final judgment and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for. The state mineralogist may employ additional counsel to assist the attorney for the state oil and gas supervisor, and the expense of such employment shall be paid from the petroleum and gas fund.

Payments of the penalties and charges, or amount of the judgment recovered in such action must be made to the state treasurer. In such actions the record of assessment and charges for oil protection, or a copy of so much thereof as is applicable in said action, duly certified by the controller showing unpaid charges against any person, firm, corporation or association assessed by the state mineralogist is prima facie evidence of the assessment upon the property, the delinquency, the amount of charges, penalties, and costs due and unpaid to the state, and that the person, firm, corporation or association is indebted to the people of the state of California in the amount of charges and penalties therein appearing unpaid and that all forms of law in relation to the assessment of such charges have been complied with. [Amendment approved June 1, 1917; Stats. 1917, p. 1603.]

§ 46. Petroleum and gas fund. All the moneys heretofore paid to the state treasurer under or pursuant to the provisions of this act and deposited to the credit of the oil protection fund, shall be withdrawn from said fund, which is hereby abolished, and deposited to the credit of the petroleum and gas fund which is hereby created. All of the moneys hereafter paid to the state treasurer under or pursuant to the provisions of this act shall be deposited to the credit of the petroleum and gas fund. All moneys in such fund shall be expended under the direction of the state mineralogist, drawn from such fund for the purpose of this act upon warrants drawn by the controller of the state, upon demands made by the state mineralogist, and audited by the state board of control. Of the moneys in said petroleum and gas fund, when such action has been authorized by the state board of control, the state mining bureau may withdraw, without at the time furnishing vouchers and itemized statements, a sum not to exceed five hundred dollars, said sum so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, or at any other time, upon demand of the board of control, the moneys so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control. [Amendment approved June 1, 1917; Stats. 1917, p. 1603.]

§ 47. Repair work. All moneys received in repayment of repair work done under the order and direction of the supervisor as hereinbefore provided, shall be returned and credited to the petroleum and gas fund. [Amendment approved June 1, 1917; Stats. 1917, p. 1604.]

§ 48. Supervisor's annual report. On or before the first day of October of each and every year the supervisor shall submit a report in writing to the state mineralogist showing the total number of barrels of petroleum produced in each county in the state during the previous calendar year, together with the total cost of said department for the previous fiscal year and the net amount remaining in the petroleum and gas fund available for the succeeding fiscal year's expense, also the total amount delinquent and uncollected from any assessments or charges levied under or pursuant to the provisions of this act. Such report shall also include such other information as the supervisor may deem advisable. The state mineralogist shall make public such statements promptly after receipt of the same from the supervisor for the benefit of all parties interested therein. [Amendment approved June 1, 1917; Stats. 1917, p. 1604.]

§ 49. Certificate showing names of persons claiming interest. The owner or operator of any lands or tenements subject to assessment under this act shall, within six months after this act goes into effect, file with the supervisor a certificate which shall contain the names of all the parties claiming an interest in or to said lands and full description of the property and the names of all parties in interest where such interest is held by lease, license or assignment. [Amendment approved June 1, 1917; Stats. 1917, p. 1604.]

ACT 2225.

An act to establish a uniform system of mine bell signals, to be used in all mines operated in the state of California, and for the protection of miners. [Approved March 8, 1893. Stats. 1893, p. 82.]

Repealed 1917; Stats. 1917, p. 434.

ACT 2302.

An act granting to the city of Monterey the title to the waterfront of said city in the bay of Monterey.

[Approved May 27, 1919. Stats. 1919, p. 1359. In effect July 27, 1919.]

§ 1. **Lands granted to Monterey.** The state of California does hereby cede, grant and relinquish forever, unto the city of Monterey, a municipal corporation organized and existing under and by virtue of the laws of the state of California, all the right, title, interest and estate whatsoever of the said state of California, of, in and to, all the real estate, lands and property situate within the corporate limits of said city of Monterey, and bounded and described as follows, to wit: Commencing at a point where the line of the corporation limits of said city strikes the bay of Monterey on the north, and running along the entire waterfront thereof in a southerly and westerly direction to the point where the southern or western boundary of said city strikes the said bay, comprising the entire waterfront of said city, out to a depth of sixty feet at low tide water; provided, that the rights of all persons, if any exist, under any title derived from said state of California, in and to any part of said property and premises hereby ceded and granted, be and the same are hereby reserved from the operation of this act.

§ 2. **Conditions of grant.** The entire waterfront hereby granted shall be held by the city of Monterey and its lawful successors forever, for the use and benefit of said city, and shall not be subject to execution upon any judgment against said city, but from time to time, may be let or leased for a term not exceeding fifty years, as the said city or its successors may deem to be most advantageous to said city; provided, that not more than three hundred feet frontage of said waterfront shall be leased to one lessee; and provided, further, that at and upon any wharf erected or built upon property so leased any and all vessels shall have a right to dock, land and discharge passengers or merchandise upon payment to such lessee or lessees of reasonable dockage and wharfage. The dockage and wharfage shall be regulated and prescribed in such lease, and as thereafter, from time to time, may be determined by ordinance or resolution of said city of Monterey or by statute of the state of California.

§ 3. **Repealed.** All acts or parts of acts in conflict herewith are hereby repealed.

TITLE 356.**MONTEREY COUNTY.****ACT 2317.**

An act to provide for the accomplishment of the work of constructing a breakwater in Monterey Bay, California, as recommended in the

report of the chief of engineers, United States army, and printed in a document of the United States house of representatives, No. 1084, sixty-first congress, third session, calling for an expenditure of eight hundred thousand dollars and making an appropriation for such work. [Approved March 15, 1911. Stats. 1911, p. 371.]

The act appropriated \$200,000 for the purpose indicated, conditional upon the United States government taking charge of the work and appropriating \$600,000 for the work.

This act was superseded by the act of 1917, p. 475. See next Act.

ACT 2318.

An act making an appropriation to aid in the construction of a break-water in Monterey Bay, California. [Approved May 14, 1917. Stats. 1917, p. 475. In effect July 27, 1917.]

This act appropriated \$200,000 for the purpose indicated, conditional upon the United States government taking charge of the work and appropriating not less than \$200,000 for the work.

TITLE 360.

MOTOR VEHICLES.

ACT 2331b.

An act to regulate the use and operation of vehicles upon the public highways and elsewhere; to provide for the registration and identification of motor vehicles and for the payment of registration fees therefor; to provide for the licensing of persons operating motor vehicles; to prohibit certain persons from operating vehicles upon the public highways; to prohibit the possession or use of a motor vehicle without the consent of the owner thereof; and to prohibit the offer to or acceptance by certain persons of any bonus or discount or other consideration for the purchase of supplies or parts for motor vehicles, or for work or repair done thereon; to provide penalties for violations of provisions of this act, and to provide for the disposition of fines and forfeitures imposed thereon; to limit the power of local authorities to enact or enforce ordinances, rules or regulations in regard to matters embraced within the provisions of this act; to provide for the disposition of registration and license fees, fines and forfeitures collected hereunder; to create a motor vehicle department and to provide for the organization and conduct thereof; to provide for carrying out the objects of this act, and to make appropriation therefor; and to repeal all acts or parts of acts in conflict with this act.

[Approved May 10, 1915. Stats. 1915, p. 397.]

Amended 1917; Stats. 1917, p. 382; 1919, Stats. 1919, p. 191.

The amendments of 1917 and 1919 follow:

§ 1. Words and phrases defined. The words and phrases used in this act shall for the purposes of this, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "motor vehicle" shall include all vehicles propelled otherwise than by muscular power, except trailers and such vehicles as run upon stationary rails or tracks; (2) "automobile" shall include all motor vehicles excepting

motorcycles; (3) "motorcycle" shall include all motor vehicles designed to travel on not more than three wheels in contact with the ground, and of not exceeding ten horse-power, and of not exceeding the weight of five hundred pounds unladen; provided, however, that any motor vehicle which shall be operated on the public highway drawing a trailer shall be deemed to be an automobile for all the purposes of this act; and provided, further, that for the purposes of this act a trailer shall be deemed to be any vehicle which is at any time drawn upon the public highway by a motor vehicle, excepting any implements of husbandry temporarily drawn, propelled or moved upon such highway; (4) "highway" shall include any public highway, county road, state highway or state road, public street, avenue, alley, park, parkway, driveway, square or place, bridge, viaduct, trestle, or any other territory or structure, whether public or private, designed, intended or used by or for the general public for the passage of vehicles, in any county, or incorporated city and county, city or town within the state of California, including driveways, upon the grounds of universities, colleges, schools, and other institutions, whether public or private; (5) "business district" shall mean the territory of any county or incorporated city and county, city or town, contiguous to a public highway, which is on the line of said highway mainly built up with structures devoted to business; provided, that the local authorities having charge of such highway shall have placed conspicuously thereon at the boundary lines of such business district, signs which shall be placed on the right side of such highway looking toward such district, and which shall be triangular in shape, apex upward, the sides thereof being of equal length and not less than twenty-four inches in length, which shall bear in white letters of a size to be easily readable by a person using the highway the words and figures: "15 miles speed limit." Such letters shall be on a background colored dark green and the back of such sign shall also be colored dark green; (6) "closely built up" shall mean the territory of any county or incorporated city and county, city or town, contiguous to a public highway, which is on the line of said highway not mainly devoted to business, where for not less than a quarter of a mile the dwelling-houses and business structures on such highway average less than one hundred feet apart; provided, that the local authorities having charge of such highway shall have placed conspicuously thereon at the boundary lines of such district, signs of sufficient size to be easily readable by a person using the highway, bearing the words and figures "20 miles speed limit" which words shall be printed in white letters on a red background; such signs shall also be colored red on the back thereof and shall be of the same size and shape as those specified in subdivision five of this section and shall be similarly placed on the highway; (7) "local authorities" shall include all boards of supervisors, trustees or councils, commissions, committees, and other public officials of counties, incorporated cities and counties, cities or towns, or municipal or quasi-municipal corporations when such officials possess or exercise legislative or police powers; (8) "chauffeur" shall mean any person who operates an automobile in the transportation of persons or property and who receives any compensation for such service in wages, commission or otherwise, paid directly or indirectly, or who as owner or employee operates an automobile carrying passengers or property for hire; provided, however, that this definition shall not include manufacturers' agents, proprietors

of garages and dealers, salesmen, mechanics, or demonstrators of automobiles in the ordinary course of their business; (9) the term "state" as used in this act, except where otherwise expressly provided, shall also include the territories, federal districts and insular possessions of the United States; (10) "nonresidents" shall mean residents of states or countries other than the state of California whose sojourn in this state, or whose occupation of their regular place of abode or business in this state, if any, covers a total period of less than three months in the calendar year; (11) "owner" shall include any person, firm, association, or corporation, having the lawful use or control, or the right to the use or control, of a vehicle, under a lease or otherwise, for a period of ten or more successive days; (11a) the legal owner is hereby defined as the owner of the legal title; (12) "manufacturer" or "dealer" shall signify a person, firm, association, or corporation regularly in the business of having in his, its or their possession vehicles for sale or trade and for use and operation pursuant thereto, and shall be considered owners of vehicles manufactured or dealt in by them for the purposes of this act, prior to sale and delivery thereof, and of all vehicles in their possession and operated or driven by them or by their employees; provided, however, that anything to the contrary herein notwithstanding, the determination of the motor vehicle department shall be final and conclusive upon the question whether or not an applicant for registration shall be a manufacturer or dealer within the meaning and intent of this act; (13) "garage" shall mean every place of business where motor vehicles are received for housing, storage or repair, for compensation; (14) "intersecting highway" shall mean any highway which joins another at an angle, whether or not it crosses the other; (15) "operator" shall mean any person other than a chauffeur who operates a motor vehicle and any person who operates, rides, drives or propels any vehicle other than a motor vehicle; (16) "person" shall include any corporation, association, copartnership, company, firm, or other aggregation of individuals; and where the term "person" is used in connection with the registration of a vehicle, it shall include any corporation, association, copartnership, company, firm, or other aggregation of individuals which owns or controls such vehicle as actual owner, or for the purpose of sale or for renting, whether as agent, salesman, or otherwise; (17) "department" as used in this act shall mean the motor vehicle department of California, acting directly or through its duly authorized agent; (18) "vehicle" shall include every wagon, hack, coach, carriage, omnibus, bicycle, tricycle, automobile, cyclecar, motorcycle, truck, trailer, traction engine, tractor, or other conveyance or contrivance for moving persons, animals or things, in whatever manner and by whatever force or power the same may be ridden, driven, propelled, drawn or moved, which is ridden, driven, propelled, drawn or moved on the public highway, including implements of husbandry temporarily drawn, propelled or moved on the public highway, and excepting only conveyances drawn or propelled by pedestrians, and railroad, street or interurban cars, engines and motors moving upon stationary rails or tracks; (19) the city and county of San Francisco shall be considered a county; (20) "net receipts" shall signify the balance remaining of the money paid to the department in conformity with the provisions of this act after the payment of all salaries, expenses and refunds incident to the administration and enforcement of this act; (21) "specially constructed" motor vehicle shall mean

a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of motor vehicles; provided, that in case of dispute the determination of said department as to the character of construction of any such motor vehicle shall be conclusive; (22) "reconstructed motor vehicle" shall mean a motor vehicle which shall have been assembled or constructed largely by means of essential parts, new or used, derived from other motor vehicles or makes of motor vehicles of various names, models or types, or which, if originally otherwise constructed, shall have been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other motor vehicles or makes of motor vehicles; provided, that for the purpose of this act the term "essential parts" shall include not only integral parts but also body parts, such as fenders, hood, cowl, and other parts the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the motor vehicle; and provided, further, that in case of dispute the determination of said department as to the character of such assembly, reconstruction or alteration shall be conclusive; (23) "imported motor vehicle" shall mean any motor vehicle which shall be brought into this state from another country or state otherwise than in the ordinary course of business by or through a manufacturer or dealer, and which has not been registered in this state, except such motor vehicles, owned by nonresidents, as are provided for by section twenty-seven of this act; (24) "highway commission" shall mean the appointed members of the advisory board of the department of engineering of the state of California. [Amendment approved May 2, 1919; Stats. 1919, p. 193.]

This section was also amended in 1917. See Stats. 1917, p. 382.

§ 3. Application for registration. Horse-power formula. Steam-driven motor vehicle. Specially constructed motor vehicle. Imported motor vehicle. Trailers. Notice of change of address. Every owner of a motor vehicle which shall be operated or driven upon the public highways shall, for each motor vehicle owned, except as herein otherwise expressly provided, cause to be filed, by mail, or otherwise, with the department an application for registration on a blank to be furnished by said department for that purpose, containing, in addition to such other particulars as may be required by said department, a statement of the name and postoffice address of the applicant and the name and postoffice address of the legal owner, a description of such motor vehicle, including the name of the maker, the number, if any, affixed to the motor or engine by the maker, the character of the motive power, and the diameter of the cylinder bore and the number of cylinders; and with such application the applicant shall deposit the proper registration fee as provided in section seven of this act; provided, that for all the purposes of this act the horse-power of any motor vehicle, except electric or steam-driven vehicles, shall be determined by the formula commonly known as that of the association of licensed automobile manufacturers (A. L. A. M.), being as follows: Square the diameter of the cylinder in inches, multiply by the number of cylinders, and divide by two and five-tenths; provided, further, that for the purpose of this act the horse-power of any steam-driven motor vehicle shall be the horse-power rating fixed and advertised by the manufacturer thereof; provided, further, that in

case the motor vehicle sought to be registered shall be a specially constructed or a reconstructed motor vehicle, that fact must be stated by the applicant in his application for registration and he shall furnish the department on demand such additional information relating to said motor vehicle as shall be satisfactory to the department before it may register such vehicle; and provided, further, that in case the motor vehicle sought to be registered shall be an imported motor vehicle, within the meaning of this act, that fact must be stated by the applicant in his application for registration, and he shall furnish the department on demand such additional information relating to said motor vehicle as shall be satisfactory to the department before it may register such vehicle, and in case such vehicle shall have been theretofore registered in any other state or country, the applicant shall with his original application for registration supply the department with full information relating to such former registration and shall surrender to the department any number plates, seals, certificates of registration or other evidences of such former registration as may be in the applicant's possession or control. Every owner of a trailer or trailers which shall be drawn upon a public highway when any such trailer shall exceed one ton in weight shall cause to be filed by mail or otherwise, with the department, an application for registration on a blank to be furnished by said department for that purpose, containing in addition to such other particulars as may be required by said department, a statement of the name and postoffice address of the applicant, and with such application the applicant shall deposit the proper registration fee, as provided in section seven of this act.

Whenever the owner of any motor vehicle shall after making application for registration of any motor vehicle move from the address named in such application or change his postoffice address he shall within ten days after such moving or change of address notify the department in writing of such change and of his new postoffice address. Failure to so notify the department shall constitute a misdemeanor. [Amendment approved May 2, 1919; Stats. 1919, p. 196.]

This section was also amended in 1917. See Stats. 1917, p. 385.

§ 4. Registration. Record posted. Assignment of number. Upon the receipt by the department of an application for registration of a motor vehicle or trailer or trailers accompanied by the fee required by section seven of this act, the department shall file such application and if satisfied that the applicant is entitled to registration of said vehicle or vehicles as the owner thereof, within the meaning of this act, and if all fees theretofore payable to the department in connection with the registration, or any renewal thereof, of said vehicle or vehicles shall have been duly paid, shall alphabetically, and also numerically, register such motor vehicle or trailer or trailers with the name and postoffice of the owner, and of the legal owner together with the facts stated in such application, in a book or on index cards to be kept for the purpose, under a distinctive number assigned to such motor vehicle or trailer or trailers by the department, which book or index cards shall be open to inspection by the public during reasonable business hours. A full record of all motor vehicle registration shall be posted daily by the department upon a bulletin board so located as to be easily accessible to the public, and no information relative to any such registrations shall

be made public by any employee of the department in advance of such posting.

Upon the filing of such application and the payment of the fee provided in this act, the department shall upon registration assign to such motor vehicle or trailer or trailers, a distinctive registration number. [Amendment approved May 2, 1919; Stats. 1919, p. 197.]

This section was also amended in 1917. See Stats. 1917, p. 346.

§ 5. Number plates. Annual change. The department shall furnish to every person whose motor vehicle or trailer or trailers shall be registered as aforesaid, on original registration, one number plate for motorcycles and trailers, and two number plates for automobiles, the same to have displayed upon them the registration number assigned to such vehicle, together with the abbreviation "Cal."; provided, however, that number plates furnished for trailers and for such motor vehicles as are exempted by section two of this act from the payment of the fees in this act prescribed shall contain suitable distinguishing marks or symbols, and the numbers assigned in such cases shall run in different numerical series from the numbers assigned to other vehicles registered under the provisions of this act; and provided, further, anything to the contrary in this act notwithstanding, that it shall not be necessary to apply for registration of implements of husbandry temporarily drawn, moved or otherwise propelled upon the public highway, nor shall it be necessary for the department to assign any distinguishing numbers to such implements of husbandry or to furnish number plates for display thereon; the number plates assigned as herein provided shall be and remain with the motor vehicle for the period of registration mentioned in the application therefor; such number plates shall be changed annually and shall be of a distinctly different color each year, and there shall be a marked contrast between the color of the number plates and that of the numerals or letters thereon. [Amendment approved May 2, 1919; Stats. 1919, p. 198.]

This section was also amended in 1917. See Stats. 1917, p. 387.

§ 6. Renewal of registration. All motor vehicle registrations under this act shall expire January 31st of each year and shall be renewed annually in the same manner and upon the payment of the same fee as provided for original registrations, such renewal to take effect on the first day of February of each year. The plates and certificates of registration furnished by the said department as heretofore provided shall be valid during the year only in which they are furnished or issued. [Amendment approved May 2, 1919; Stats. 1919, p. 198.]

This section was also amended in 1917; Stats. 1917, p. 387.

§ 7. Registration fees. Motorcycles. Automobiles. Electric Motor Vehicles. Chauffeur's license. Duplicates. Portion of year. The following fees shall be paid to the department upon the registration of a vehicle in accordance with the provisions of this act and shall accompany the application hereinabove provided for: For the registration of every motorcycle, two dollars; for the registration of every automobile, except electric automobiles, the sum of forty cents for each horse-power, or major fraction thereof, according to the formula specified in section three of this act; for the registration of every motor vehicle equipped

with other than pneumatic tires, and used for commercial purposes, weighing under four thousand pounds unladen, five dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for every such vehicle weighing four thousand pounds and over and less than six thousand pounds unladen, ten dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for every such vehicle, weighing six thousand pounds and over and less than ten thousand pounds unladen, fifteen dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for every such vehicle weighing ten thousand pounds and over unladen, twenty dollars in addition to the fees provided herein for horse-power rating or for electric motor vehicles; for the registration of every electric motor vehicle, five dollars; for the registration of motor vehicles owned by or under the control of a manufacturer of, or dealer in, motor vehicles, ten dollars for the first set of number plates, and five dollars for each additional set, two number plates of the same kind shall constitute a set; for the registration of the motorcycles owned by or under the control of a manufacturer of or dealer in motorcycles five dollars for the first number plate and one dollar for each additional number plate; for every registration number plate for trailers, two dollars; for every chauffeur's license, two dollars; for an original operator's license no fee shall be charged; for the registration of every transfer of ownership shall be charged a fee of one dollar. Upon the filing of an affidavit showing the fact of loss or mutilation or illegibility, the fees for additional number plates, duplicate container, certificate of registration, chauffeur's badge, chauffeur's certificate, or duplicate operator's license shall be as follows: provided, that no affidavit will be required for duplicate operator's license: For every such number plate, one dollar; for every such duplicate container, twenty-five cents; for every such certificate of registration, fifty cents; for every such chauffeur's badge, one dollar; for every such chauffeur's certificate, fifty cents; for every such operator's license, twenty-five cents.

Anything herein to the contrary notwithstanding, if application for the registration of a motor vehicle or for chauffeur's license is made during the period beginning on the first day of May and ending on the thirty-first day of July in any year, three-fourths of the annual fee shall be paid; if application is made during the period beginning on the first day of August and ending on the thirty-first day of October, one-half of such annual fee; if application is made during the period beginning on the first day of November and ending on the thirty-first day of January, one-fourth of such annual fee. [Amendment approved May 3, 1919; Stats. 1919, p. 198.]

This section was also amended in 1917. See Stats. 1917, p. 387.

§ 8. Certificate of registration. Legal owner designated. Container. Transfer of ownership. The department shall also furnish with each number plate for motorcycles and with each pair of number plates for automobiles, and on each annual renewal of registration, a certificate of registration which shall contain upon the face thereof the following data: The name of the registered owner of the motor vehicle, his post-office address, the name and address of the legal owner, and the make of the vehicle, the year model denoted by the manufacturer, the model or letter denoted by the manufacturer, if any, the engine or motor num-

ber, the registered horse-power, the registration number and the amount of annual registration fee, together with the date of issue of the certificate; provided, however, the name and address of the legal owner shall appear on the bottom line of the certificate of registration. In case of motorcycles, the manufacturer's serial number shall be stated in lieu of the engine number. Such certificate shall contain a blank space for the signature of the registered owner and shall be signed by such owner. The reverse side of said certificate shall contain forms (a) for notice to the department by the registered owner and the legal owner in case of transfer of ownership, as hereinafter required, and (b) for application to the department by the transferee, in case of transfer of said motor vehicle, for registration thereof in his name, said application to be in the form of a joint statement to be signed by both transferrer and transferee and the legal owner and to contain in addition to such other particulars as may be required by said department, a statement of the postoffice address of the transferee so applying for registration. Said certificate shall contain the identical registration number denoted on the number plate or plates in connection with which such certificate is issued, and it shall be valid only for the year in which it is issued. Said certificate shall be inclosed in a suitable container, to be furnished by the department, such container to have a frame of aluminum or other metal and to have a cover of isinglass or other transparent material, through which such certificate can be easily inspected, and with such container said department shall furnish screws or other suitable means of attachment to the motor vehicle. Said number plates, certificates and containers shall be furnished by the department without further charge than the fees specified in section seven of this act, with transportation prepaid, and shall be of substantial character and suitable form and design, to be determined by the department.

Upon the transfer of ownership of any motor vehicle registered under section three of this act the person in whose name such vehicle is registered shall forthwith (a) file with the department a notice, upon the form furnished by the department and attached to the certificate of registration, containing the date of such transfer of ownership and the name and postoffice address of the transferee, and upon such transfer the title of the number plates shall vest in the transferee.

Upon the transfer of ownership of any motor vehicle, the person in whose name such vehicle is registered and the person to whom ownership of such vehicle is to be transferred shall forthwith join in a statement of said transfer indorsed upon the reverse side of the certificate of registration of said motor vehicle in the space provided for said purpose, which statement shall be signed by the transferrer and the legal owner in the manner and form of his signature contained on the face of said certificate and which statement shall likewise be signed by the transferee, who shall also set forth below his signature his postoffice address. Said statement shall include an application by the transferee for registration of said vehicle in his name. Said certificate so indorsed and bearing upon the reverse side thereof the signatures of the transferrer and transferee, shall be forwarded by the transferee within ten days to the department together with proper fee of one dollar required by section seven of this act. The department shall file said certificate so jointly indorsed by transferrer and transferee and upon receipt of the proper fee as above provided, the department, if satisfied

of the genuineness and regularity of said transfer, shall register said motor vehicle in the name of said transferee.

Upon such registration the department shall issue and forward to the applicant without further charge than as provided in section seven of this act, a new registration certificate in the manner and form as hereinabove provided for original registration. Until said transferee has received said certificate of registration and has written his name upon the face thereof in the blank space provided for said purpose by the department, delivery of said motor vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed and said intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose; provided, that where such transfer is made to a manufacturer or dealer to whom has been assigned a general distinguishing number and who intends to resell or otherwise retransfer said vehicle the provisions of this act relative to the joint statement of transferrer and transferee indorsed thereon, shall be complied with upon such sale or transfer. In case of transfer of ownership of a motor vehicle, registered under the provisions of this act, by operation of law, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the registered owner, the notice of transfer as well as the joint statement hereinabove provided for shall be signed by the executor, administrator, receiver, trustee, sheriff, or other representative or successor in interest of the registered owner, in lieu of such owner, and the transferee's application for registration shall be accompanied by a statement of the special facts in the premises; provided, that the department may in its discretion require from the transferee, before registering such motor vehicle, such additional information respecting such involuntary loss of ownership by the former registered owner as may be satisfactory to the department.

Anything to the contrary hereinabove notwithstanding, upon the transfer of ownership of any motor vehicle to a person not intending either to operate the same or to cause or permit the same to be operated upon the public highways and not intending to transfer such motor vehicle to another person, a statement by said transferee of such fact or intent shall accompany the application for registration, in which case no fee for registration need be paid by the applicant, whereupon the department, if satisfied of the genuineness and regularity of said transfer and if satisfied of the facts stated in said application for registration, shall register, without any charge whatever, such motor vehicle in the name of said transferee and shall issue and forward to him a new registration certificate in a distinctive form to be determined by the department; provided, that until said transferee has received said registration certificate, delivery of said motor vehicle shall be deemed not to have been made, and title thereto shall be deemed not to have passed and said intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose; and provided, further, that nothing herein contained shall be so construed as to permit such motor vehicle to be operated upon the public highway under such distinctive certificate of registration last hereinabove provided for.

If the department shall determine, at any time, that for any reason a motor vehicle or trailer is unsafe or is improperly equipped or is other-

wise unfit to be operated, or that the applicant for registration thereof is not entitled as owner thereof to such registration, the department may refuse to register such vehicle and may, for a like reason, revoke any registration already acquired. [Amendment approved May 2, 1919; Stats. 1919, p. 199.]

This section was also amended in 1917. See Stats. 1917, p. 388.

§ 9. Dealer's registration. Moving unregistered vehicle. Dealer's notice of sale, of transfer of ownership, of dismantling. Every manufacturer of, or dealer in, motor vehicles may make application to the department, by mail or otherwise, upon a blank provided by the department, for a general distinguishing number or symbol, instead of registering each motor vehicle owned by him, and with such application he shall deposit the proper registration fee as provided in section seven of this act; and the department shall grant the application if satisfied of the facts stated in the application and shall issue to the applicant a certificate of registration containing the name and business address of the applicant and the general distinguishing number or symbol assigned to him, and made in such form and containing such further information as the department may determine; and every motor vehicle owned or controlled by such manufacturer or dealer shall be regarded as registered under such general distinguishing number or symbol until ten days after being sold, or until let for hire or until loaned for a period of more than ten successive days. The department shall furnish, without other charge than the fee specified in section seven of this act, with transportation charges prepaid, to every manufacturer of or dealer in automobiles or motorcycles applying therefor whose vehicles are registered in accordance with the provisions of this section, one pair of automobile plates or one single motorcycle number plate, of suitable design, the plates to have displayed upon them the registration number which is assigned to the motor vehicles of such manufacturer or dealer, with a different symbol on each pair of automobile number plates and on each single motorcycle plate. The department shall furnish such additional number plates as required by any dealer, upon the payment of the fee therefor set forth in section seven of this act. If the department shall determine at any time for due cause that any such manufacturer or dealer to whom the certificate of registration provided for in this section has been issued and to whom such general distinguishing number or symbol has been assigned has failed to comply with the requirements of this section hereinafter contained with reference to notices or reports of transfer of motor vehicles, or has caused or suffered, or is causing or suffering, the unlawful use of such certificate or number, the department may revoke said certificate of registration and recall and cancel said general distinguishing number or symbol, in which event said manufacturer or dealer, after notice of such action on part of the department, shall, without further demand, return to the department any and all number plates that may have been furnished him by the department under said certificate so revoked; provided, that no manufacturer or dealer or any employee of such manufacturer or dealer, shall cause or permit the display, or other use, of any number plate, or certificate of registration which may have been furnished to such manufacturer or dealer under the general distinguishing number or symbol hereinbefore provided for, excepting upon motor vehicles owned by such

manufacturer or dealer within the meaning and intent of this act; provided, further, that no person shall display or otherwise use or have in his possession any number plate, or certificate of registration furnished by the department under a general manufacturer's or dealer's distinguishing number or symbol, except such manufacturer or dealer or his employees; and provided, further, that if the department, upon receiving from any manufacturer or dealer an application for the issuance for the ensuing calendar year of the certificate of registration and general distinguishing number or symbol provided for in this section, shall determine upon due cause that such manufacturer or dealer during the previous calendar year has failed to comply with the requirements of this section hereinafter contained respecting the filing of notices or reports of transfer of motor vehicles, or has caused or suffered, or is causing or suffering, the unlawful use of such certificate or number, the department may refuse such application.

When it shall become necessary for a manufacturer of, or dealer in, or consignee of, motor vehicles to move any vehicles owned by or consigned to him, not being registered under any of the provisions of this act, from any vessel, railroad depot, or warehouse, to the salesrooms or other place of business of such manufacturer or dealer, or to a warehouse or other place of storage, over the public highways, he may operate such vehicle, either under its own power or otherwise, over such public highways as are necessary for said purpose, without first registering said motor vehicle or affixing thereto any number plates issued to him under the general distinguishing number or symbol hereinabove specified; provided, however, that in such event he shall first obtain from the police authorities or marshal of the city or town in which said vessel, railroad depot or warehouse is situated, a written permit authorizing such operation; and there is hereby conferred upon police authorities, including town marshals, within the state of California, authority to issue such permits in proper cases as hereinbefore provided.

Upon the transfer of any motor vehicle by a manufacturer or dealer, whether by sale, lease or otherwise, such motor vehicle not being registered under the provisions of section three hereof, such manufacturer or dealer shall, forthwith upon such transfer, file with the department, upon a blank to be furnished by the department, a notice or report containing the date of such transfer, a description of such motor vehicle, and the name and postoffice address of the purchaser, lessee or other transferee. Before any person, firm or corporation shall wreck, dismantle or disassemble any motor vehicle, or substantially alter the form thereof, such person, firm or corporation shall give notice in writing upon forms to be furnished by the motor vehicle department of the intention so to do to the chief of police or marshal of the city or town in which such work is to be done or if such work is to be done outside of an incorporated city or town, such notice shall be given to the sheriff of the county in which the work is to be done.

Upon the transfer of any automobile engine or motor, except a new engine or motor transferred with intent that the same be installed in a new automobile, and whether such transfer be made by a manufacturer or dealer or otherwise, and whether by sale, lease or otherwise, the transferrer shall within three days after such transfer file with the department, upon a blank to be furnished by the department, a notice or report containing the date of such transfer and a description, to-

gether with the maker's number of said engine or motor, the name and postoffice address of the purchaser, lessee or other transferee. [Amendment approved May 2, 1919; Stats. 1919, p. 202.]

This section was also amended in 1917. See Stats. 1917, p. 392.

§ 10. Residents of other states. [Repealed 1917; Stats. 1917, p. 395.]

§ 11. Display of number plates. Display of registration certificates. Added penalty for failure to register. In case of renewal. Except as in this act otherwise provided, no person shall operate or drive, or cause to be operated or driven, a motor vehicle, or cause a trailer to be drawn by a motor vehicle, on the public highways unless such vehicle shall at all times have displayed the number plate or plates furnished for it as hereinbefore provided; in case of automobiles, each such vehicle shall display one number plate on the front and the other on the back thereof; in case of motorcycles and trailers, but one number plate shall be required to be displayed and such number plate upon motorcycles and trailers shall be at the rear thereof; in all cases such number plates shall be securely fastened to the motor vehicle or trailer so as to prevent said plates from swinging, and at a minimum distance of sixteen inches from the ground. Nothing in this act shall be construed to require the display of any number plate on other than the rear trailer, when more than one trailer is drawn by a motor vehicle. No person shall attach to, or display on, such motor or other vehicle, any number plate, or registration seal or certificate other than as assigned to it for the current year, or a fictitious, or altered number plate, registration certificate, or a number plate, or registration certificate that shall have been canceled by the department. All letters, numbers, printing, writing and other identification marks upon said plates, and certificates, shall be kept clear and distinct and free from grease, dust or other blurring matter, so that they shall be plainly visible at all times during daylight and under artificial light in the night-time; provided, that in case any such plate, or certificate of registration, operator's license or chauffeur's license or badge shall be lost, mutilated or shall have become illegible, the person to whom such plate, seal, certificate, license or badge shall have been furnished shall immediately apply to the department for a duplicate thereof, accompanying his application with the fee specified in section seven of this act.

No person shall operate or drive a motor vehicle on the public highway unless such vehicle shall at all times carry in or upon it, subject to inspection by any peace officer, or employee of the department, the registration certificate furnished for it as hereinabove provided, which in case of an automobile shall be affixed, in the container furnished by the department, in plain sight in the driver's compartment of the automobile and which, in case of a motorcycle, shall be carried either in plain sight affixed to said motorcycle, or in the tool bag or some other convenient receptacle attached to said motorcycle.

The registration fee required under this act to be paid upon a motor vehicle or trailer shall become delinquent in the case of any such vehicle forthwith upon the operation of the vehicle on the public highways without the registration fee required by this act first having been paid to the department, accompanied by the application for registration provided herein. It is hereby provided, in addition to any and

all other penalties provided by this act, that if, at the expiration of thirty days after any registration fee becomes delinquent, such fee has not been paid and registration applied for, a penalty shall be added to the amount of such fee in an amount equal to twenty-five per cent of the fee required by section seven of this act, and that such fee, together with the amount of said penalty, shall be a lien upon the motor vehicle or trailer in regard to which said registration fee is delinquent, and the department shall have power and it is hereby made its duty to collect the said registration fee, together with the penalty, by seizure of such motor vehicle or trailer from the person in possession thereof, if any, and by the sale thereof. The seizure and sale herein authorized shall be conducted and carried out by the department in the same manner as is provided by law for the seizure and sale of personal property by the county tax collector for the collection of taxes due on said personal property; provided, however, that in case of annual renewal of registration, where the applicants have in all things complied with the requirements of this act and have duly applied for such annual renewal of registration before the commencement of the ensuing calendar year, accompanying their applications with the proper fees for such registration, they shall be entitled to operate said vehicles during the month of February without displaying the registration certificates of the current year, on condition that they have at all times displayed upon said vehicles the number plates assigned to said vehicles respectively, together with the registration seals and certificates assigned thereto for the previous year. [Amendment approved May 2, 1919; Stats. 1919, p. 204.]

This section was also amended in 1917. See Stats. 1917, p. 395.

§ 13. (a) **Lights. Tail-lights. Horse-drawn vehicles.** Where there is not sufficient light within the lateral boundaries of the public highway to reveal all persons, vehicles or other substantial objects within said boundaries for a distance of at least two hundred feet, and all times during the period from a half hour after sunset to a half hour before sunrise, every automobile while on the public highway shall carry at the front at least two lighted lamps and every such automobile and every trailer, at the times and under the conditions in this section hereinafter specified, shall carry at the rear a lighted lamp exhibiting a red light plainly visible, under normal atmospheric conditions, for a distance of five hundred feet toward the rear and so constructed and placed that the number plate carried on the rear of such automobile or trailer shall be illuminated by a white light in such manner that the number thereon can be plainly distinguished under normal atmospheric conditions at a distance of not less than fifty feet toward the rear; provided, however, that where more than one trailer is attached to a motor vehicle, only the rear trailer shall be required to exhibit said light. At the times and under the conditions in this section hereinafter specified, all other vehicles, except bicycles, motorcycles and motor trucks of two tons carrying capacity or over which are so governed or mechanically constructed or controlled that they cannot, exceed a speed of fifteen miles per hour, shall carry one or more lighted red lamps or lanterns so arranged that said red lamp or lamps shall be visible from every direction for a distance of not less than two hundred feet.

(b) **Bicycles.** At the times and under the conditions in this section hereinbefore specified, every bicycle while on the public highway shall carry a lighted lamp visible under normal atmospheric conditions at least three hundred feet in the direction toward which such bicycle is faced, and shall also carry at the rear of such bicycle a reflex mirror or a lighted lamp exhibiting a red light plainly visible under normal atmospheric conditions for a distance of at least two hundred feet toward the rear.

(c) **Motorcycles.** At the time and under the conditions in this section hereinbefore specified, every motorcycle while on the public highway shall carry at the front at least one lighted lamp which shall give a light of sufficient power and so distributed as provided in subdivision (f) and shall also carry at the rear of such motorcycles a lighted lamp, exhibiting a red light plainly visible under normal atmospheric conditions for a distance of at least two hundred feet towards the rear.

(d) **Motor trucks.** At the time and under the conditions in this section hereinbefore specified, every motor truck of two tons carrying capacity or over, which is so governed or mechanically constructed or controlled that it cannot exceed a speed or fifteen miles per hour, shall carry at the front at least two lighted lamps which shall be visible at least two hundred feet in the direction in which the motor truck is proceeding, and when the vehicle is proceeding on a street or highway not so lighted as to reveal any person, vehicle or substantial object on the street or highway straight ahead of such motor truck for a distance of at least two hundred feet, such front light shall be sufficient to reveal any person, vehicle or substantial object on the road straight ahead for a distance of seventy-five feet or over, and shall be equipped with a tail-light such as is required on other motor vehicles.

(e) **Overhanging loads. Red flag.** In any case where a motor or other vehicle shall be loaded with any material in such a manner that any portion of such load extends toward the rear four feet or more beyond the rear of the bed or body of such vehicle, there shall be displayed at the extreme end of the load, at the times and under the conditions in this section hereinbefore specified, in addition to the ordinary rear or tail-light hereinbefore required to be displayed on such vehicle, a red light plainly visible under normal atmospheric conditions at least two hundred feet from the rear; provided, further, that at other times while such vehicle is upon the highway a red flag or cloth not less than sixteen inches in length nor less than sixteen inches in width shall be displayed at the extreme rear end of said load as a warning signal to persons operating vehicles approaching from the rear.

(f) **Headlights. Sidelights. When lights not required.** At the times and under the conditions in this section hereinbefore specified the headlights of all automobiles upon the highways shall give a light of sufficient power and so distributed as provided herein in addition to and irrespective of any other requirements concerning headlights in this section contained. The term "headlight" as used herein, shall denote any light, located upon any portion of the said motor vehicle other than on the windshield, the windshield supports or top thereof, the rays of which are projected forward, except sidelights of not to exceed four candle power; provided, further, anything to the contrary notwithstanding.

ing, that where there is sufficient light within the lateral boundaries of the public highway within any incorporated city, town or city and county, to reveal all persons, vehicles or substantial objects within said boundaries for a distance of two hundred feet, no lights shall be required to be displayed on any vehicle while the same is not in operation, providing that a wheel of such standing vehicle nearest the sidewalk is located within twelve inches of such sidewalk.

(g) **Candle-power.** The headlights of motor vehicles shall be so arranged, adjusted, and constructed when the car is fully loaded, that any pair of headlights under the conditions of use must produce a light which:

1. When measured on a level surface on which the vehicle stands at a distance of two hundred feet directly in front of the car and at some point between the said level surface and a horizontal passing through the top of the headlight reflector or lens, is not less than one thousand two hundred apparent candle-power.

2. When measured at a point one hundred feet directly in front of the car, and at a height of sixty inches above the level surface on which the vehicle stands, does not exceed two thousand four hundred apparent candle-power nor shall this value be exceeded at a greater height than sixty inches.

3. When measured at a distance of one hundred feet ahead of the car and seven feet or more to the left of the axis of same, and at a height of sixty inches above the level surface on which the vehicle stands, does not exceed eight hundred apparent candle-power.

(h) **Tests of devices for controlling. Specifications.** Any device or adjustment used in connection with a light upon a motor vehicle to enable the same to comply with the requirements of subdivision (f) hereof shall not be used upon a motor vehicle operated upon the highways of this state until the same shall have been tested as provided herein; such test shall be made by a skilled testing agency, appointed for that purpose by the superintendent of motor vehicle department and such tests shall be laboratory tests according to the following specifications:

Two pairs of samples of the device submitted shall be subject to test. In the case of front glasses the samples shall be of nine and one-fourth inches diameter when practicable.

The reflectors used in connection with the laboratory tests shall be of standard high-grade manufacture of one and one-fourth inch focal length, with clean and highly polished surfaces and as nearly truly paraboloidal in form as practicable, and as approved for this purpose by the testing agency selected by the superintendent of the motor vehicle department.

The incandescent lamps used in connection with the laboratory test shall be of standard high quality manufacture and as approved for this purpose by the testing agency selected by the superintendent of motor vehicle department.

The manufacturer of the device shall be given due notice of the date and place of test. Manufacturers' representatives present at the test shall be privileged to adjust their devices in any way which represents an ordinary and legitimate adjustment including tilting the lamps or reflectors, which can be carried out by purchasers of the device, or such

adjustment may be made by the laboratory expert acting on the instructions of the manufacturer. The character of the adjustments so made shall be carefully noted and stated in the report as manufacturer's adjustment.

The tests shall be as follows:

Test 1. Four-point test of pairs of samples. A pair of testing reflectors, mounted similarly to the headlamps on a car shall be set up in a dark room, or at the request of the applicant, out of doors in darkness under such conditions that no light thrown or reflected from any source other than from the device being tested shall materially affect the test readings, at a distance of not less than sixty feet, nor more than one hundred feet from a vertical white screen. If a testing distance of one hundred feet is taken the reflectors shall be set twenty-eight inches apart from center to center, and if a shorter testing distance is taken, the distance between reflectors shall be proportionately reduced. The axes of the lamps shall be parallel and horizontal, or as tilted in accordance with the manufacturer's adjustment. The intensity of the combined light shall then be measured with each pair of samples in turn, with the reflectors fitted with a pair of each of the following types of incandescent lamps in turn:

(1) Vacuum type, 6-8 volts, 17 mscp.

(2) Gas-filled type, 6-8 volts, 20 mscp.

The lamps shall be adjusted to give their rated candle-power. Measurements shall be made at the following points at the surface of the screen:

A. In the median vertical plane parallel to the lamp axes, on a level with the lamps.

B. In the same plane one degree of arc below the level of the lamps.

C. In the same plane one degree of arc above the level of the lamps.

D. Four degrees of arc to the left of this plane and one degree of arc above the level.

In an acceptable device both pairs of samples shall conform to the following specifications for observed apparent candle-power. Points A and B. At at least one of these points the apparent candle-power shall not be less than one thousand two hundred. Point C. The apparent candle-power shall not exceed two thousand four hundred. Point D. The apparent candle-power shall not exceed eight hundred; provided, however, that if the test indicates that a device which is unacceptable with either of the test lamps will come within the specifications with lamps of another candle-power or of the other type, the device may be passed with corresponding limitations as to the incandescent lamps to be used in connection with it.

Test 2. Complete test of single sample.

A single sample taken as an average representative of the device as manufactured shall be submitted to a complete test with a vacuum incandescent lamp of seventeen candle-power 6-8 volt rating. This test shall show its light distribution characteristics by actual measurements made according to recognized and exact methods.

One pair of the samples shall be retained by the testing agency for the purpose of future reference and as samples of construction and the other pair shall be returned to the office of the superintendent of the motor vehicle department.

The report of the tests shall be rendered in duplicate to the superintendent of the motor vehicle department, and shall be signed or initialed not only by the expert making the test, but also by an executive officer of the institution making the test.

It shall include a statement by the testing agency or the testing official as to whether or not the device when properly applied substantially complies with the requirements of section thirteen of the California motor vehicle act.

(i) **Report to local authorities.** The superintendent of the motor vehicle department shall immediately upon the completion of the tests made as herein provided, prepare a written report of the results of such tests and transmit a copy thereof to the clerk of each county within the state of California, who shall thereupon immediately file such report. A copy shall also be sent to the city, town or county traffic departments, whose duty it is to enforce the law. The superintendent of the motor vehicle department shall indorse upon such report the statement of the testing agency or the testing officials as to whether or not the said device when properly applied, substantially complies with the requirements of section thirteen of the California motor vehicle act.

(j) **Home-made devices.** It shall be unlawful for any manufactured device that is sold commercially to be used in connection with the headlight upon a motor vehicle to enable the same to comply with the provisions of subdivision (f) hereof unless such device shall have been first tested as provided in subdivision (h) hereof, and the testing agency shall have reported that such device, when properly applied, substantially complies with the requirements of section thirteen of the California motor vehicle act; and such reports shall have been incorporated in the said report of the said superintendent of the motor vehicle department and a copy thereof filed in the office of the clerk of the county in which said device is used and a copy sent to city, town or county traffic departments whose duty it is to enforce the law.

(k) **Submission of device for test. Fee. Certificate of approval. Diffusing lens.** Any person, firm or corporation may submit to the superintendent of motor vehicle department a device for controlling the front lights of motor vehicles, so that they shall comply with the provisions of this section, together with an application that such device be tested as prescribed by this section. Such applicant shall pay to the motor vehicle department a fee of fifty dollars. Thereupon the superintendent of motor vehicle department shall upon notice to the applicant submit such device to the testing agency appointed for this purpose as hereinbefore provided with the request that it be tested as to its compliance with the provisions of this section. Upon notice from such testing agency that such test has been made and that such device, when properly applied, substantially complies with the provisions of this section, and specifying the maximum candle-power to be used therewith, the superintendent of motor vehicle department shall issue a certificate to the applicant describing the device, certifying that such test has been made, that the device, when applied, complies with the provisions of this section and prescribing the said maximum candle-power to be used therewith. All fees paid into the department with said applications shall be paid into the state treasury and deposited in

a fund to be known as the "testing fee fund," and the moneys in said fund are hereby appropriated, or so much thereof as may be necessary to meet the expenses of the test provided for in this section, and the balance thereof, if any, after meeting all expenses incurred in connection with said test shall be paid into the motor vehicle fund. Diffusing type of lens may be used with candle-power not sufficiently great to produce a dangerous glare. The maximum of such candle-power shall be established by the testing agency selected by the superintendent of the motor vehicle department, based upon tests as herein above provided. Any device so certified shall be equipped with light bulbs labeled with the true candle-power thereof, not exceeding that prescribed.

(1) **Spotlights.** The term "spotlights" as used herein shall denote any light fastened to the windshield, the windshield support or top of a motor vehicle, the rays of which are projected forward, except sidelights of not to exceed four candle-power.

All spotlights used upon motor vehicles shall be so constructed or arranged that no portion of the main, substantially parallel beam of light when measured one hundred feet or more ahead of said lights shall rise or shall be capable of being raised from the driver's seat, to more than forty-two inches above the level surface upon which the vehicle stands directly ahead of such vehicle. [Amendment approved May 2, 1919; Stats. 1919, p. 206.]

This section was also amended in 1917. Stats. 1917, p. 395.

§ 15. (a) **Cleats, etc., on tires.** Other than on vehicles actually engaged at the time in construction or repair work on public highways, no tire on any motor or other vehicle operated on or over any public highway or bridge shall have on its periphery any block, stud, flange, cleat, ridge, bead or any other protuberance of metal or wood which projects beyond the tread or traction surface of the tire; but this section shall not be so construed as to prohibit the use of tire chains of reasonable proportions on motor vehicles when required for safety because of snow, ice or other conditions tending to cause such motor vehicle to slide or skid; provided, however, that traction engines or tractors the propulsive power of which is exerted not through wheels resting upon the ground but by means of a flexible band or chain, known as a movable track, may be operated upon the public highways with transverse corrugations upon the periphery of said movable tracks, on condition that a permit shall first have been obtained as hereinafter in this section provided.

(b) **Total weight limit.** No motor or other vehicle shall be operated on or over any public highway or bridge, nor shall any object be moved over or upon any public highway or bridge on wheels, rollers, or otherwise, except when transported in or upon vehicles running exclusively on stationary rails or tracks, in excess of a total weight, including load, of thirty thousand pounds, when said motor or other vehicle or contrivance is equipped with four wheels running on the highway, or in excess of a total weight, including load, of forty thousand pounds when said motor or other vehicle or contrivance shall be equipped with six wheels running on the highway and with three axles not less than

ninety-six inches apart, without first obtaining a permit as hereinafter in this section provided.

(c) **Weight limit per inch of tire width. In freeholders' charter cities. Regulation by county. Penalty.** No motor or other vehicle or other object, or contrivance for moving loads, except as hereinafter otherwise provided, shall be operated or moved upon or over any public highway or bridge, the weight of which resting upon the surface of said highway or bridge exceeds eight hundred pounds upon any inch of width of tire, when said vehicle is equipped with tires made of other material than metal; and no motor or other vehicle, object, or contrivance for moving loads shall be operated or moved upon or over any public highway or bridge the weight of which resting upon the surface of said highway or bridge exceeds six hundred pounds upon any inch of width of tire, roller, wheel or other object supported on the surface thereof when such tires or the rolling surface of such rollers, wheels or other objects are made in whole or in part of metal, without first obtaining a permit as hereinafter in this section provided; provided, however, that traction engines or tractors the propulsive power of which is exerted not through wheels resting upon the ground but by means of a flexible band or chain, known as a movable track, shall not be subject to the foregoing limitations upon permissible weights per inch of width of tire if the portions of the movable tracks in contact with the surface of the highway present plane surfaces; and provided, further, that cities heretofore or hereafter organized under freeholders' charters may permit or prohibit the increase, beyond the maximum weight per inch of width of tire hereinabove prescribed, of the weight of loads carried within the limits of such cities in or upon metal-tired vehicles drawn by muscular power, but where any such city has not by proper and suitable ordinance or other regulation permitted or prohibited such increase of maximum weight of loads, the regulations and limitations prescribed by this act shall not apply.

The supervisors of any county shall have power to require a lighter load on county roads in their respective counties. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and is liable to a penalty of twenty dollars for each full ton in excess of the limitation herein imposed, and any peace officer making the arrest of the owner or driver of any vehicle violating the provisions of this subsection shall keep said vehicle with its load in his custody until such time as said penalty shall have been paid; provided, that the owner or driver of any such vehicle may give to said peace officer a bond in favor of the state of California in case of state highways, and in the name of the county in which the offense has occurred in the case of county roads, conditioned to secure the payment of said penalty within the time prescribed in said bond. Furthermore, any peace officer may require the owner or the driver to drive any such vehicle to the nearest public scales to be designated by such peace officer for the purpose of establishing the weight and the load of any such vehicle.

(d) **Trailer limitation.** No motor vehicle shall be operated or driven over any public highway or bridge drawing or having attached thereto

more than two trailers; provided, that all four-wheeled trailers excepting light camping trailers shall be equipped with suitable brakes.

(e) **Permits by department of engineering.** Anything to the contrary herein notwithstanding, upon application in writing to the state department of engineering, said department of engineering in its discretion may issue a special permit to the owner or operator of any vehicle allowing heavier or wider loads than hereinabove in this section or elsewhere in this act permitted to be moved or carried over and on the public highways and bridges, or allowing more than two trailers to be drawn by a motor vehicle; and may also issue such special permit to increase the permissible weights per inch of width of tire and may also permit the use of corrugations on the periphery of the movable tracks of traction engines or tractors propelled not by wheels resting upon the ground but by flexible bands or chains. Such permits shall be in writing and they may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain such special conditions and provisions and require such undertaking or other security as the said department of engineering shall deem to be necessary to protect the public highways and bridges from injury, or provide indemnity for any injury resulting from such operation. All such special permits shall be carried in the vehicles to which they refer and shall upon demand be open to the inspection of any peace officer, any authorized agent of the department of engineering or of the motor vehicle department, or any officer or employee charged with the care or protection of the public highways. It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of such special permits and any such violation shall be deemed for all purposes to be a violation of the provisions of this act.

(f) **Weight on bridges, etc.** Anything to the contrary herein notwithstanding, the state department of engineering may in its discretion limit the maximum load to be carried over or on any public bridge, causeway, viaduct, trestle or dam, below the maximum established by law; provided, however, that in such event said department of engineering shall cause suitable signs to be erected and maintained, specifying such limitation of load, such signs to be placed at a distance of not less than one hundred feet nor more than one hundred fifty feet from the approaches to such bridge, causeway, viaduct, trestle or dam.

(g) **Liability for damages.** Anything to the contrary in this act notwithstanding, the owner and the operator, driver or mover of any vehicle, object or contrivance over a public highway or bridge, shall be jointly and severally responsible for all damages which said highway or bridge may sustain as the result of so operating or driving or moving such vehicle and the amount of such damages may be recovered in an action at law by the authorities in control of such highway or bridge. [Amendment approved May 2, 1919; Stats. 1919, p. 212.]

This section was also amended in 1917. See Stats. 1917, p. 398.

§ 17. Intoxicated driver, penalty. No person who is under the influence of intoxicating liquor and no person who is an habitual user of narcotic drugs shall operate or drive a motor or other vehicle on any

public highway within this state. Any person violating the provisions of this section shall be punished by imprisonment in the county jail for not less than six months nor more than one year or by imprisonment in the state prison for not less than one or more than three years or by a fine of not less than five hundred dollars nor more than five thousand dollars. [Amendment approved May 2, 1919; Stats. 1919, p. 212.]

This section was also amended in 1917. See Stats. 1917, p. 400.

§ 18. Owner's consent. [Repealed 1917; Stats. 1917, p. 400.]

§ 20. (a) Rules of the road. Right side of road. The driver or operator of any vehicle in or upon any public highway shall drive or operate such vehicle in a careful manner with due regard for the safety and convenience of pedestrians and of all other vehicles or traffic upon such highway, and wherever practicable shall travel on the right-hand side of such highway. Two vehicles which are passing each other in opposite directions shall have the right of way, and no other vehicle to the rear of either of such two vehicles shall pass or attempt to pass such two vehicles. On all occasions the driver or operator of any vehicle in or upon any public highway shall travel upon the right half of such highway unless the road ahead on the left-hand side is clear and unobstructed for at least one hundred yards ahead and in all cases while crossing an intersecting highway. For the purposes of this section and its subdivisions, an animal or animals attached to any conveyance shall, with such conveyance, be deemed to constitute one vehicle.

(b) Passing vehicles. Vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other one-half the road as nearly as possible.

(c) Overtaking vehicles. Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left thereof and shall not again drive to the right until reasonably clear of such overtaken vehicle.

(d) Overtaken vehicle. It shall be the duty of the driver, rider or operator of a vehicle about to be overtaken and passed to give way to the right in favor of the overtaking vehicle, on suitable and audible signal being given by or on behalf of the operator, driver or other person in charge and control of such overtaking vehicle if such overtaking vehicle be a motor vehicle.

(e) Distance between vehicles. Vehicles must be operated so as to allow a safe distance between such vehicles and any persons, vehicles or animals preceding them upon the highway, and outside of the business district of any county, incorporated city and county, city or town, contiguous to a public highway as such business district is defined in this act, no vehicle shall, while in motion, be closer than fifteen feet to any vehicle, person or animal in front thereof.

(f) Intersections, right of way. Excepting where controlled by such traffic ordinances or regulations as are permitted under this act the operator of a vehicle shall yield the right of way at the intersection of their paths to a vehicle approaching from the right unless such vehicle approaching from the right is further from the point of the intersection of their paths than such first-named vehicle.

(g) **Highway divided by parkway or isle of safety.** Any vehicle traveling on a public highway which is divided longitudinally by a parkway or an isle of safety, shall keep to the right of such parkway or isle of safety unless otherwise directed by the provisions of any ordinance, rule or regulation of competent local authorities.

(h) **Overtaking vehicle. Sounding horn.** It shall be the duty of the person operating or in charge of an overtaking vehicle to sound audible and suitable signal before passing a vehicle proceeding in the same direction.

(i) **Turning at intersections.** All vehicles approaching an intersection of a public highway, with the intention of turning thereat shall in turning to the right keep to the right of the center of such intersection, and in turning to the left shall run beyond the center of such intersection, passing to the right thereof, before turning such vehicle toward the left. For the purposes of this subdivision the "center of such intersection" shall be held to mean the meeting point of the medial lines of the two highways traversed by the vehicle making the turn.

(j) **Horses, precautions on meeting.** In all passing and overtaking such assistance shall be given by the occupants of each vehicle respectively to the other as the circumstances shall reasonably demand in order to obtain clearance and avoid accidents; every person having control or charge of any motor vehicle or other vehicle upon any public highway and approaching any vehicle drawn by a horse or horses, or any horse upon which any person is riding, shall operate, manage and control such motor vehicle or other vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse or horses and to insure the safety and protection of any person riding or driving the same; and if such horse or horses appear frightened the person in control of such motor vehicle or other vehicle shall reduce its speed, and if requested by signal or otherwise by the driver or rider of such horse or horses shall not proceed further toward such animal or animals unless such movement be necessary to avoid accident or injury, until such animal or animals be under the control of the driver or rider thereof.

(k) **Passing at street intersection.** The operator of any vehicle shall not operate or drive the same so as to pass or overtake any other vehicle going in the same direction at any street intersection unless directed so to do by a traffic or police officer.

(l) **Slowly moving vehicle.** The person in control of any vehicle moving slowly along and upon any public highway shall keep such vehicle as closely as practicable to the right-hand boundary of the highway, allowing more swiftly moving vehicles reasonably free passage to the left.

(m) **Mirror required, when.** No person shall operate or drive any motor vehicle that is so covered, loaded or constructed as to obscure the driver's view of the highway to the rear, nor any vehicle which is so covered, loaded or constructed that any portion thereof to the rear of the driver projects more than twelve inches beyond the extreme left side of the driver's seat, unless there is placed on said vehicle a mirror

so located as to reflect to the driver a view of the highway for at least two hundred feet behind such vehicle.

(n) **Arm signals. Mechanical or electrical device.** The person in charge of any vehicle in or upon any public highway, before turning, stopping, or changing the course of such vehicle, and before turning such vehicle when starting the same, shall see first that there is sufficient space for such movement to be made in safety, and if the movement or operation of other vehicles may reasonably be affected by such turning, stopping or changing of course, shall give plainly visible signal to the persons operating, driving or in charge of such vehicles of his intention so to turn, stop, or change his course, either by the use of his hand and arm, which shall be visible from the rear, or by the use of an approved mechanical or electrical device. Any such device shall upon application to the motor vehicle department be tested and certified as adequate to give the signal herein required, in the same manner and upon the payment of the same fee as in the case of headlights.

When the signal required by this section is given by the use of the hand and arm the intention to turn such vehicle toward the right or the left shall be indicated by extending the hand and arm horizontally from and beyond the side of the vehicle toward which the turn is to be made or by extending the hand and arm vertically with the hand pointing upward from the side opposite the direction toward which the turn is to be made; when the signal to be given is to indicate the intention to stop a vehicle or to abruptly or suddenly check its speed, such signal if given with the hand and arm shall be given by extending the hand and arm out from and beyond either side of the vehicle and pointed in a downward direction.

(o) **Passing street-cars.** In passing any railroad, interurban or street car while passengers are alighting from or boarding the same, vehicles shall be operated or driven on the right-hand side of such cars and at a rate of speed not exceeding ten miles an hour and no portion thereof or of any load thereon shall come within six feet of the running board of steps of such cars, and shall at all times be operated with due care and caution so that the safety of such passengers shall be assured; provided, however, that where local authorities have plainly marked upon the surface of the highway safety zones for the protection of such passengers, vehicles shall not, at any time, be operated or driven within such zones; provided, further, that said safety zones shall only be marked at street corners or at other regularly established stations or stopping places of such railroad, or interurban, or street cars, and shall not extend beyond seven feet toward the boundary of the highway from the outer rail of such railroad, interurban or street care line.

(p) **Moving in defiles, canyons, etc.** Every motor vehicle when moving in defiles, canyons, or mountain passes where the curvature of the road or highway prevents a clear view for a distance of one hundred yards shall be held under control and not permitted to coast and the operator thereof in approaching curves shall give a warning of his gong or other adequate signaling device.

(q) **Turning so as to proceed in opposite direction.** No vehicle except vehicles operated by the fire department or police department of any

incorporated city and county, city or town, shall be turned so as to proceed in the opposite direction except at an intersection of the public highway. In so turning vehicles shall pass beyond and around the center of such intersection. This provision shall not apply except in a business district or closely built up territory, as such district and such territory are defined in this act.

(r) **Police and fire department vehicles.** Police and fire department vehicles shall at all times be equipped with a siren and it shall be unlawful for any other vehicle to be equipped with or use such a device.

(s) **Idem.** Vehicles of the police or fire department of any incorporated city or county, city or town, shall in all cases while being operated as such, have right of way over all other vehicles with due regard to the safety of the public; but this provision shall not protect the driver or operator of any such vehicle or his employer or principal from the consequence of the arbitrary exercise of this right, nor shall it be construed as permitting the violation by the operators of any such vehicles of any of the provisions of section twenty-two of this act, except the operators of police vehicles when such vehicles are being operated in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation.

(t) **Idem.** Upon the approach of any police or fire department vehicle it shall be the duty of the operator of any street-car, upon the sounding of a signal by such police or fire department vehicle, to stop such street-car forthwith, unless at the time such street-car is crossing an intersection of the public highways, in which event it shall be operated so as to clear the intersection of the highways and then stopped, and every other vehicle shall immediately be moved to a position as near as possible and parallel to the right-hand curb, and shall remain there until the police or fire department apparatus has passed such vehicle.

(u) **Fire hydrants protected.** No person shall hitch or leave standing, or cause or permit to be hitched or left standing, any animal, or leave standing or cause or permit to be left standing, any vehicle, or stop or cause or permit to be stopped any animal or vehicle at any time upon the public highway within fifteen feet of any public fire hydrant located upon the public highway or sidewalk, unless such animal is under the charge of some person capable of driving the same or unless such vehicle is in the charge of some person capable of operating or driving the same.

(v) **Width of vehicle. Luggage, trunks, etc. Hay wagons, etc.** No motor or other vehicle as defined in this act shall be operated or driven on or over any public highway or bridge if the outside width of tread exceeds one hundred twelve inches or if the total outside width of the bed of said vehicle and any load thereon shall exceed one hundred two inches, nor shall any pleasure type automobile be operated on or over any public highway or bridge if any luggage, package, trunk, crate, box or other load carried thereon extends to the left side more than twelve inches beyond the body of such automobile; provided, however, that any city now or hereafter organized under freeholders' charter may permit or prohibit an increase beyond the maximum hereinbefore prescribed

of the total outside width of the beds of vehicles and any loads thereon, where such vehicles are operated or driven and said loads are carried wholly within the limits of said city, but where any such city shall not by proper and suitable ordinance or other regulation permit or prohibit such increased width, the regulations and limitations prescribed by this act shall not apply; and provided, that the regulations and limitations prescribed by this act relative to the maximum widths of vehicles and their loads shall not apply to implements of husbandry temporarily drawn, propelled or moved upon the highway; and provided, further, that loads not exceeding ten feet in width of loosely piled material not crated, baled, boxed, sacked or carried otherwise than loosely in bulk, may be carried upon vehicles on the highway; provided, that the extreme width of such vehicles, including any loading racks thereon, shall not exceed one hundred twenty inches, as hereinbefore prescribed.

(w) **Repairing vehicle on highway.** No person shall leave standing, or cause or permit to be left standing upon the main traveled portion of any public highway, a vehicle undergoing repair, or which has been stopped for the purpose of having repairs made thereon, or for the purpose of camping; provided, however, that this provision shall not apply to a vehicle which shall be disabled, while on such main traveled portion of the highway, in such manner and to such extent that it shall be impossible to avoid stopping such vehicle on said main traveled portion of the highway, and impracticable to remove the same therefrom until repairs shall have been made.

(x) **Riding animals regulated.** The provisions of subdivisions (a), (b), (c), (d), (e), (g), (j), (k), (l) of this section shall be applicable to the rider of every horse, mule or other riding animal ridden upon the public highway, to the end and effect that the same duties, rules and regulations imposed thereon upon the drivers or operators of vehicles upon the public highway, including the care to be exercised in driving or operating vehicles, the portion of the highway upon which they shall travel, the right of way as between vehicles passing or overtaking each other, or upon approaching intersections, the duty of giving way in favor of overtaking vehicles, the manner of turning at intersections and at other places upon the highway and of stopping or changing the course of the vehicles and the duties imposed upon operators or drivers of vehicles in passing railroad, interurban or street cars, shall be imposed, and they are hereby imposed, upon the riders of animals upon the public highways.

(y) **Livestock on highway.** No person owning, or controlling the possession of, any horse, cow, mule, ass, sheep, goat, hog or other livestock, shall voluntarily or negligently permit such animal to stray upon or remain unaccompanied by a herder or other person in charge or control thereof upon a public highway, either side of which is adjoined by property which is separated from such highway by a fence, wall, hedge, sidewalk, curb, lawn or building, or shall permit the tether or any portion thereof to which such animal may be attached, to lie across or upon any public highway, and no person shall feed, pasture or camp any such livestock upon any public highway between the hours of sunset and sunrise without keeping a sufficient number of herders on continual

duty to keep open the road so as to admit at all times of the ready passage of vehicles, and also keeping red lanterns or lights burning to warn the public of the presence of such stock.

(z) **Firearms.** No person shall discharge any firearms on any public highway.

(aa) **Leaking contents, etc.** No vehicle shall be operated on any public highway unless it is so constructed as to prevent its contents from dropping, sifting, leaking, or otherwise escaping from such vehicle.

(ab) **Wind-shields.** Every motor vehicle used for commercial purposes shall be equipped with an adequate wind-shield. [Amendment approved May 2, 1919; Stats. 1919, p. 215.]

This section was also amended in 1917. See Stats. 1917, p. 400.

§ 22. (a) **Speed limits. General. Maximum. Crossings and intersections. Signs at railway crossings. Regulations by highway commission. Signs.** Any person operating or driving a motor or other vehicle on the public highways shall operate or drive the same in a careful and prudent manner and at a rate of speed not greater than is reasonable and proper, having regard to the traffic and use of the highway, and no person shall operate or drive a motor vehicle or other vehicle on a public highway at such rate of speed as to endanger the life or limb of any person or the safety of any property; provided, that it shall be unlawful to operate or drive at a rate of speed in excess of thirty miles an hour, except in the daytime and except when the operator or driver has a clear and uninterrupted view of the highway on which he is traveling in the direction toward which he is traveling and of all highways which intersect such highway within four hundred feet ahead of such operator or driver, to a distance of at least four hundred feet from the highway on which he is traveling and there is no person, vehicle or other object visible ahead on such highway on which such operator or driver is traveling within four hundred feet of such operator or driver or on any such intersecting highway within four hundred feet of the point of the intersection of the center lines of such highways; provided, also, that in no case shall any vehicle be operated at a rate of speed in excess of thirty-five miles an hour; and provided, further, that in any event no person shall operate or drive a motor vehicle or other vehicle on any public highway where the territory contiguous thereto is closely built up, at a greater rate of speed than twenty miles an hour, or in the business district of any incorporated city and county, city or town, at a greater rate of speed than fifteen miles an hour; provided, further, that no person shall operate or drive a motor vehicle or other vehicle on any public highway at a greater rate of speed than fifteen miles an hour in approaching any steam, electric or other railway crossing at grade, or in approaching or traversing an intersecting highway, or crossing or intersection of highways, or in approaching or going around corners or curves in the highway, when in any of the foregoing cases the operator's or driver's view of the road or railway traffic is obstructed, but anything to the contrary herein notwithstanding, no person shall operate or drive a motor vehicle or other vehicle on any public highway at a greater rate of speed than ten miles an hour in traversing any steam, electric or other railway crossing at

grade when the operator's or driver's view of the crossing or of any traffic on such railway within four hundred feet of such crossing is obstructed; provided, further, that the board of supervisors of any county and city and county within this state, and the board of trustees, city council or other governing body of every municipality within this state, within six months after the passage of this act, shall place and thereafter maintain warning signs on every public highway approaching a crossing at grade of such highway and the tracks of any railway, at a reasonable distance, not less than three hundred feet, from such crossing, and on either side thereof. Such sign shall consist of a metal disc twenty-four inches in diameter, the field enameled white, with an enameled black border line one inch wide, and with an enameled black vertical and horizontal cross-line two and one-half inches wide; the reverse side of such disc to be colored black. In each of the upper quarters shall appear in black enamel the letter "R," five inches high, three and three-quarter inches wide, lines one inch stroke. Anyone defacing, injuring, knocking down or removing any such sign shall be guilty of a misdemeanor; provided, further, that the maximum rate of speed over any bridge, dam, trestle, culvert, causeway or viaduct as well as the maximum rate of speed over any state highway or portion of state highway may be established by the state highway commission at less than the rate established by law, when in the judgment of said commission the safety of persons using the highway or the protection of the highway shall be promoted thereby, but whenever any such different rate of speed is so established by said commission, the commission shall cause to be erected suitable signs to mark the location and limits of the highway to which said different rate of speed shall apply, and such signs shall be placed at a distance of not less than one hundred feet or at a greater distance than one hundred fifty feet from the highway or portion of highway or from the approaches of any bridge, dam, trestle, culvert, causeway or viaduct with respect to which such different rate of speed may be so established. In the case of a bridge, dam, trestle, culvert, causeway or viaduct, such maximum rate of speed so established by said commission shall not be less than ten miles an hour, and in the case of any other highway or portion of highway, such maximum rate of speed so established shall not be less than fifteen miles an hour.

(b) **Speed limit of trucks. Equipped with pneumatic tires.** No motor or other vehicle carrying a weight in excess of nine thousand pounds, including the vehicle, shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than twenty-five miles an hour; no motor or other vehicle carrying a weight in excess of twelve thousand pounds, including the vehicle, shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than fifteen miles an hour; no motor or other vehicle carrying a weight in excess of twenty-four thousand pounds, including the vehicle, shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than ten miles an hour; provided, however, that no motor vehicle or trailer equipped with tires made wholly or partly of metal shall be operated, driven, drawn or otherwise moved on any public highway or bridge at a rate of speed greater than six miles an hour; provided, fur

ther, that any such motor vehicle or trailer, with tires made wholly or partly of metal, may be operated, driven, drawn or otherwise moved, subject to the other provisions of this act, up to ten miles an hour, if it be equipped with springs and if the rear wheels be not less than forty-six inches in diameter, with a bearing surface of not less than eighteen inches; and provided, further, however, anything to the contrary herein notwithstanding, that no motor or other vehicle constructed or otherwise adapted for carrying loads weighing four tons or more, exclusive of such vehicle, shall be operated, driven, drawn or otherwise moved upon the public highway, whether laden or unladen, at a rate of speed exceeding fifteen miles an hour; and provided, further, that nothing contained in this subdivision shall apply to motor vehicles equipped with pneumatic tires.

(c) **Arrests for speeding. Place of trial.** In case of any person arrested for violation of the provisions of this section, unless such person shall demand that he be taken forthwith before the most accessible magistrate, the arresting officer shall take the name and address of such person and the number of his motor vehicle and notify him in writing to appear before a magistrate of the township in which the offense for which such person is arrested is alleged to have been committed at a time and place to be specified in such writing at least five days subsequent to the date of such notice upon the promise in writing of such person to appear at such time and place, such officer shall forthwith release him from custody. In the event that any person arrested for any violation of the provisions of this section, demands to be or is taken forthwith after his arrest before a magistrate he shall be entitled to at least five days' continuance of his case within which time to prepare to plead or prepare for trial and he shall not be required to plead or to be tried within such five days unless he waives such time in writing or in open court; provided, that he promises in writing, after notice in writing of the time and place for his further appearance in court to appear at such time and place. Upon the giving of such written promise or, if he refuse to give such promise, on bail fixed by the magistrate he shall thereupon be forthwith released from custody. Any person willfully violating such promise shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(d) **Local regulations.** Limitations as to the rate of speed herein fixed shall be exclusive of all other limitations fixed by any law of this state or any political subdivision thereof. Local authorities shall have no power to enact, enforce or maintain any ordinance, rule or regulation in any way in conflict with, contrary to or inconsistent with the provisions of this act, or of any section or other subdivision thereof, and no such ordinance, rule or regulation of said local authorities heretofore or hereafter enacted shall have any force or effect, excepting, however, that (1) such powers as are now or may hereafter be vested in local authorities to enact ordinances and regulations, applicable equally and generally to all vehicles and other users of the highways, and providing for traffic or crossing officers or semaphores, to bring about the orderly passage of vehicles and other users of the public highways on certain portions thereof, where the traffic is heavy and continuous, as well as (2) the powers now or hereafter vested in local

authorities to license and to regulate the operation of vehicles offered to the public for hire, and to regulate the use of the highways for processions or assemblages, shall remain in full force and effect, and all ordinances, rules and regulations which may have been or which may be hereafter enacted in pursuance of such powers, shall remain in full force and effect; and provided, further, that local authorities may by general rule, ordinance or regulation, exclude vehicles from any cemetery or ground used for the burial of the dead, or exclude vehicles used solely or principally for commercial purposes from any park or part of a park system where such general rule, ordinance, or regulation is applicable equally and generally to all other vehicles used for the same purpose; provided, that at the entrance, or at each entrance if there be more than one, to such cemetery or park from which vehicles are so excluded, there shall have been posted a sign plainly legible from the middle of the public highway on which such cemetery or park opens, plainly indicating such exclusion and prohibition; and provided, further, that the local authorities of any city, town, or city and county may impose additional restrictions to those herein contained applicable to vehicles exclusively used in the carrying of merchandise or articles of freight and of a capacity in excess of one ton in weight and may designate certain streets whereon heavy laden vehicles may be excluded or declared to be "one way" streets, may, further, restrict or prohibit, the use of trailers. [Amendment approved May 2, 1919; Stats. 1919, p. 220.]

* This section was also amended in 1917. See Stats. 1917, p. 404.

§ 23. Revocation of operator's license. Suspension of license. [Repealed 1917; Stats. 1917, p. 407.] •

§ 24. (a) Operator's and chauffeur's licenses. Certificate. Chauffeur's badge. Minor's license. It shall be unlawful for any person to operate or drive a motor vehicle upon the public highway unless licensed by the department as hereinafter provided; provided, however, that the requirements of this section shall not apply to the operators or drivers of any implements of husbandry temporarily drawn, propelled or moved on the public highway. Before operating a motor vehicle upon the public highway, application for a license to operate such vehicle shall be made by mail or otherwise to the department upon a blank to be prepared and furnished on request by said department. To each person shall be assigned some distinguishing number or mark and the department shall issue to the licensee a certificate in such form as the department shall determine; it shall contain the distinguishing number or mark assigned to the licensee, his name, age, place of residence, business address if any, and a brief description of the licensee for the purpose of identification, and such other information as the said department shall deem necessary. Every person licensed to operate motor vehicles as aforesaid, whether as chauffeur or operator, shall indorse his usual signature in the space on the license certificate provided for the purpose, immediately upon the receipt of said certificate and his license shall not be valid until the certificate is so indorsed. Licenses to chauffeurs shall be valid during the calendar year only in which issued. Licenses issued to operators shall be valid until revoked. The department shall furnish to every chauffeur licensed a suitable metal badge

with the distinguishing number assigned to him stamped thereon, without extra charge therefor, such badge to have stamped thereon the words "Registered Chauffeur No. —, Cal." with the said license number and year of issue inserted therein. This badge shall thereafter be worn by such chauffeur, affixed to his clothing in a conspicuous place, at all times when he is operating or driving a motor vehicle upon the public highway, and the license certificate issued to each chauffeur or operator, under the provisions of this section, shall be carried by the licensee at all times when he is operating or driving a motor vehicle upon the public highway and shall be produced by him for inspection upon request of any peace officer. In case of the loss of such badge or certificate a duplicate will be issued by the department on the filing of an affidavit showing the fact of loss, and on payment of a fee of one dollar to the department in the case of a badge and fifty cents in case of a certificate. Duplicate license certificates shall be issued by the department to operators other than chauffeurs upon application therefor, whether in case of loss or otherwise, upon payment of a fee of twenty-five cents to the department. Applications for the annual renewal of licenses by chauffeurs shall be accompanied by the fee required by section seven of this act. No chauffeur's license or badge shall be issued to any applicant under the age of eighteen years; provided, that it shall be unlawful for any person to cause or knowingly to permit his or her child, ward or employee to operate or drive a motor vehicle upon the public highway, whether as a chauffeur or operator, without having first obtained such license as is hereinbefore specified; provided, that the application to the department of a minor to operate or drive a motor vehicle, whether as chauffeur or operator, shall not be granted by the department unless the parent or parents having the custody of such applicant or the guardian of such applicant shall have joined in said application by signing the same; and provided, further, that any negligence of a minor, so licensed, in operating or driving a motor vehicle upon the public highway, whether as chauffeur or operator, shall be imputed to the person or persons who shall have signed the application of such minor for said license, which person or persons shall be jointly and severally liable with such minor for any damages caused by such negligence. [Amendment approved May 2, 1919; Stats. 1919, p. 223.]

This section was also amended in 1917. See Stats. 1917, p. 407.

§ 26. Use of fictitious name, etc. (a) No person shall use a fictitious name in applying for such chauffeur's or operator's license, nor shall any chauffeur or operator licensed as herein provided voluntarily permit any other person to possess or use his license certificate or badge; nor shall any person while operating or driving a motor vehicle use or possess any license certificate or badge belonging to another person.

(b) No person shall display or cause or permit to be displayed, or have in his possession, any canceled, revoked, suspended, altered or fictitious registration number plate, registration seal, registration certificate, operator's license certificate, chauffeur's license certificate or chauffeur's badge, as the same are respectively provided for in this act.

(c) No person shall knowingly buy, sell, receive, dispose of, conceal or have in his possession any motor vehicle from which the manufacturer's serial number or motor number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or

destroyed for the purpose of concealment or misrepresenting the identity of said motor vehicle. [Amendment approved May 10, 1917; Stats. 1917, p. 408.]

§ 27. In effect after December 31, 1917. Nonresident operator. Registration of certificate. No person shall operate or drive a motor vehicle or cause a trailer to be drawn upon a public highway after the thirty-first day of December, one thousand nine hundred seventeen, nor shall any owner of a motor vehicle or of any trailer permit such motor vehicle or trailer to be so operated, driven or drawn after said date, unless the requirements of this act relative to the registration of motor vehicles and trailers and to licensing of chauffeurs and operators shall have been in all respects complied with; provided, however, that a nonresident operator or chauffeur who has complied with the provisions of the country or state of his residence relative to the operation of motor vehicles and who, while operating a motor vehicle upon the highways of this state shall wear such badge and carry such license certificate as may have been assigned to him in the country or state of his residence, shall be exempt from license hereunder for a period not to exceed three months in any calendar year; and provided, further, that the provisions of this act relative to registration and the payment of the fees therefor and the display of registration number plates and seals shall not apply to a motor vehicle or trailer owned by a nonresident, other than a foreign corporation doing business in this state, who is only sojourning within this state; provided, that the registration number plate assigned and furnished for said motor vehicle or trailer for the current calendar year by the country or state of which such owner is a resident shall be displayed on such motor vehicle or trailer substantially as provided in this act for vehicles registered pursuant to the provisions hereof; provided, however, that a nonresident owner of a motor vehicle or trailer so registered in such other country or state shall, not later than twenty-four hours after commencing to operate said vehicle, or to cause or permit the same to be operated, on any public highway within this state, apply to the department for registration of such vehicle, said application to be made upon a form to be prepared and to be furnished on request by the department, and shall state in addition to such other matters as may be required by the department, the name and postoffice and residence address of the applicant, together with the registration number of said vehicle in the country or state in which the same shall be registered, which country or state shall be designated by the applicant in said application. Upon receipt of said application, the department, if satisfied of the facts stated therein, shall, without charge to the applicant, register said motor vehicle or trailer and shall furnish to the applicant a registration certificate or device, of a distinctive form to be determined by the department, indicating that the holder thereof has complied with the requirements of this act and containing such other matter as may be deemed suitable by the department, which certificate or device shall be valid not to exceed three months from the date of its issuance, at the end of which period it shall be returned by said owner, transportation prepaid, to the department. In case of a motor vehicle, said certificate or device shall be carried, at all times while said motor vehicle is being operated or driven upon the public highways, in plain sight in or upon said motor vehicle, in the manner required of resident

owners with respect to registration certificates, and in case of a trailer, such certificate or device shall be displayed in such manner as the department shall determine. The department shall file said applications for registration by nonresident owners, and shall suitably index said applications and registrations, which files and index shall be open to inspection by the public during reasonable business hours. [Amendment approved May 10, 1917; Stats. 1917, p. 409.]

§ 28. Using car without owner's consent. It shall be unlawful for any person to drive or operate, or cause to be driven or operated, upon the public highway any motor vehicle not his own, whether with or without intent to steal the same, in the absence of the owner thereof without such owner's consent; provided, such consent shall not be implied in any instance because of the fact that upon a previous occasion such owner had consented to the use of the same or another motor vehicle by such person. Any person violating any of the provisions of this section shall be punished by imprisonment in the state prison for not less than one year nor more than five years. [Amendment approved May 2, 1919; Stats. 1919, p. 225.]

This section was also amended in 1917. See Stats. 1917, p. 410.

§ 32. (a) General penalties. Excepting as in this act otherwise provided, or where a different penalty is expressly fixed by this act, any person violating any of its provisions, or knowingly making a false statement or knowingly concealing a material fact or otherwise committing a fraud in an application for the registration of a vehicle, or in an application for an operator's or chauffeur's license, shall be guilty of a misdemeanor, and upon conviction thereof, unless in this act otherwise provided, shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) Revocation of license. Complaints of reckless driving. Hearing. Immediately upon receipt by the department of information concerning the conviction of any person for the violation of section seventeen of this act, or concerning the third conviction within one year of any person for the violation of any of the provisions of section twenty-two of this act, the department shall forthwith revoke the operator's or chauffeur's license issued to such person by the department and shall issue no operator's or chauffeur's license to any such person within one year thereafter.

Upon the suspension or revocation of any chauffeur's or operator's license, the department shall demand the surrender of the license certificate, and any duplicates thereof that may have been issued, and also the license badge, if any, and it shall be unlawful for any person whose license has been suspended or revoked as herein provided to fail or neglect forthwith to surrender to the department any such certificate or badge in his possession or under his control. Upon receiving within one year verified written complaints made by one or more persons of two or more separate instances of reckless, negligent or unlawful operation of a vehicle on any public highway in this state by any person to whom the department has issued a valid unrevoked operator's or chauffeur's license the department may, in the discretion of the super-

intendent thereof, fix a time and place for a hearing to determine whether or not the operator's or chauffeur's license held by such person should be revoked on the ground that such person is an unfit person to be so licensed. The person so complained of shall be served with a written notice, at least ten days prior to the date of said hearing, to appear and show cause, at such hearing, why his license to operate a motor vehicle upon the public highways should not be suspended or revoked. Such hearing shall be held by the superintendent of the department or by any person or persons, not exceeding three, officers or employees of the department whom he may designate. If upon such hearing it is determined that there is good and sufficient reason therefor findings and an order shall be made by the superintendent or by the person or persons holding such hearing on his behalf to the effect that such license should be revoked. The department shall thereupon cause such person's license as an operator or chauffeur to be forthwith revoked if the findings hereinbefore provided for show or declare that such operator or chauffeur is a reckless or negligent driver or that he is incompetent or unfit to operate a motor vehicle because of mental or physical infirmities or disabilities.

If in any case the respondent shall fail to appear at the time and place fixed for any such hearing as is provided in this section, he shall be in default, and if in the opinion of the superintendent or of the person or persons holding such hearing on his behalf, there is sufficient reason therefor, the license of the respondent may be ordered revoked or suspended, whereupon the department shall upon notice of such order, revoke or suspend, as the case may be, such license.

The superintendent or the person or persons holding such hearing may summon witnesses in behalf of the state and may administer oaths and take testimony, may cause depositions to be taken, and may order the production of books, papers, agreements and documents.

The fees for the attendance and travel of witnesses shall be the same as for witnesses before the superior court, and shall be paid by the state upon demand by the department filed with the controller.

The supreme court, any district court of appeal or any superior court shall have jurisdiction, upon the application, to enforce all lawful orders of the department under this section.

(c) **Suspension of license by court.** In addition to any or all other punishments provided in this act and imposed by the court upon any person for violation of any of the provisions of this act, the court may, in its discretion, suspend an operator's or chauffeur's license for a period of not to exceed thirty days, in which case the court shall take up the license certificate of such person together with, in case of a chauffeur, the license badge, and shall forward them to the department.

(d) **Return of license.** Upon the expiration of the period of suspension of any license as hereinbefore in this section provided for, the department shall return to the licensee his license certificate, or in its discretion may issue to him a new certificate, and such license shall be valid for the remainder of the current calendar year, subject to the other provisions of this act; and in like manner the department shall return to any chauffeur whose license badge may have been forwarded to the department upon suspension of his license, such license badge or issue

to such licensee a new badge. [Amendment approved May 2, 1919; Stats. 1919, p. 225.]

This section was also amended in 1917. See Stats. 1917, p. 410.

§ 33. Revocation of operator's license. Suspension of license. [Repealed 1917. See Stats. 1917, p. 412.]

§ 34. Motor vehicle fund. Transfer and operators' license fund. Payments to counties. State highway expenditures. There is hereby created in the state treasury a fund which shall be known as the "motor vehicle fund." All moneys received by the department under any of the provisions of this act must be paid into the state treasury within twenty-four hours after the receipt thereof and shall be deposited to the credit of the motor vehicle fund, but if at any time such payment can not be made because of the intervention of a Sunday or a holiday, then such money shall be paid into the state treasury before twelve o'clock noon of the first business day following such Sunday or holiday; provided, however, that there is also hereby created in the state treasury a fund which shall be known as the "transfer and operators' license fund," and the moneys received by the department for transfers and for operators' and chauffeurs' licenses shall not be credited to the motor vehicle fund but to the credit of said transfer and operators' license fund. One-half of the net receipts under this act except those credited to the transfer and operators' license fund shall be paid from the motor vehicle fund to the counties from which the moneys were received, as determined by the places of residence of the persons to whom the registration certificates are issued, and all such amounts so returned shall be paid into the road funds of the several counties receiving the same, and shall be expended by such counties exclusively in the construction and maintenance of roads, bridges and culverts in said counties respectively. In the event that any county has not established a road fund, its proportion of said net receipts shall be retained by the state until provision for such road fund has been made, and it shall then be paid over. In the months of February and August of each year the department shall make to the controller a report setting forth the gross and net receipts for the preceding six months, and thereafter the controller shall draw his warrants upon the motor vehicle fund in favor of the county treasurer of each county for the amount to which such county is entitled; provided, nevertheless, that the controller shall not draw such warrant in favor of any county which theretofore shall not have established a road fund or which shall be delinquent in its annual report to the state department of engineering as hereinafter required. Of the moneys in said motor vehicle fund, when such action has been authorized by the board of control, the department may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate ten thousand dollars, said sums so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, or at any other time upon demand of the board of control, the moneys so drawn must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control and by the controller. All moneys remaining in the motor vehicle fund after the expenditure herein authorized, in addition to all sums that have been heretofore or that may be appropri-

ated hereafter by the legislature for the same purpose, shall be expended under the direction of the state department of engineering for the maintenance and improvement of the state roads and highways under the jurisdiction of said department of engineering, and for the maintenance and improvement of roads and highways in state parks subject to the approval of the official or officials charged by law with the management and control of such parks, such moneys to be so drawn from said motor vehicle fund for the purpose of such maintenance and improvement upon warrants executed by the state controller upon demand made by the state department of engineering, and allowed and audited by the board of control. The transfer and operators' license fund and so much of the motor vehicle fund as may be necessary is hereby appropriated to be expended by the department in carrying out the provisions of this act; provided, however, that there shall not be so expended out of the motor vehicle fund in any one year more than ten per cent of said fund; and provided, further, that the board of supervisors of each county in the state shall make an annual report to the state department of engineering not later than three months after the close of the county's fiscal year, upon forms to be provided by the state department of engineering, showing the amount of moneys received from the motor vehicle fund during the preceding fiscal year and the disposition of said moneys, specifying in such detail as may be required by said department of engineering the roads, bridges and culverts constructed or maintained out of said moneys and the sums applied to the several items of such construction or maintenance; and provided, further, that whenever said report shall not have been duly filed in the manner and form hereby provided at or before the time hereinbefore specified, no further warrants shall be drawn upon the motor vehicle fund in favor of the county treasurer of such delinquent county until said report has been furnished. [Amendment approved May 2, 1919; Stats. 1919, p. 227.]

This section was also amended in 1917. See Stats. 1917, p. 412.

§ 35. Disposition of fines. (a) All fines or forfeitures collected in cases of conviction for violation of any of the provisions of this act following arrests by any officer employed by an incorporated municipality, except a city and county, shall be paid to the treasurer of the county in which such municipality is situated and such moneys shall belong to the several counties, to be used by them, when authorized and permitted by law, in the discretion of the respective boards of supervisors in the construction, maintenance and improvement of roads, streets, bridges and culverts within the limits of the incorporated municipalities of said counties, and for no other purpose; provided, however, that when not so authorized or permitted by law to use such moneys for said purposes, said counties shall receive said moneys for the benefit of, and said moneys shall belong to, the several incorporated municipalities in said counties respectively, excepting as herein otherwise provided, and at quarterly intervals the supervisors shall apportion and pay over said moneys to said municipalities according to their population ascertained in the manner provided by law, which moneys shall be expended by such municipalities solely in the construction, maintenance and improvement of streets, bridges and culverts within the city limits along routes directly connecting interurban public highways entering such cities respectively; provided, however, anything to

the contrary herein notwithstanding, that no (1) incorporated city and county, (2) city of more than twenty-five thousand population, or (3) city operating under a freeholder's charter and enforcing or seeking to enforce any ordinance, rule or regulation in conflict with or covering the same or any part of the ground covered by this act, except as expressly permitted therein, shall be entitled to share in said moneys.

(b) Any and all other fines or forfeitures collected by or in any court for violation of any of the provisions of this act, whether by a justice of the peace, police court, city recorder's court, city justice of the peace, or otherwise, shall be paid to the treasurer of the county or incorporated city and county in which the court is held, and said moneys shall be used by the several counties and incorporated cities and counties solely in the construction, maintenance and improvement of roads, streets, bridges and culverts within their respective limits, and for no other purpose. [Amendment approved May 10, 1917; Stats. 1917, p. 414.]

§ 36. Record of cases by court. A full record shall be kept by every justice of the peace or police judge or court in this state of every case in which a person is charged with violation of any provision of this act, and an abstract of such record shall be sent forthwith by the justice of the peace, or police judge or court to the clerk of the county in which the justice of the peace, police judge, or other magistrate holds his court, whereupon said clerk shall forward said abstract to the department. Said abstracts shall be made upon forms prepared by the department and shall include all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment, the amount of the fine or forfeiture as the case may be, and every such abstract shall be certified by the justice of the peace, police judge or clerk of such police court as a true abstract of the record of the court. Each clerk of any court of record of this state shall also, within ten days after any final judgment of conviction of any violation of any of the provisions of this act, send to the department a certified copy of such judgment of conviction, together with any other information concerning said conviction required by said department. The said department shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

Failure, refusal or neglect to comply with any of the provisions of this section shall constitute misconduct in office and shall be ground for removal therefrom. [Amendment approved May 2, 1919; Stats. 1919, p. 229.]

§ 37. Motor vehicle department. Inspectors. Distribution of act and synopsis. There is hereby created a department to be known as the motor vehicle department of California. The chief officer shall be known as the superintendent, who shall be a civil executive officer and shall be appointed by the governor and shall hold office at the pleasure of the governor. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars. He shall receive an annual salary of three thousand six hundred dollars to be paid monthly upon warrant of the controller. He shall have the power to appoint one chief clerk, who shall be a civil executive officer;

one cashier, and, with the approval of the board of control, such additional employees as the proper and economical conduct of the business of the department may demand, and shall fix and prescribe their duties, compensation and term of employment; provided, that such employees shall include field deputies or inspectors, upon whom are hereby conferred, for the purposes of the enforcement of this act, the powers now or hereafter vested by law in peace officers, and who may exercise said powers in any portion of the state or of any political subdivision thereof, but solely in the enforcement of the provisions of this act. The cashier shall execute to the people of the state a bond in the penal sum of five thousand dollars. The salaries herein provided for shall be payable monthly, and the expenditures authorized by this act, shall be made upon the certificate of the superintendent of the department, allowed and audited by the board of control, and the warrant of the state controller.

There shall be printed fifty thousand copies of the vehicle act, as amended by this act, which shall be distributed to the public on request, without charge by the department, and in addition thereto a synopsis of said act as amended shall be prepared and printed by the motor vehicle department, and distributed free of charge to each person who shall obtain a vehicle license, or who shall receive a transfer of a vehicle license under the provisions hereof. Such copies shall be transmitted together with the certificate of registration or transfer. [Amendment approved May 2, 1919; Stats. 1919, p. 229.]

This section was also amended in 1917. See Stats. 1917, p. 415.

§ 42. Copies printed. [Repealed May 10, 1917; Stats. 1917, p. 415.]

The amendatory act of 1917 contained the following sections:

§ 28. Printed copies of act. There shall be printed two hundred fifty thousand copies of said vehicle act, as amended by this act, which shall be distributed to the public on request, without charge, by the department. [Amendment approved May 10, 1917; Stats. 1917, p. 415.]

§ 29. In effect when. Excepting the provision of section eleven hereof requiring that the light displayed upon a trailer shall illuminate the number plate carried upon such trailer, each and all of the provisions of sections one, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, twenty-one, twenty-two, twenty-three, twenty-five, twenty-seven, twenty-eight and twenty-nine of this act, together with such provisions of section twenty-six of this act as relate to the salaries of the officers or employees of the department, and such other provisions of this act as relate to or require the preparation or purchase of forms and supplies, and other work incident to the registration of motor vehicles and trailers and the licensing of operators and chauffeurs, shall go into effect ninety days after the final adjournment of this session of the legislature, and the remainder of this act shall go into effect at midnight on the thirty-first day of December, in the year one thousand nine hundred seventeen. [Amendment approved May 10, 1917; Stats. 1917, p. 415.]

The amendatory act of 1919 contained the following provisions:

§ 20. When in effect. Each and all of the provisions of this act except sections one, ten, eleven, twelve, thirteen, fifteen, sixteen, seven-

teen and eighteen, together with such provisions of section nineteen of this act as relate to the salaries of officers and employees of the department, and such other provisions of this act as relate to or require the preparation or purchase of forms and supplies and other work incident to the registration of motor vehicles and trailers and the licensing of operators and chauffeurs, shall go into effect at midnight on the thirty-first day of January in the year 1920. [Amendment approved May 2, 1919; Stats. 1919, p. 230.]

§ 21. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. [Amendment approved May 2, 1919; Stats. 1919, p. 230.]

§ 22. Repealed. All acts or parts of acts in any ways in conflict herewith are hereby expressly repealed. [Amendment approved May 2, 1919; Stats. 1919, p. 230.]

ACT 2331d.

An act providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by automobiles, jitney buses, auto trucks, stages and auto stages; providing for the issue by incorporated cities and towns, cities and counties, and counties of permits for the operation of such automobiles, jitney buses, auto trucks, stages and auto stages; empowering incorporated cities and towns, cities and counties, and counties to enact ordinances for the supervision and regulation of automobiles, jitney buses, auto trucks, stages and auto stages and providing penalties for the violation of such ordinances; defining transportation companies and providing for the supervision and regulation thereof by the railroad commission; providing for the enforcement of the provisions of this act and for the punishment of violations thereof; and repealing all acts and parts of acts inconsistent with the provisions of this act.

[Approved May 10, 1917. Stats. 1917, p. 330. In effect July 27, 1917.]

Amended 1919; Stats. 1919, p. 457.

The title of the Act of 1917 was amended in 1919 to read as follows:

An act providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by automobiles, jitney buses, auto trucks, stages and auto stages; defining transportation companies and providing for the supervision and regulation thereof by the railroad commission; providing for the enforcement of the provisions of this act and for the punishment of violations thereof; and repealing all acts inconsistent with the provisions of this act. [Amendment approved May 13, 1919; Stats. 1919, p. 457.]

§ 1. Words and phrases defined. (a) The term "corporation" when used in this act, means a corporation, a company, an association or a joint stock association.

(b) The term "person," when used in this act, means an individual, a firm or copartnership.

(c) The term "transportation company," when used in this act, means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing, any automobile, jitney bus, auto truck, stage or auto stage used in the business of transportation of persons or property, or as a common carrier, for compensation, over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the limits of an incorporated city or town or of a city and county; provided, that the term "transportation company," as used in this act, shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, in so far as they own, control, operate or manage taxicabs, hotel buses or sightseeing buses, or any other carrier which does not come within the term "transportation company" as herein defined.

(d) The term "public highway," when used in this act, means every public street, road or highway in this state.

(e) The words "between fixed termini or over a regular route," when used in this act, mean the termini or route between or over which any transportation company usually or ordinarily operates any automobile, jitney bus, auto truck, stage or auto stage, even though there may be departures from said termini or route, whether such departures be periodic or irregular. Whether or not any automobile, jitney bus, auto truck, stage or auto stage is operated by a transportation company "between fixed termini or over a regular route" within the meaning of this act shall be a question of fact and the finding of the railroad commission thereon shall be final and shall not be subject to review. [Amendment approved May 13, 1919; Stats. 1919, p. 457.]

§ 2. Jitney bus, etc., must be operated according to law. No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property for compensation on any public highway in this state except in accordance with the provisions of this act.

§ 3. Permit to operate. [Repealed 1919; Stats. 1919, p. 460.]

§ 4. Power of railroad commission over transportation companies. The railroad commission of the state of California is hereby vested with power and authority to supervise and regulate every transportation company in this state; to fix the rates, fares, charges, classifications, rules and regulations of each such transportation company; to regulate the accounts, service and safety of operations of each such transportation company; to require the filing of annual and other reports and of other data by such transportation companies; and to supervise and regulate transportation companies in all other matters affecting the relationship between such companies and the traveling and shipping public. The railroad commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations applicable to any and all transportation companies. The railroad commission, in the exercise of the jurisdiction conferred upon it by the constitution of this state and by this act, shall have power and authority to make orders and to pre-

scribe rules and regulations affecting transportation companies, notwithstanding the provisions of any ordinance or permit of any incorporated city or town, city and county, or county, and in case of conflict between any such order, rule or regulation and any such ordinance or permit, the order, rule or regulation of the railroad commission shall in each instance prevail.

§ 5. Certificate from railroad commission. No transportation company shall hereafter begin to operate any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property, for compensation, on any public highway in this state without first having obtained from the railroad commission a certificate declaring that public convenience and necessity require such operation, but no such certificate shall be required of any transportation company as to the fixed termini between which or the route over which it is actually operating in good faith at the time this act becomes effective, or for operations exclusively within the limits of an incorporated city, town, or city and county. Any right, privilege, franchise or permit held, owned or obtained by any transportation company may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the railroad commission. The railroad commission shall have power, with or without hearing, to issue said certificate as prayed for, or to refuse to issue the same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

The railroad commission may at any time for a good cause suspend and upon notice to the grantee of any certificate and opportunity to be heard revoke, alter or amend any certificate issued under the provisions of this section. [Amendment approved May 13, 1919; Stats. 1919, p. 457.]

§ 6. Order authorizing issue of stock and bonds. Application of public utilities act. Fees. No transportation company may issue any stock or stock certificate, or any bond, or any note or other evidence of indebtedness payable at a period of more than twelve months after the date thereof unless such transportation company, in addition to the other requirements of law, shall first have secured from the railroad commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied and that, in the opinion of the railroad commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order and that, except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. Such order may be made, in the discretion of the railroad commission, either with or without a public hearing. Except as in this section otherwise provided, the provisions of section fifty-two of the public utilities act referring to the purposes for which stocks and stock certificates, bonds, notes and other evidences of indebtedness, may be issued and the application of and the accounting for the proceeds thereof, the powers and duties of the railroad commission and the rights and duties of public utilities with reference thereto, the legal status of stocks

and stock certificates and of bonds, notes and other evidences of indebtedness, issued without an order of the railroad commission then in effect, and the relationship of the state of California to such stocks and stock certificates, and such bonds, notes and other evidences of indebtedness, shall apply to and govern the issue of stocks and stock certificates, and of bonds, notes and other evidences of indebtedness, of transportation companies with the same force and effect as though section fifty-two of the public utilities act were restated in this section with the substitution of the words "transportation company" for the words "public utility" and of the words "transportation companies" for the words "public utilities." The provisions of section fifty-seven of the public utilities act referring to fees to be charged and collected by the railroad commission for certificates authorizing the issue of bonds, notes or other evidences of indebtedness of public utilities shall apply to and govern authorizations by the railroad commission of the issue by transportation companies of bonds, notes or other evidences of indebtedness. [Amendment approved May 13, 1919; Stats. 1919, p. 459.]

§ 7. Application of public utilities act. In all respects in which the railroad commission has power and authority under the constitution of this state or this act, applications and complaints may be made and filed with the railroad commission, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review or mandate filed with the supreme court of this state, considered and disposed of by said court, in the manner, under the conditions and subject to the limitations and with the effect specified in the public utilities act.

§ 8. Violation. Every officer, agent, or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provision of this act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the railroad commission, or who procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or any part or provision thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

§ 9. Foreign or interstate commerce. Neither this act nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union, except in so far as the same may be permitted under the provisions of the constitution of the United States and the acts of congress.

§ 10. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 11. **Repealed.** Stats. 1905, p. 777, not to apply. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. The provisions of an act entitled "An act providing for the sale of street railroad and other franchises in counties and municipalities and providing conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts (approved March 22, 1905, Stats. 1905, p. 777)," are declared not to apply to the use of highways for the kind of transportation herein regulated.

TITLE 361.

MUNICIPAL CORPORATIONS.

ACT 2348.

An act to provide for the organization, incorporation, and government of municipal corporations.

[Approved March 13, 1883. Stats. 1883, p. 93.]

Amended 1885, pp. 127, 134; 1887, p. 12; 1889, pp. 371, 389; 1891, pp. 21, 28, 54, 55, 114, 233; 1893, p. 299; 1895, pp. 24, 159, 266; 1897, pp. 89, 175, 183, 196, 403; 1899, p. 98; 1901, pp. 12, 18, 70, 269, 293, 656; 1903, pp. 40, 93, 135, 336; 1905, pp. 16, 45, 72, 73, 88, 89, 408; 1907, p. 272; 1909, pp. 148, 420, 937; 1911, pp. 58, 253, 316, 359, 842; Ex. Sess. 1911, pp. 131, 135; 1913, pp. 10, 15, 31, 32, 33, 34, 375; 1915, pp. 170, 331, 828, 1304; 1917, pp. 1528, 1663, 1666; 1919, pp. 19, 158, 311, 761.

The amendments of 1917 and 1919 follow:

§ 763. **Limitation on passage of ordinances.** No resolution granting any franchise, and no ordinance for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, or an adjourned regular meeting, and no such resolution and no ordinance granting any franchise shall be passed without being first submitted to the city attorney. No resolution or order for the payment of money shall be passed at any other than a regular meeting, or an adjourned regular meeting, and no resolution or order for the payment of money, no resolution granting a franchise, and no ordinance for any purpose, shall have any validity or effect unless passed by the affirmative vote of at least three trustees. In cases of urgency the board of trustees by a four-fifths vote may adopt any ordinance or resolution affecting the health and safety of the public on the day of its introduction or at any regular or special meeting. [Amendment approved May 5, 1919; Stats. 1919, p. 311.]

§ 764. **Powers of board of trustees of city.** The board of trustees of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have any power to sell or convey any portion of any waterfront; but may rent such waterfront for a term not exceeding ten years for the purpose of erecting bathhouses thereon.

3. To contract for supplying the said city with water, and gas, and electric lights or other lights for municipal purposes; to purchase, lease,

construct or otherwise acquire waterworks, electric plants, and gas works or plants or any of same, and all machinery, conductors, lands, appliances and all other things needed therefor, and to supply said city with, and to sell to the inhabitants of said city, gas, electric light or other light, and heat, and power; provided, that no such purchase or lease shall be made unless the question of acquiring such property is submitted to the voters of such city in the same manner as other propositions, at a general or special municipal election, and a majority of the electors, voting at such election shall vote in favor of such proposition.

4. To establish, build and repair bridges; to establish, lay out, alter keep open, open, improve and repair streets, sidewalks, alleys, squares, and other public highways and places within the city, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places.

5. To establish, construct and maintain drains and sewers, and to provide by ordinance for a general system of sewers, and the expense of building and maintaining the same.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

7. To impose and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll tax, not exceeding two dollars, and no other road poll tax shall be collected within the limits of such city; that any member of a volunteer fire company in such city shall be exempt from such tax.

8. To impose and collect an annual license, not exceeding two dollars on every dog owned or harbored within the limits of the city.

9. To levy and collect annually a property tax, which shall be apportioned as follows: For the general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; for school fund, not exceeding twenty-five cents on each one hundred dollars; for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year for all purposes to which such funds are applicable shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city.

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of licenses upon the same, and to provide for the collection of the same by suit or otherwise.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and to remove obstructions therefrom; to improve the waterfront of the city, and to construct and maintain embankments and other works to protect such city from overflow.

12. To erect and maintain buildings for municipal purposes.

13. To permit, under such restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, electricity, or other power thereon, and the laying of gas or water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of telephone, telegraph and electric light lines therein.

14. In its discretion to divide the city, by ordinance, into a convenient number of wards, not exceeding five, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered. Whenever such city shall be divided into wards, the board of trustees shall designate by ordinance the number of trustees to be elected from each ward, apportioning the same in proportion to the population of such ward; and thereafter the trustees so designated shall be elected by the qualified electors resident in such ward, or by the general vote of the whole city, as may be designated in such ordinance.

15. To appoint and remove such policemen and such other subordinate officers as they may deem proper, and to fix their duties and compensation.

16. To impose fines, penalties, and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months.

17. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other property or works within the city.

18. To establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of all buildings, shades, awnings, signs, or any structure of a dangerous or unsafe character; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, backyards or public grounds of such city, or elsewhere therein; to regulate or prohibit the storage of gunpowder and combustible or explosive materials of every kind and nature within the city limits, and to prescribe the limits in which the same may be kept or stored.

19. To do and perform any and all other acts and things necessary and proper to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary, and other regulations as do not conflict with general laws.

20. To levy and collect a property tax in addition to that now authorized by law for the purpose of improving, repairing, and maintaining any and all streets, avenues, lanes, alleys, courts, places and sidewalks of said municipality, which have heretofore been accepted by said municipality, under and pursuant to the provisions of any street improvement act, providing for the acceptance of streets by said municipality, which such tax shall not exceed thirty cents on each one hundred dollars of the assessed value of all real and personal property within such municipality. [Amendment approved June 1, 1917; Stata. 1917, p. 1663.]

§ 765. Enacting clause of ordinances. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of — do ordain as follows:" Every ordinance must be signed by the president of the board of trustees, attested by the clerk, and must be published by said board at least three times in a newspaper of general circulation published in such city or town, or if there be none published in such city or town, then every ordinance must be posted in at least three public places therein; provided, that emergency ordinances subject to the referendum must be published at least one time. [Amendment approved June 1, 1917; Stats. 1917, p. 1666.]

§ 852. Elections. Term of trustees. Appointive officers. The members of the board of trustees and the clerk and treasurer shall be elected by the qualified electors of said city or town at a general municipal election. Such a general municipal election shall be held therein on the second Monday in April in each even-numbered year. Members of the board of trustees and the clerk and the treasurer shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The respective terms of the members of the first board of trustees elected under the provisions of this section shall be determined as follows: The two members elected by the highest number of votes shall hold office for four years, and the three members elected by the lowest number of votes shall hold office for two years. In the event that two or more persons should be elected by the same number of votes, the respective terms of each shall be decided by lot. The board of trustees shall appoint the marshal and the recorder; they may also, in their discretion, appoint an attorney, a superintendent of streets, a civil engineer, and such other subordinate officers as in their judgment may be deemed necessary, and fix their compensation. Said officers shall hold office during the pleasure of said board. [Amendment approved April 4, 1919; Stats. 1919, p. 19.]

§ 859. Meetings of board of trustees. Notice of adjourned meeting. At any meeting of the board of trustees a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance; and in the absence of all of the trustees from any meeting the clerk may declare the same postponed and adjourned to a stated day and hour, and must thereupon give to each of the trustees written notice of the time to which the meeting has been adjourned, which notice may be delivered personally to the trustee or may be left at his known residence or place of business at least six hours before the time to which the meeting has been postponed. The president of the board shall preside at all meetings of the board, and in case of his absence the board may appoint a president pro tempore; and in case of the absence of the clerk, the president or president pro tempore shall appoint one of the members of the board clerk pro tempore. [Amendment approved April 30, 1919; Stats. 1919, p. 158.]

§ 862. Powers of city trustees. The board of trustees of said city shall have power:

1. **Pass ordinances.** To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

2. **Acquire real estate.** To purchase, lease, or receive such real estate situated inside or outside of the city limits and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city or town; provided, they shall not have power to sell or convey any portion of any waterfront.

3. **Supply water for city use.** To contract for supplying the city or town with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such city or the inhabitants, or for irrigating purposes therein.

4. **Manage highways.** To establish, build and repair bridges; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, and other public highways, squares and parks, and places within the city or town, and to drain, sprinkle, oil, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places; and in the exercise of the powers herein granted to expend, in their discretion, the ordinary annual income and revenue of the municipality in payments of the costs and expenses of the whole or any part of such work or improvement.

4a. **Open streets.** To acquire property required for the opening and laying out of any street, alley or lane from the point where the continuity of such street, alley or lane ceases, to the point where such street, alley or lane again commences, to lay out and improve said street, alley or lane; and to pay the cost and expense incurred in the acquisition of the required property out of the general fund of the city.

5. **Sewers.** To construct, establish, and maintain drains and sewers.

6. **Fire protection.** To provide fire-engines and all other necessary and proper apparatus for the prevention and extinguishment of fires.

7. **Collect street poll tax.** To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years, an annual street poll tax, not exceeding two dollars; and no other road poll tax shall be collected within the limits of the city.

8. **Dog tax.** To impose and collect an annual license not exceeding two dollars on every male dog, and four dollars on every female dog owned or harbored within the limits of the city.

9. **Property tax.** To levy and collect annually a property tax, which shall not, without the assent of two-thirds of the qualified electors of such city or town voting at an election to be held for that purpose exceed one dollar on each one hundred dollars; provided, however, that in cities which have constructed or may hereafter construct embankments, seawalls, or other works to protect such cities from overflow, said board of trustees may levy and collect annually, a property tax which shall not exceed twenty cents on each one hundred dollars, which, when collected, shall be kept in a separate fund and used for the construction

and maintenance of embankments, seawalls, or other works to protect such city from overflow and for no other purpose.

10. License business. To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city or town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

11. Improve rivers and streams. To improve the rivers and streams flowing through such city or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the waterfront of the city; including the ocean front thereof, and to build and construct breakwaters, jetties, and seawalls; to construct and maintain embankments and other works, to protect such city from overflow and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, lake, inlet, river, creek, slough, or arm of the sea within the corporate limits of such city or contiguous thereto, wharves, chutes, piers, breakwaters, bathhouses, and life-saving stations.

12. Municipal buildings. To erect and maintain buildings for municipal purposes, and to acquire and maintain cemeteries, situated inside or outside of said city.

13. Acquire public utilities. To acquire, own, construct, maintain, and operate street railways, telephone and telegraph lines, gas and other works for light, power, and heat; public libraries, museums, gymnasiums, parks, and baths, and to grant franchises for the construction of public utilities as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein.

14. Impose fines. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance; to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months.

15. Compel labor of prisoners. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property, or works within the city.

16. Fire limits. To establish and maintain fire limits, and regulate building and construction and removal of buildings within the municipality.

16a. Regulate construction of buildings. To regulate the construction of and the materials used in all buildings, chimneys, stacks and other structures; to prevent the erection and maintenance of insecure or unsafe building walls, chimneys, stacks, or other structures, and to provide for their summary abatement, destruction, or removal; to provide for the abatement, destruction or removal of unsightly or partially destroyed buildings; to regulate the materials used in and the method of construction of foundations and foundation walls, the manner of

construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for lighting, power, heat or other purposes and materials used for piping buildings or other structures for the purpose of supplying the same with water, gas, or electricity, and the manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

16b. Regulate advertising, etc. To regulate the exhibition, posting or carrying of banners, placards, posters, cards, pictures, signs or advertisements in or on the street, or on or upon buildings, fences, billboards or other structures; or on or upon any pole in any sidewalk, alley, street, lane, court, park or other public place; to regulate the suspension of banners, flags, signs, advertisements, posters, pictures, or cards across or over any sidewalk, alley, street, lane, court, park, or other public place, or such suspension from fences, poles, houses, or other structures; to prohibit and prevent encroachments upon or obstructions in or to any sidewalk, street, alley, lane, court, park or other public place, and to provide for the removal of such encroachment or obstruction.

16c. Compel removal of dirt, weeds, etc. To compel the owner, lessee or occupant of buildings, grounds, or lots to remove dirt, rubbish, weeds and rank growths from the sidewalk opposite thereto, and from the building or grounds, and on his default, after such notice as the board of trustees may prescribe, to authorize the removal or destruction thereof by some officer of the city at the expense of such owner, lessee or occupant, and by such procedure as the board of trustees may prescribe, to make such expense a lien upon such buildings or grounds.

17. Issue subpoenas. To issue subpoenas for the attendance of witnesses, or the production of books or other documents, for the purpose of producing evidence or testimony in any action or proceeding pending before the board of trustees, which subpoenas must be signed by the president of the board of trustees, and attested by the city clerk and may be served in the same manner as subpoenas are served in civil actions. Whenever any person duly subpoenaed to appear and give evidence, or to produce any books or any documents as herein provided, shall neglect or refuse to appear, or to produce such books or documents, as required by such subpoena, or shall refuse to testify before such board, or to answer any questions which a majority thereof shall decide to be proper and pertinent, it shall be the duty of the president of the board to report the fact to the judge of the superior court of the county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

18. Music and promotion. To expend such sum as the board of trustees shall deem proper, not to exceed five per cent of the property tax levy in any one fiscal year, for music and promotion.

19. Other acts. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this act. [Amendment approved June 1, 1917; Stats. 1917, p. 1528.]

§ 862a. Powers of trustees in cities of sixth class. In any city of the sixth class the board of trustees shall have power:

(a) To establish and maintain a municipal hospital.

(b) To prescribe rules for the government and management thereof and the terms upon which patients may be admitted thereto.

(c) To appoint and fix the compensation of physicians, surgeons and other necessary officers and employees of the hospital who shall hold their positions during the pleasure of the board of trustees.

(d) To acquire any and all property, real or personal, by purchase or donation, and construct and equip such buildings as the board may deem necessary and suitable for the proper conduct of the hospital. In receiving any donation of money, the city may agree to pay the donor or donors interest upon the principal at a rate not exceeding seven per cent per annum during the lifetime of the donors, or of any of them, or of the survivor, but not exceeding a period of forty years, and without repayment of the principal or any part thereof. In the case of the incurring of such indebtedness in favor of donors, the indebtedness shall be incurred and means for the payment thereof shall be provided in the manner prescribed by the provisions of the act entitled, "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction, and completion thereof," in effect February 25, 1901, as amended, so far as the same may be applicable; provided, however, that the ordinance calling the election shall not contain any statement as to bonds that are to be issued, but shall in general terms describe the proposed donation, the purpose for which it is to be used, and the terms upon which the same is to be made and accepted.

(e) To levy and collect annually a property tax for the maintenance of the hospital which shall not in any one year exceed the cost of the care of indigent patients and the interest charge upon any donation accepted in accordance with the provisions of subdivision (d) of this section. [Amendment approved May 21, 1919; Stats. 1919, p. 761.]

§ 863. Enacting clause of ordinances. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of — do ordain as follows:" Every ordinance must be signed by the president of the board of trustees and attested by the clerk and must be published by said board at least once in a newspaper of general circulation published and circulated in such city or town; provided, that if there be no such newspaper published and circulated in such city or town, then all ordinances must be posted in at least three public places therein; provided, further, that in all cities or towns which have been incorporated less than one year, all ordinances may be either published or posted as aforesaid, as the board of trustees may determine; and provided, further, that in no case shall the price charged for such

publication of any ordinances exceed the customary rate charged by such newspaper for the publication of legal notices of a private character. [Amendment approved June 1, 1917; Stats. 1917, p. 1666.]

ACT 2355e.

An act to validate the organization and incorporation of municipal corporations.

[Approved April 18, 1919. Stats. 1919, p. 118. In effect July 22, 1919.]

§ 1. Organization of municipal corporations validated. Exceptions. All municipal corporations, the organization and incorporation of which have been authenticated by the board of supervisors in this state declaring the same incorporated, as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such board of supervisors in the office of the secretary of state, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An act to provide for the organization, incorporation and government of municipal corporations," approved March 13, 1883, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all acts of the said municipal corporation heretofore performed according to the act aforesaid, are hereby validated, and declared to be legal; provided, however, that all municipal corporations shall be excepted from this act where the right to act as such is being contested or inquired into in legal proceedings brought within six months after a certified copy of the order of the board of supervisors was filed in the office of the secretary of state.

ACT 2368.

An act authorizing the common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class to refund its indebtedness, to issue bonds therefor, and to provide for the payment of the same. [Approved March 9, 1897; Stats. 1897, p. 75.]

Amended 1901, p. 274; 1919, p. 498.

The amendment of 1919 follows:

§ 1. Refunding bonded indebtedness of municipal corporations. Interest. "Serials." "Funding fund." When election necessary. Application of proceeds of sale of bonds. The common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class in this state, having an outstanding indebtedness evidenced by bonds or warrants thereof, or by judgment or judgments, is empowered, by a two-thirds vote of its number, to fund or refund the said indebtedness and issue bonds of such city or town therefor in sums of not less than one hundred dollars nor more than one thousand dollars each, and having not more than forty years to run, and bearing a rate of interest not exceeding six per cent per annum, payable semi-annually; provided, that no indebtedness shall be refunded at a higher rate of interest than that borne by the original

debt. Such bonds shall be of the character known as "serials," not less than one-fortieth of the principal being payable each year, together with the interest due on all sums unpaid. Principal and interest on said bonds shall be payable in gold coin or other lawful money of the United States, as may be expressed in said bonds, at the office of treasurer of said city or town. Said bonds shall be sold in the manner provided by such city council or other governing body, to the highest bidder therefor, for not less than their face value, in the same character of money as that in which they are payable. The proceeds of such sale shall be placed in the treasury of such city or town to the credit of the "funding fund," and shall be applied only to refunding the indebtedness for which said bonds are issued. Said trustees, or other governing body, shall at the time for fixing the general tax levy for each year, and in the same manner as such tax levy is made, levy and collect sufficient money to pay such part of the principal of said bonds issued under this act, as one year bears to the number of years for which the bonds are to run, and also the annual interest upon the sums unpaid.

Where such indebtedness is evidenced by judgment or judgments obtained for indebtedness or liability incurred by any such incorporated city or town exceeding the income and revenue provided for the year in which such indebtedness or liability was incurred, within the meaning of section eighteen of article eleven of the constitution, bonds to fund the same shall not be issued unless authorized by the assent of two-thirds of the qualified electors of such incorporated city or town voting at an election to be called and held for that purpose. The election shall be called and held in the manner provided for in an act entitled "An act authorizing the incurring of indebtedness by cities, towns and municipal corporations for municipal improvements, and regulating the acquisition, construction or completion thereof," in effect February 25, 1901, and amendments thereto, and the ordinance calling the election shall recite the object and purposes for which such bonded indebtedness is proposed to be incurred. The proceeds arising from the sale of such bonds shall be applied by the treasurer to the satisfaction of such judgment or judgments. [Amendment approved May 10, 1919; Stats. 1919, p. 499.]

ACT 2371.

An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations for municipal improvements, and regulating the acquisition, construction, or completion thereof.

[Became a law under constitutional provision without governor's approval, February 25, 1901. Stats. 1901, p. 27.]

Amended 1907. pp. 570, 609, 634; 1909, p. 720; 1913, pp. 13, 29; 1915. pp. 97, 1453; 1917, p. 79.

The amendment of 1917 follows:

§ 6½. Cancellation of unsold bonds. At any time after three years after the date of any election, heretofore or hereafter held, at which an issue of any of the bonds herein provided has or shall have been authorized, the legislative body of the municipality may, by ordinance duly adopted by a two-thirds vote of all of the members of such

legislative body, determine that no part of such bond issue, or, if a portion of the bonds so authorized at such election shall have been sold, that no part of the remainder of such issue then remaining unsold, shall be thereafter issued or sold, and upon the taking effect of such ordinance the authority to issue the bonds authorized at such election and described in such ordinance shall cease, and the whole or that portion of the bonds issued pursuant thereto remaining unsold and described in such ordinance shall become void.

ACT 2371a.

An act to validate bonds issued and sold, or to be issued and sold for the purpose of the acquisition or construction of any public improvement work or public utility in any portion of a municipality.

[Approved May 4, 1917. Stats. 1917, p. 229. In effect July 27, 1917.]

§ 1. **Bonds issued by portion of municipality validated.** Where, in any portion of a municipality of this state proceedings have been taken for the purpose of creating an indebtedness, to be represented by bonds of such district, the proceeds from the sale of which are to be used for the acquisition or construction therein of any public improvement work or public utility which the municipality of which such district forms a part is authorized by law to acquire or construct, all acts and proceedings leading up to and including the issuance of such bonds, if they have heretofore been sold, and all such acts and proceedings heretofore had, although the bonds are not yet sold, are hereby legalized, ratified, confirmed and declared valid to all intents and purposes, and the power of said district and of the legislative body of such municipality to issue such bonds is hereby ratified, confirmed and declared, and the bonds already are declared to be and the bonds hereafter sold shall be, the legal and binding obligation of and against such district for which such bonds have heretofore, or may hereafter be, issued, and the full faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds; provided, that this act shall not operate to legalize any bonds of any district that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors in said district voting at an election held for the purpose of voting upon the question of the issuance of such bonds, or any bonds which have been sold for less than their par value.

ACT 2372a.

An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities therein; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements; and for the acquisition or construction of such improvements., [Approved April 20, 1915; Stats. 1915, p. 99.]

Amended 1919, p. 670.

The amendment of 1919 follows:

The title of this act was amended in 1919 to read as follows:

§ 1. **Title amended.** An act to provide for the formation of districts within municipalities for the acquisition or construction of public im-

provements, works and public utilities; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements, and for the acquisition or construction of such improvements. [Amendment approved May 16, 1919; Stats. 1919, p. 670.]

The body of the act was amended as follows:

§ 1. Municipal improvement district. Any portion of a municipality incorporated under the laws of this state may be formed into a municipal improvement district for the purpose of creating an indebtedness, to be represented by bonds of said district, the proceeds from the sale of which shall be used for the acquisition or construction of any public improvement work or public utility which such municipality is authorized by law to acquire or construct. Such districts shall be formed and such bonds shall be issued and sold in the manner and under the proceedings hereinafter set forth. [Amendment approved May 16, 1919; Stats. 1919, p. 670.]

§ 2. Petition for election. Ordinance of intention. What ordinance shall contain. Whenever a petition signed by not less than ten per cent of the qualified electors residing in the territory which is proposed to be formed into a municipal improvement district, setting forth a general description of the improvement work or public utility to be acquired or constructed and a general description of the exterior boundaries of such proposed district, shall have been filed in the office of the clerk of the legislative body of said city, said legislative body may adopt an ordinance declaring its intention to call an election in said proposed district, or as the same may have been modified as herein provided, for the purpose of submitting to the qualified electors of said district the proposition of authorizing the issuance and sale of bonds of such district in the manner and for the purpose set forth in said ordinance of intention. Said legislative body shall have power to change or modify the boundaries of said district and the nature, character or extent of such proposed public improvement work or public utility. Said ordinance of intention shall also contain:

1. An accurate description of the exterior boundaries of the proposed municipal improvement district;

2. A general description of the improvement work or public utility proposed to be acquired or constructed therein;

3. An estimate of the cost of the proposed improvement work or public utility and of the incidental expense in connection therewith;

4. That upon a certain date fixed therein an election will be called in said district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of such district to pay the cost and expenses of the proposed improvement work or public utility, and that a map showing the exterior boundaries of said district with relation to the territory immediately contiguous thereto, and a general description of the proposed improvement are on file in the office of the clerk of the legislative body of such city; which said map shall govern for all details as to the extent of the said district.

5. A date, hour and place fixed for the hearing of protests. [Amendment approved May 16, 1919; Stats. 1919, p. 670.]

§ 14. Construction. The provisions of this act shall be liberally construed to effect the purpose thereof and no provision hereof shall be deemed or construed to prohibit the inclusion within the boundaries of any district formed under the provisions of this act, of any territory which has heretofore or which may be hereafter included within any other district formed under the provisions of this act. [Amendment approved May 16, 1919; Stats. 1919, p. 671.]

ACT 2372b.

An act to legalize bonds heretofore issued and sold, or to be issued and sold, by municipal improvement districts where authority for such issuance has already been given by a vote of not less than two-thirds of the electors of such districts voting upon the question of incurring such indebtedness.

[Approved May 7, 1919. Stats. 1919, p. 331. In effect July 22, 1919.]

§ 1. Municipal improvement district bonds legalized. In all cases where the legislative branch of any municipality in this state has called an election under the provisions of an act entitled "An act to provide for the formation of districts within municipalities for the acquisition or construction of public improvements, works and public utilities therein; for the issuance, sale and payment of bonds of such districts to meet the cost of such improvements; and for the acquisition or construction of such improvements," approved April 20, 1915, for the purpose of submitting to the qualified electors of any municipal improvement district formed in such municipality the question whether an indebtedness shall be incurred for any of the purposes authorized by said act, and where at such election not less than two-thirds of all the voters voting thereat shall have voted in favor of incurring such indebtedness, and the mode of creating such indebtedness has been by the proposed issuance of the bonds of such municipal improvement district, the power to issue such bonds and all the acts and proceedings of such municipality leading up to and including the issuance and sale or the proposed issuance and sale of such bonds are hereby legalized, ratified, confirmed and declared valid to all intents and purposes; and all such bonds, sold either before or after the passage of this act for not less than their par value are hereby legalized and declared to be legal and valid obligations of and against such municipal improvement district of the municipality so issuing and selling the same, and the faith and credit of such municipal improvement district of such municipality is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

§ 2. Exception. This act shall not operate to legalize any bonds of any municipal improvement district of a municipality that have not, at the time of the passage of this act, been authorized by the vote of not less than two-thirds of the qualified electors of such municipal improvement district voting at any such election, or any bonds which have been sold for less than their par value.

ACT 2374.

An act to provide for the alteration of the boundaries of and for the annexation of territory to incorporated towns and cities, and for

the incorporation of such annexed territory in and as a part of such municipalities, and for the districting, government, and municipal control of annexed territory.

[Approved March 19, 1889. Stats. 1889, p. 358.]

Amended 1905, p. 551; 1911, pp. 857, 1459; 1917, p. 419.

The amendment of 1917 follows:

§ 1. Procedure for annexing new territory to cities. Election on question. The boundaries of any incorporated town or city, whether heretofore or hereafter formed, incorporated, reincorporated, organized, or reorganized, may be altered and new territory annexed thereto, incorporated and included therein, and made a part thereof, upon proceedings being had and taken as in this act provided. The council, board of trustees, or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory asked to be annexed to such corporation, and signed by not less than one-fifth in number of the qualified electors of such municipal corporation, computed upon the number of votes cast at the last general municipal election held therein, must, without delay, submit to the electors of such municipal corporation and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such new territory shall be annexed to, incorporated in, and made a part of said municipal corporation. Such question may be so submitted at the next general municipal election to be held in such municipal incorporation, or it may be so submitted prior to such general election either at a special election called therein for that purpose, or at any other municipal election therein, except an election at which the submission of such question is prohibited by law; and such legislative body is hereby empowered to and it shall be its duty to cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation, and also in a newspaper, if any such there be, printed and published outside of such corporation, but in the county in which the territory so proposed to be annexed is situated, in each case at least once a week for a period of four successive weeks next preceding the date of such election. Such notice shall distinctly state the proposition to be submitted, i. e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporations the territory sought to be annexed, specifically describing the boundaries thereof; and in said notice the qualified electors of said municipal corporation, and the qualified electors residing in said territory so proposed to be annexed, shall be invited to vote upon such proposition by placing upon their ballots the words "For annexation" or "Against annexation," or words equivalent thereto. Such legislative body is hereby empowered, and it shall be its duty, to establish, and in such notice of election designate the voting precinct or precincts, and the place or places at which the polls will be opened in such territory so proposed to be annexed, and also in such municipal corporation. And such place or places shall be that or those commonly used as voting places within such municipal corporation, and also that or those commonly used within such new territory, if any such there be. Such legislative body is empowered to, and it shall, appoint the officers of such election, who shall

he, for each voting place in such municipal corporation, and for each voting place in said new territory, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election. The ballots used at such election, the opening and closing of the polls, and the holding and conducting of such election, shall be in conformity, as far as may be, with the general laws of this state concerning elections; and the judges and inspectors of such election shall immediately on the closing of the polls, count the ballots, make up and certify the tally sheets of the ballots cast at their respective polling places, seal, and then immediately return the same as below provided, doing so, as nearly as practicable, in the manner provided in the election laws of this state; but the ballots, tally sheets, and returns shall be so returned to and deposited with the clerk of such legislative body. Such legislative body shall, at the time provided for its regular meeting next after the expiration of three days from and after the date of said election, meet and proceed to canvass said returns; and such canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments, if possible, until said canvass is completed. Said canvass by such legislative body shall be conducted and completed as follows: The returns of the votes cast in said outside territory, so proposed to be annexed shall be canvassed separately; and the returns of the votes cast inside of said municipal corporation shall be canvassed separately. Immediately upon the completion of such canvass, said legislative body shall cause a record thereof to be made and entered upon its minutes, showing the whole number of votes cast in such outside territory, the whole number of votes cast in such municipal corporation, the number thereof cast in each in favor of annexation, and the number thereof cast in each against annexation; and it shall appear from such canvass that a majority of all the votes cast in such outside territory, and a majority of all the votes cast inside of said municipal corporation, are in favor of annexation, the clerk, or other officer performing the duties of clerk, of such legislative body, shall promptly make and certify, under the seal of said municipal corporation, and transmit to the secretary of state, a copy of said record, so entered upon said minutes, together with a statement showing the date of said election and the time and result of said canvass, which document shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed shall be deemed and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation, excepting as provided in section one a of this act. No territory which, at the time such petition for such proposed annexation is presented to such legislative body, forms any part of any incorporated town or city, shall be annexed under the provisions of this act. [Amendment approved May 11, 1917; Stats. 1917, p. 419.]

ACT 2374a.

An act to provide for the alteration of the boundaries of and for the annexation of territory to municipal corporations, for the incorporation of such annexed territory in and as a part thereof, and for the districting, government and municipal control of such annexed territory. [Approved June 11, 1913. Stats. 1913, p. 587.]

Amended 1915, p. 305; 1917, p. 26.

The amendment of 1917 follows:

§ 3. Should majority in outside territory favor. Question submitted in city. If it shall appear from the canvass of the returns of the election held in the territory proposed to be annexed to any municipal corporation, as provided in section two of this act, that a majority of all the votes cast in such outside territory on the question of such annexation are in favor of annexation, such legislative body may, by ordinance, approve such annexation, or, in case of failure to so approve, by ordinance, such annexation, shall then submit to the electors of such municipal corporation the question whether such territory shall be annexed to, incorporated in and made a part of such municipal corporation. Such question may be so submitted at the next general municipal election to be held in such municipal corporation, or it may be so submitted prior to such general election, either at a special election called therein for that purpose, or at any other special municipal election therein, except an election at which the submission of such question is prohibited by law. Whenever such question is submitted at any election in such municipal corporation, such question shall be stated in the notice of such election and on the ballots to be used at such election, and the electors shall vote thereon, in the same manner as hereinbefore provided in the case of the election in the territory proposed to be annexed. And whenever such question is submitted at any such municipal election, general or special, as above provided, it shall be submitted and voted upon as other questions are required by law to be submitted and voted upon at such elections, except in particulars otherwise in this act set forth; and the laws applicable to and governing the time and manner of giving notice, conducting holding, canvassing the returns, and declaring the result of any such election shall apply to and govern the submission of such question to the electors of such municipal corporation at any such election. [Amendment approved April 2, 1917; Stats. 1917, p. 26.]

§ 4. Record of votes cast. Should majority favor. Annexation complete. Territory of city may not be annexed. Immediately upon the completion of the canvass of the returns of any election in any municipal corporation at which the question of annexation of new territory thereto was submitted, as in this act provided the legislative body of such municipal corporation shall cause a record to be made, and entered upon its minutes, showing the total number of votes cast in such municipal corporation upon such question at such election, the number thereof cast in favor of annexation, and the number thereof cast against annexation. If it shall appear from the canvass of the returns of such election, that a majority of the qualified electors of such municipal

corporation voting on the question of such annexation are in favor thereof, the clerk or other officer performing the duties of a clerk of the legislative body of such municipal corporation shall make and certify, under the seal thereof, and transmit to the secretary of state, a copy of the record of the canvass of the returns of the election in such new territory and of the election in such municipal corporation at which the question of the annexation of the said new territory was submitted and entered upon its minutes as aforesaid, together with a statement showing the dates of such elections in said new territory and in said municipal corporation, and the time and the result of the canvass of the returns of such elections, and containing a description of such territory. If such annexation has been approved by ordinance of such legislative body, as herein authorized, a certified copy of such ordinance, giving the date of its passage, shall be substituted in said document in place of the copy of the record of the canvass of the returns of the election in such municipal corporation provided for in case such annexation was not approved by ordinance. Said document, in either case, shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed and described therein, shall be deemed to be and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation, excepting as hereinafter provided. No territory which, at the time of the presentation of a petition to the legislative body of any municipal corporation for the annexation of such territory thereto forms any part of any municipal corporation, shall be annexed under the provisions of this act. [Amendment approved April 2, 1917; Stats. 1917, p. 27.]

§ 5. Question of taxing annexed territory to pay indebtedness of city. Proposition submitted. Notice to specify improvements, etc. Majority favoring. Annexation complete. When property subject to taxation. Whenever any municipal corporation to which it is proposed to annex territory under the provisions of this act shall have incurred, or authorized the incurring of, any bonded indebtedness for the acquisition, construction or completion of any municipal improvement or improvements, the petition presented to the legislative body of such municipal corporation, as provided in section two of this act, may contain a request that the question to be submitted to the electors residing in the territory proposed by such petition to be annexed to such municipal corporation, shall be, whether such new territory shall be annexed to, incorporated in, and made a part of, said municipal corporation, and the property therein be, after such annexation, subject to taxation, equally with the property within such municipal corporation, to pay any specified portion of such bonded indebtedness of such municipal corporation, outstanding at the date of the filing of such petition or theretofore authorized. If such request shall be made in said petition, proceedings shall be had thereon, and an election shall be called and held in the territory proposed to be annexed, the same in all respects as upon a petition

presented under the provisions of section two of this act, excepting that the notice of election shall distinctly state the proposition to be submitted to wit: that it is proposed to annex to, incorporate in, and make a part of, such municipal corporation, the territory sought to be annexed, specifically describing the boundaries thereof, and that the property therein, shall, after such annexation, be subject to taxation, equally with the property within such municipal corporation, to pay such specified bonded indebtedness of such municipal corporation, outstanding at the date of the said annexation, or indebtedness theretofore authorized and to be represented by bonds of such municipal corporation thereafter to be issued. The said notice shall, in general terms, specify the improvement or improvements for which such indebtedness was so incurred or authorized, and state the amount or amounts of such indebtedness already incurred, outstanding at the date of the first publication of such notice, and the amount or amounts of such indebtedness theretofore authorized, and to be represented by bonds thereafter to be issued, and the maximum rate of interest payable, or to be payable on such indebtedness; and upon the canvass of the returns of the votes cast in any territory proposed to be annexed at any election held therein under the provisions of this section, if it shall appear that a majority of all the votes cast in such outside territory are in favor of annexation, the legislative body of such municipal corporation may, by ordinance, approve such annexation; or, in case of failure to so approve, by ordinance, such annexation, shall submit to the electors thereof the question whether such territory shall be annexed to, incorporated in and made a part of such municipal corporation. Such question may be so submitted to the electors of such municipal corporation in the same manner as provided in section three of this act, and if it shall appear from the canvass of the returns of the election in such municipal corporation at which such question shall have been submitted, that a majority of the qualified electors thereof voting upon the question of such annexation are in favor thereof, like proceedings shall thereupon be taken, and with the same force and effect as provided in sections three and four of this act. The provisions of sections two, three and four of this act, so far as applicable, shall apply to annexation under the provisions of this section. From and after the date of the filing in the office of the secretary of state of the document containing a copy of the record of the proceedings for the annexation of such new territory to such municipal corporation, as provided in section four of this act, the annexation of such territory so proposed to be annexed, and described therein, shall be deemed, and shall be, complete, and thenceforth such annexed territory shall be, to all intents and purposes a part of such municipal corporation, and the property within such annexed territory shall be taxed to pay the bonded indebtedness or liability of such corporation, specified in said notice, equally with the property within such municipal corporation as it existed prior to the filing of such petition.

The property in any such new territory annexed to any municipal corporation, under the provisions of this act, after twelve o'clock meridian of the first Monday in March, and before the completion of the assessment-roll of such municipal corporation, shall be subject to taxation for municipal purposes for the fiscal year following said first Monday in March. [Amendment approved April 2, 1917; Stats. 1917, p. 28.]

ACT 2383a.

An act to provide for the consolidation of municipal corporations.

[Approved June 11, 1913. Stats. 1913, p. 577.]

Amended 1915, p. 311; 1917, p. 30.

The amendment of 1917 follows:

§ 3. Should majority favor. Question submitted to larger city. If it shall appear from the canvass of the returns of the election mentioned in section two of this act, that a majority of all the votes cast in the municipal corporation in which such election was held, upon the question of consolidation submitted at such election, are in favor of such consolidation, the clerk of the legislative body of such municipal corporation, shall forthwith make, under the seal thereof, and deliver to the clerk of the legislative body of the other of the municipal corporations proposed to be so consolidated, to wit, the municipal corporation having the greater population, a copy in duplicate of the record of such canvass, together with a statement of the proposition submitted at such election. The clerk of the legislative body of such municipal corporation so having the greatest population shall present one such copy of said record and said statement to such legislative body without delay, and retain the other to be filed as hereinafter provided. Upon receiving the copy of such record so presented such legislative body may, by ordinance, approve such consolidation, or, in case of failure to so approve, by ordinance, such consolidation, shall then submit to the electors of such other of the municipal corporations so proposed to be consolidated and having the greatest population, the question whether such consolidation shall be effected. Such question may be so submitted at the next general municipal election to be held in such municipal corporation, or it may be so submitted prior to such general election, either at a special election called therein for that purpose, or at any other special municipal election therein, except an election at which the submission of such question is prohibited by law. Whenever such question is submitted at any election in such municipal corporation, such question shall be stated in the notice of such election and on the ballots to be used at such election, and the electors shall vote thereon, in the same manner as hereinbefore provided in the case of the election mentioned in section two of this act. And whenever such question is submitted at any such municipal election, general or special, as provided in this section, it shall be submitted and voted upon as other questions are required by law to be submitted and voted upon at such elections, except in particulars otherwise in this act set forth; and the laws applicable to and governing the time and manner of giving notice, conducting, holding, canvassing the returns, and declaring the result of any such election shall apply to and govern the submission of such question to the electors of such municipal corporation at any such election. [Amendment approved April 2, 1917; Stats. 1917, p. 30.]

§ 4. Declaration of result. Should majority favor. Consolidation complete. Immediately upon the completion of the canvass of the returns of any election in the municipal corporation having the greater population of two municipal corporations proposed to be consolidated, at which the question of such consolidation was submitted, as provided in section

three of this act, the legislative body of such municipal corporation having the greater population shall declare the result of such election, and shall cause a record to be made and entered upon its minutes, stating the proposition submitted, and showing the total number of votes cast in such municipal corporation upon the question of such consolidation at such election, the number thereof cast in favor of consolidation, and the number thereof cast against consolidation. If it shall appear from the canvass of the returns of such election, that a majority of the qualified electors of such municipal corporation, voting on the question of such consolidation, are in favor thereof, the clerk or other officer performing the duties of clerk of the legislative body of such municipal corporation shall promptly make and certify, under the seal thereof, and transmit to the secretary of state, a copy of the record of the canvass of the returns of the election in such municipal corporation having the greater population, at which the question of such consolidation was submitted, and entered upon its minutes as aforesaid, and one copy theretofore delivered to him as aforesaid, of the record of the canvass of the returns of the election in the other of the municipal corporations proposed to be consolidated, together with a statement showing the date of each such election in each such municipal corporation, and the time and result of the canvass of the returns of each such election. If such consolidation has been approved by ordinance of such legislative body, as herein authorized, a certified copy of such ordinance, giving the date of its passage, shall be substituted in said document in place of the copy of the record of the canvass of the returns of the election in such municipality provided for in case such consolidation was not approved by ordinance. Said document, in either case, shall be filed in his office by the secretary of state immediately upon receipt thereof. Upon the filing of said document in the office of secretary of state, such consolidation shall be deemed to be complete and such municipal corporations shall be deemed to be consolidated and the one of such municipal corporations not having the greatest population, shall be deemed to be, and shall be, annexed and joined to and merged into the one of said municipal corporations having the greatest population. [Amendment approved April 2, 1917; Stats. 1917, p. 31.]

§ 5. Question of taxation to pay bonded indebtedness. Notice to specify improvements. Canvass of returns. Majority favoring. Question submitted to larger city. When property subject to taxation. Whenever any two municipal corporations are proposed to be consolidated, under the provisions of this act, and either or both of such municipal corporations shall have theretofore incurred, or authorized the incurring of, any bonded indebtedness for the acquisition, construction or completion of any municipal improvement or improvements, the petition provided for in section two of this act may contain a request that the question to be submitted to the electors of the municipal corporation proposed to be consolidated shall be, whether such municipal corporation shall be consolidated, as hereinbefore in this act provided, and the property in such municipal corporations, shall after such consolidation, be subject to taxation at the same rate, to pay any of such bonded indebtedness specified in said petition; provided, however, that if such petition contains a request that the property in such municipal corporations be, after such consolidation, subject to taxation to pay all of the

bonded indebtedness incurred or authorized of such municipal corporations, such bonded indebtedness and improvements for which such bonded indebtedness was incurred or authorized may be described in such petition and in all other proceedings hereunder as "the bonded indebtedness of — (insert the names of the municipal corporations)," without specifying the improvements. If such request be made in such petition, proceedings shall be had thereon and the question of such consolidation shall be submitted to the electors in such municipal corporation not having the greatest population, the same in all respects as upon a petition presented under the provisions of section two, excepting that the notice of election shall, in addition to the matters required by said section, distinctly state that it is proposed that the property in such municipal corporations shall be taxed at the same rate to pay such bonded indebtedness set forth in said petition. Except as hereinabove provided, the said notice shall, in addition, in general terms specify the improvement or improvements for which such indebtedness was so incurred or authorized, and state the amount or amounts of such indebtedness already incurred, outstanding at the date of the first publication of such notice, and the amount or amounts of such indebtedness theretofore authorized, and to be represented by bonds thereafter to be issued, and the maximum rate of interest payable, or to be payable on such indebtedness.

The returns of such election held in pursuance of such notice shall be canvassed, as provided in section two of this act, by the legislative body of the municipal corporation in which such election was held, and immediately upon the completion of such canvass, such legislative body shall declare the result of such election and shall cause a record of such canvass to be made and entered upon its minutes, as provided in said section two, and there shall be included in such record a statement of such bonded indebtedness incurred and outstanding, or authorized, as set forth in the notice of such election, for the payment of which the property in said municipal corporations shall be subject to taxation as set forth in the notice of such election. If it shall appear from such canvass that a majority of all votes cast at such election upon the question of such consolidation, are in favor thereof, the clerk of such legislative body in which such election was held shall forthwith deliver a copy in duplicate of such record and statement to the clerk of the legislative body of the other of the municipal corporations so proposed to be consolidated, and having the greatest population. Thereupon the legislative body of such other municipal corporation having the greatest population may, by ordinance, approve such consolidation; or, in case of failure to so approve, by ordinance, such consolidation shall submit the question of such consolidation to the electors of such other municipal corporation at an election therein in the same manner in all respects as provided in this section for submitting to the electors in such municipal corporation not having the greatest population, and, in other respects, in the same manner as provided in section three of this act. After the passage of said ordinance approving such consolidation, or, if such consolidation was not approved by ordinance if, upon the canvass of the returns of such election it shall appear therefrom, that a majority of the votes cast at such election in such other municipal corporation having the greatest population, upon the question of such consolidation, are in favor thereof, the same proceeding shall be had

as provided in section four of this act, and such consolidation shall be deemed to be, and shall be, completed in the same manner, and with the same effect as in said section provided. After the completion of the consolidation of such municipal corporations, as hereinbefore provided, the property in said municipal corporations so consolidated shall thereafter be taxed at the same rate, to pay such bonded indebtedness set forth in said petition.

The property in any such municipal corporations consolidated, under the provisions of this act, after twelve o'clock meridian of the first Monday in March and before the completion of the assessment-roll of such municipal corporation having the greater population, shall be subject to taxation for municipal purposes by said consolidated city for the fiscal year following said first Monday in March. [Amendment approved April 2, 1917; Stats. 1917, p. 32.]

ACT 2389.

An act authorizing municipal corporations to permit other municipal corporations to construct and maintain sewers, water-mains, and other conduits therein, also to construct and maintain sewers, water-mains, and other conduits for their joint benefit, and at their joint expense, and to make and enter into contracts for said purposes.

[Approved March 22, 1909. Stats. 1909, p. 677.]

Amended 1911, p. 300; 1915, p. 93; 1919, p. 153.

The amendments of 1919 follow:

§ 4. Sewers, water-mains, etc. constructed by municipalities for joint use. Use of streets authorized. Whenever the city councils, sanitary boards or other legislative bodies of two or more municipal corporations, two or more sanitary districts, or one or more municipal corporations, and one or more sanitary districts, shall by resolutions adopted by them determine and declare that it will be for the interest or advantage of such municipal corporations or sanitary districts to do so, such municipal corporations or sanitary districts, by their respective councils, sanitary boards, or other legislative bodies, may enter into a joint agreement authorizing and providing for the joint construction and maintenance of sewers, water-mains, or other conduits situated in the streets or other public places of either or any of such municipal corporations or sanitary districts, including the joint construction and maintenance of all necessary outfall sewers, whether constructed within or outside of the exterior boundaries of such municipal corporations or sanitary districts, and by such joint agreement shall provide for the joint payment of the cost and expense of and for the joint use, benefit and maintenance of all such sewers, outfall sewers, water-mains and other conduits, upon such terms and conditions, and under such regulations, as may be approved by the city councils, sanitary boards or other legislative bodies of all such municipal corporations or sanitary districts; and the city council, sanitary board or other legislative body of each such municipal corporation or sanitary district may, and are hereby vested with power to, bind and obligate such municipal corporations or sanitary districts to pay such proportionate part of the cost of the construction of such sewer, outfall sewer, water-mains, or other conduits, at such times and in such installments as may be pro-

vided for in such join agreement. All contracts for the construction of sewers, outfall sewers, water-mains, or other conduits, under the provisions of this section shall be made and entered into by the one of such municipal corporations or sanitary districts designated by the city councils, sanitary boards or other legislative bodies of all such municipal corporations or sanitary districts, and in the manner provided in section three of this act. Two or more municipal corporations, two or more sanitary districts, or one or more municipal corporations, and one or more sanitary districts, may also, by their city councils, sanitary boards, or other legislative bodies, enter into an agreement or agreements with each other for the joint use by such municipal corporations or sanitary districts, of any sewers, outfall sewers, water-mains, or other conduits theretofore, constructed in whole or in part in the streets or other public places of either or any such municipal corporations or sanitary districts, upon such terms and conditions as they by mutual agreement may by their respective city councils, sanitary boards or other legislative bodies, determine to be proper. Authority is hereby specifically granted to use the streets within the public corporations entering into such an agreement, for the construction and maintenance of sewers provided for by this section, and whenever it is necessary to extend such sewers without the limits of the public corporations entering into such joint or mutual agreement then authority is hereby granted to use public highways without the limits of an incorporated city for the construction and maintenance of such sewers subject only to the right of the board of supervisors to make reasonable police regulations for the protection of the highways so used [Amendment approved May 3, 1919; Stats. 1919, p. 153.]

§ 5. Payment for joint construction. Whenever any municipal corporation or sanitary district shall enter into a joint agreement for the joint construction and maintenance of sewers, outfall sewers, water-mains or other conduits, as provided for in section four of this act, then the proportionate part of the cost and expense of the construction and maintenance of such sewers, outfall sewers, water-mains or other conduits required to be paid by such municipal corporation or sanitary district, as provided for in the joint agreement entered into by any such municipal corporation or sanitary district, may be raised by any means provided by law including the issuance and sale of the bonds of such municipal corporation or sanitary district. [New section added May 3, 1919; Stats. 1919, p. 153.]

§ 6. Right of eminent domain. Whenever, in the construction of any sewer, outfall sewer, water-main or other conduit authorized or provided for by this act it shall become necessary to take or damage private property, all such property necessary may be condemned and taken by appropriate action under the right of eminent domain. Such action shall in all respects be subject to and governed by the Code of Civil Procedure relating to eminent domain; provided, that all such actions may be brought by and in the name of the one of the municipal corporations or sanitary districts designated by all of the municipal corporations or sanitary districts which have entered into such joint agreement for the construction thereof. [New section added May 3, 1919; Stats. 1919, p. 153.]

ACT 2389k.

An act granting to any city of the state whose corporate limits include or bound upon any harbor, bay, estuary, or other navigable body of water, the power to improve the same and to establish, acquire, construct, improve and maintain in, upon and along the waters thereof works for use in connection therewith.

[Approved April 6, 1917. Stats. 1917, p. 72. In effect July 27, 1917.]

§ 1. Cities authorized to maintain piers, etc. Property rights not affected. Any city of this state whose corporate limits include or bound upon any harbor, bay, estuary, or other navigable body of water, is hereby granted power to establish, acquire, construct, improve and maintain in, upon and along the waters of any such harbor, bay, estuary, or other navigable body of water, piers, docks, wharves, bulkheads, quays, and other necessary works for use in connection therewith, and power to construct, improve, dredge, deepen or straighten, channels, turning basins, canals, slips and waterways to, from and along any of the aforesaid works, and connecting with any other navigable water either within or without the limits of such city, and to do any and all other things necessary or convenient to the establishment, improvement, conduct and maintenance of a harbor, and in furtherance of commerce and navigation. Nothing herein, however, shall be deemed or construed to affect or limit the use and enjoyment by persons, firms or corporations of their property or property rights; nor shall anything in this act be construed or deemed to grant to any city the right to destroy, injure, impair or interfere with any private or quasi-public property or property rights, leasehold or otherwise, or to the use and enjoyment thereof.

ACT 2389 l.

An act providing for hours of rest for persons employed by municipal corporations during more than one hundred twenty hours per week, and prescribing penalties for violations hereof.

[Approved June 1, 1917. Stats. 1917, p. 1644.]

§ 1. Hours of rest for certain municipal employees. Any person in the employ of a municipal corporation and whose hours of labor exceed one hundred twenty hours in a calendar week of seven days, shall be entitled to be off duty at least three hours during every twenty-four hours for the purpose of procuring meals and no deduction of salary shall be made by reason thereof.

§ 2. Penalty. Any officer or agent of a municipal corporation having supervision and control of the employees referred to in section one hereof who shall violate the provisions hereof shall be guilty of a misdemeanor and shall be punishable as provided in section nineteen of the Penal Code.

ACT 2389m.

An act to provide for the formation of special municipal tax districts within municipalities for the acquisition, construction or operation of public improvements, works or utilities of local necessity or convenience, or for the furnishing of special local service; and for the

acquisition, construction or operation of such improvements, works or utilities, or the furnishing of such service by or for such district.

[Approved May 16, 1919. Stats. 1919, p. 546.]

§ 1. Special municipal tax districts for constructing improvements, etc. Any portion of a municipality incorporated under the laws of the state may be formed into a special municipal tax district for the purpose of levying upon the taxable property in such district a special tax not to exceed fifteen cents per annum on each one hundred dollars of assessed valuation, the proceeds from which shall be used for the acquisition, construction or operation of any public improvement or work or utility of local necessity or convenience, or for the furnishing, performing or doing of any special local service, which such municipality is authorized by law to acquire, construct, operate, furnish, perform or do, including music, recreation or advertising. Such districts shall be formed and such tax levied in the manner and under the proceedings hereinafter set forth. Such districts may be formed to continue one, two, three, four or five years, and such special tax may be levied each year for such period of time.

§ 2. Petition to form district. Resolution of intention. What ordinance shall contain. Whenever a petition signed by not less than ten per cent of the qualified electors residing in the territory which is proposed to be formed into a special municipal tax district, setting forth a general description of the improvement, work or utility to be acquired, constructed or operated, or the special local service to be furnished, performed or done, a general description of the exterior boundaries of such proposed district, and a statement of the duration of such district and the maximum annual special tax proposed to be levied, shall have been filed in the office of the clerk of the legislative body of said city, said legislative body may adopt an ordinance or resolution declaring its intention to call an election in said proposed district, or as the same shall have been modified as hereinafter provided, for the purpose of submitting to the qualified electors of said district the proposition of authorizing the formation of such special municipal tax district and the levying therein of a special tax in the manner and for the purpose set forth in said ordinance or resolution of intention. In said ordinance or resolution of intention said legislative body shall have power to change or modify the boundaries of said district and the nature, character or extent of such proposed public improvement, work, utility, or local service. Said ordinance or resolution of intention shall also contain:

1. A description of the exterior boundaries of the proposed special municipal tax district;

2. A general description of the improvement, work, utility or local service proposed to be acquired, constructed, operated, furnished, performed or done;

3. The maximum annual special tax proposed to be levied, and the number of years, not exceeding five years, that it is proposed said special tax shall be levied, and said proposed district shall remain in existence;

4. A statement that an election will be called in said district for the purpose of submitting to the qualified electors thereof the proposition of the formation of such special municipal tax district and the levying

therein of said special tax to pay the cost and expenses of the proposed improvement, work, utility or local service, and that a map showing the exterior boundaries of said district with relation to the territory immediately contiguous thereto, and a general description of the proposed improvement are on file in the office of the clerk of the legislative body of such city;

5. A date, hour and place fixed for the hearing of protests.

§ 3. Publication of ordinance. Said ordinance or resolution shall be published once a day for at least six days in some newspaper of general circulation published at least six days a week in said city, or once a week for two weeks in some newspaper published less than six days per week in such municipality, and one insertion each week for two succeeding weeks shall be a sufficient publication in such newspaper published less than six days per week. Such ordinance or resolution shall take effect upon the completion of said publication. In municipalities where no such newspaper is published, such ordinance or resolution shall be posted in three public places therein, and shall take effect two weeks after the date of such posting of notice.

§ 4. Objections to formation of district. Notice of intention to change boundaries. Objections. Any person interested, objecting to the formation of said district, or to the extent of said district, or to the proposed improvement or work, or to the acquisition, construction, or operation of the proposed utility, or to the special local service, to be furnished, performed or done, or to the inclusion of his property in said district, may file a written protest, setting forth such objection, with the clerk of said legislative body at or before the time set for the hearing of said protests. The clerk of said legislative body shall indorse on each such protest the date of its reception by him, and, at the time appointed for the hearing above provided for, shall present to said body all protests so filed with him. Said legislative body shall hear said protests at the time appointed, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision thereon shall be final and conclusive. If any of such protests against the proposed improvement or work, or against the acquisition, construction, or operation of the utility, or against the special local service to be furnished, performed or done, be sustained, no further proceedings shall be had or taken pursuant to such petition, but a new petition for the same or a similar purpose may be filed at any time after the expiration of six months from the date such protest was sustained. If any of such protests be against the extent of said district, or against the inclusion of property in said district, then the legislative body shall have power to make such changes in the boundaries of the proposed district as it shall find to be proper and advisable, and shall define and establish such boundaries, but said legislative body shall not modify such boundaries so as to include any territory which will not, in its judgment, be benefited by said improvement, work, utility, or special local service.

Said legislative body shall not modify such boundaries except after notice of its intention so to do, given by one insertion in said newspaper or by posting in three public places in municipalities where no such newspaper is published, describing the proposed modification, and specifying a time for hearing objections to such modification, which

time shall be at least ten days after the publication of said notice. Written objections to said proposed modification may be filed with the clerk of said legislative body by any interested person at or before the time set for hearing the same. Said legislative body shall hear and pass upon such objections at the time appointed, or at any time to which the hearing thereof may be adjourned, and its decision thereon shall be final and conclusive. If such objections, or any of them, be sustained, no further proceedings pursuant to such petition shall be taken, but a new petition for the same or a similar purpose may be filed at any time after the expiration of six months from the date such protest was sustained.

At the expiration of the time within which protests may be filed, if none be filed, or if protests be filed and after hearing be denied, or at the expiration of the time within which objections to the modifications of the boundaries of the district, in case such modification be proposed, may be filed, if none be filed, or if such objections be filed, and, after hearing, be overruled, as above provided, then said legislative body shall be deemed to have acquired jurisdiction to proceed further in accordance with the provisions of this act.

§ 5. Election for formation of district. Ordinance calling election. At any time after said legislative body shall have so acquired jurisdiction, it may call an election to be held within the district described in said ordinance or resolution of intention, or as the same may have been modified as above provided, and provide for the submission to the qualified electors thereof, the proposition of the formation of such special municipal tax district and the levying therein of a special tax for the purposes set forth in said ordinance or resolution of intention. The ordinance or resolution calling such election shall recite the objects and purposes for which the proposed special tax is to be incurred, the nature of the improvement, work, utility, or local service contemplated thereby, the estimated cost thereof, the maximum amount of the special tax annually to be levied therefor, and whether such tax shall be levied for one, two, three, four or five years; and shall fix the date on which such election shall be held, the manner of holding the same and the manner of voting for or against said proposition.

§ 6. Publication of ordinance. Majority vote shall establish district. For the purposes of said election said legislative body shall in said ordinance or resolution establish one or more voting precincts within the boundaries of said district, designate a polling place and appoint one inspector, one judge and one clerk for each such precinct. Said ordinance, or resolution, ordering the holding of said election shall, prior to the date fixed for such election, be published five times in a daily, or twice in a weekly or semi-weekly newspaper of general circulation, printed and published in said city, and designated by said legislative body for such purpose. In cities where no such newspaper is published, such ordinance, or resolution, shall be posted in three public places therein, two weeks preceding the date fixed for the holding of such election. No other notice of such election need be given. In all particulars not otherwise provided in this act, such election shall be held as near as may be in conformity with the law for the holding of municipal elections in such city. If at such election a majority of all the voters voting upon such proposition at said election shall vote in favor

of the formation of such special municipal tax district and the levying therein of such special tax, then such legislative body shall thereupon be authorized and empowered to declare such special municipal tax district formed and to levy such special tax. After an election based upon any such petition, the sufficiency of such petition or any proceedings had prior to such election, in any respect, shall not be subject to judicial review or be otherwise questioned, nor shall any defect or irregularity in any proceedings prior to such election affect the validity of the formation of such district or any proceedings or acts had or done subsequent thereto in carrying out the objects or purposes of this act.

§ 7. Tax levy. The legislative body of such city shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect a special tax not exceeding said maximum rate, upon the taxable property in such district as set forth in the ordinance calling said election. Such tax shall be in addition to all taxes levied for municipal purposes and when collected shall be paid into the treasury of such city and be used for the purposes set forth in the ordinance calling said election.

§ 8. Municipality to act on behalf of district. Municipal officers to be district officers. Appointment of other officers and employees. Said municipality shall, by and through its proper officers, have full power and authority on behalf of such district, to expend the proceeds acquired from such special tax for the purposes or objects set forth in the ordinance or resolution calling said election, and shall also have full power and authority to acquire, construct or operate such improvements, works or utilities, or to furnish, perform or do such special local service, and such improvements, works or utilities, or special local service, so acquired, constructed or furnished shall be the property of such municipality for the benefit of such district.

The legislative body and all other officers, boards or commissions of such municipality, their assistants, deputies, clerks and employees, shall be ex officio the legislative body, officers, boards, commissions, assistants, deputies, clerks and employees, respectively, of such special municipal tax district, and shall respectively perform, unless otherwise provided by said legislative body, the same various duties for said district as they are lawfully required to perform for said municipality, without additional compensation, in order to carry out the provisions of this act.

Said legislative body may in its discretion provide for the appointment of such other officers and employees for said district as in its judgment may be deemed necessary, and prescribe their duties and fix their compensation, which said officers and employees shall hold office during the pleasure of said legislative body and shall not be subject, in their appointment and removal, to the civil service provisions, if any, of such municipality.

§ 9. Name of district. Any district formed under the provisions of this act shall be known as special municipal tax district number (inserting number) of the city of — (inserting the name of the municipality in which such district is located).

§ 10. Intent of act. This act shall not affect any other act or acts relating to the same, or a similar subject, but it is intended to provide

an alternative method of procedure governing the subject to which it relates.

§ 11. Construction. The provisions of this act shall be liberally construed to effect the purpose thereof.

ACT 2389n.

An act authorizing cities of the third class whose corporate limits include or front upon any harbor, channel, estuary or other navigable body of water, to do certain acts necessary or convenient to the establishment, improvement, conduct and maintenance of a harbor; to do certain acts, either within or without the corporate limits of such cities, in furtherance of commerce and navigation; to incur indebtedness to carry out the purposes defined herein and to issue and sell bonds for the purpose of securing funds for the payment thereof.

[Approved May 16, 1919. Stats. 1919, p. 712. In effect July 22, 1919.]

§ 1. Harbor improvements in cities of third class. Any city of the third class of this state, whose corporate limits include or front upon any harbor, channel, estuary, or other navigable body of water is hereby granted power to establish, acquire, construct, improve and maintain, in, upon or along the waters of any such harbor, channel, estuary or other navigable body of water, piers, docks, bulkheads, quays, railroads, bridges and other necessary works in connection therewith on property owned by said city. Any such city is further granted power to construct, improve, dredge, deepen or straighten channels, turning basins, canals, slips and waterways to, from and along any of the aforesaid works, and connecting with any other navigable water, either within or without the corporate limits of such city, and to do any and all other things necessary or convenient, either within or without said corporate limits, to the establishment, improvement, conduct and maintenance of a harbor and in furtherance of commerce and navigation.

§ 2. Authority to incur indebtedness. Any such city is hereby authorized to incur an indebtedness for any or all of said purposes hereinabove specified and for the purpose of providing a fund or funds for the payment of such indebtedness, is hereby authorized to issue and sell its bonds therefor.

ACT 2389o.

An act to provide for and regulate municipal elections in cities of the fifth and sixth class.

[Approved May 27, 1919. Stats. 1919, p. 928. In effect July 27, 1919.]

§ 1. Elections in cities of fifth and sixth class. All general municipal elections at which city officials are to be voted for in cities of the fifth and sixth class, shall be held and conducted in accordance with the provisions of this act.

§ 2. Notice of election. Form. Not earlier than the sixtieth day nor later than the twentieth day before any such election, the city clerk shall cause a notice of the same to be published at least once in one

or more newspapers published and circulated in such city. Said notice shall be headed "Notice of Election," and shall contain a statement of the time of the election, the offices to be filled thereat, (specifying short terms, if there be any), propositions to be voted on, if any, and briefly, a general description of the voting precincts and location of the polling places. In case there is no newspaper published and circulated in such city, said notice shall be typewritten and copies thereof shall be posted conspicuously within said time in at least three public places in said city. Said notice shall be substantially in the following form:

Notice of Election.

Notice is hereby given that a general municipal election will be held in the — of —, on Monday, the — day of April, 19—, for the following offices: (name them). (In case there are any propositions to be submitted, add the following clause.) The following propositions will be submitted at said election: (Give brief synopsis of same).

There will be — voting precincts for the purpose of holding said election, consisting of a consolidation of the regular election precincts established for holding the last general state or county election as follows: Consolidated voting precinct "A" comprising state and county precincts numbers one, two and three, and the polling place thereof shall be at (stating place); consolidated voting precinct "B" comprising state and county election precincts numbers four, five and six, and the polling place thereof shall be at (stating place).

The polls will be open between the hours of — M. and — M.

_____,
City clerk.

Dated, —.

§ 3. Precincts. The voting precincts for such general municipal elections shall consist of a consolidation of any two or more of the regular election precincts established for the last state or county election.

§ 4. Election officers. For every such general municipal election the board of trustees shall appoint one inspector, two judges and two clerks as election officers to have charge of such election in and for each such consolidated voting precinct. The board of trustees may, in their discretion, advertise for election officers, or they may appoint such officers from the register of applicants for such positions on file with the county clerk; provided, that other things being equal, preference shall be given for ability and previous experience. Each election officer must be an elector and a resident of the consolidated voting precinct for which he is appointed. Said election officers shall receive such compensation as the board of trustees may deem just.

§ 5. Nomination of candidates. Form of nomination papers. Candidates may be nominated for any of the elective offices of such city in the manner following:

Not earlier than the sixtieth day nor later than twelve o'clock noon on the twentieth day before such election, the electors may nominate candidates for such election by signing a nomination paper such as hereinafter set forth. Each candidate shall be proposed by not less than five nor more than ten qualified electors, but only one candidate shall be named in any one nomination paper. No elector may sign more than

one nomination paper for the same office, but each seat on the board of trustees shall be deemed a different office. Any person or persons may circulate a nomination paper.

The signatures to each nomination paper shall all be appended on the same sheet of paper and each signer shall add thereto his occupation, date and place of residence (giving the street and number [if such there be] otherwise such designation of his place of residence as will enable the location to be readily ascertained). All such nomination papers shall be filed with the city clerk not later than twelve o'clock noon on the twentieth day before such election, and shall be accompanied by a verified statement of the candidate that he will accept the nomination, and also accept the office in the event of his election. Said nomination papers and affidavit shall be substantially in the following form:

Nomination Paper.

We, the undersigned electors of the city of — hereby nominate — for the office of — of said city.

Name.	Occupation.	Date.	Residence.
.....
.....
.....
.....

Affidavit of Nominee.

State of California }
County of — } ss.

— being duly sworn, says that he is the above-named nominee for the office of —, and that he will accept said office in the event of his election.

Subscribed and sworn to before me this — day of —, 191—.

Notary public in and for the county of —, State of California.

§ 6. Publication of names of nominees. Form of notice. It shall not be necessary to print or send out sample ballots for such election, but the city clerk shall publish a list of the names of the nominees, in alphabetical order and the respective offices for which they have been nominated at least twice before the day of election in one or more daily or weekly newspapers published in such city. Said list shall be headed, "Nominees for public office," in conspicuous type, and be substantially in the following form:

Nominees for Public Office.

Notice is hereby given that the following persons have been nominated for the offices hereinafter mentioned to be filled at the general municipal election to be held in the city of —, on Monday, the — day of April, 19—.

(Here follow with the list of nominees.

In case any propositions are to be voted on, set them forth also.)

Dated, —.

—, City clerk.

§ 7. Election booths and supplies. The city clerk shall procure the necessary voting booths and see that they are properly erected; he shall also have the necessary ballots printed and secure the necessary ballot-boxes, stamps, ink-pads, voting lists, roster, instruction cards, affidavits of registration and index thereto, tally lists, returns, envelopes, and all other necessary supplies, and see that they are properly distributed to each voting booth prior to the opening of the polls on the day of election.

§ 8. Ballots. Instructions to voters. Printing, etc., of ballots. All official ballots shall have the names of the candidates printed thereon in a column four inches in width, each name occupying a separate place divided by fine lines one-half an inch apart, and having below the printed list, the necessary blank space or spaces to permit the elector to write in the name or names of other persons not printed on the ballot. The names shall be printed on the ballot in alphabetical order.

Each group of candidates to be voted on shall be headed by the designation of the office and the words "Vote for One" or "Vote for Two," or more as the case may be, according to the number to be elected to such office; and where the office is for a short or unexpired term, the same shall be so specified. On the top of the face of the ballot the following directions shall be printed:

Instructions to Voters.

To vote for a candidate of your selection, stamp a cross (X) in the voting square next to the right of the name of such candidate. Where two or more candidates for the same office are to be elected, stamp a cross (X) after the name of all the candidates for that office for whom you desire to vote not to exceed, however, the number of candidates who are to be elected. If the ballot does not contain the names of candidates for all offices for which you may desire to vote, you may vote for candidates for such offices so omitted by writing the name of the candidate for whom you wish to vote in the blank space left for that purpose. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank space left for that purpose.

To vote on any question, proposition or constitutional amendment, stamp a cross (X) in the voting square after the word "Yes" or after the word "No." All marks, except the cross (X) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot, return it to the inspector of election and obtain another.

A separate parallel column four inches in width shall be provided for any questions or propositions to be submitted at such election. The right side of each column shall be set off by a light vertical line so as to form half-inch squares or voting spaces.

The ballots shall be printed on tinted paper containing a water-marked design, and they shall be kept secret from all persons not engaged in the preparation of the ballots until the day of election. The printing, perforating, padding, numbering, and amount of the ballots, and the kind of type used in printing the same, shall be substantially the same, as nearly as may be, as is used for the preparation of ballots for state and county elections, except as may be otherwise herein provided.

§ 9. Bound in books. All ballots, when printed, shall be bound in stub-books, each book to consist of ten, or some multiple of ten ballots, and so issued. A record of the number of ballots printed by them shall be kept by the city clerk.

§ 10. Registration. At any such municipal election, the original affidavits of registration, or carbon copies thereof, shall be used therefor, and no person shall be entitled to vote at such election unless he has registered and shall have resided in the city at least thirty days prior to the day of election.

§ 11. Index to registration books. Before opening the polls the election board must post in separate convenient places, at or near the polling place and easy of access to the electors not less than four of the copies of the index to the book of affidavits of registration furnished for that precinct.

§ 12. Oath of election officers. Before opening the polls, the election officers must take and subscribe to an oath to faithfully perform the duties imposed upon them by law. Any elector of the city may administer and certify to such oath.

§ 13. Booths. The clerk shall provide a sufficient number of voting booths or compartments to accommodate the voters, and of such a character that each voter in the marking of his ballot will be screened from the observation of others.

§ 14. Care of ballot-box. Before receiving any ballots the election board shall, in the presence of such persons as may be assembled at the polling place, open, exhibit and close the ballot-box; and thereafter it must not be removed from the polling place or presence of the bystanders, until all the ballots have been counted, nor must it be opened until after the polls are finally closed.

§ 15. Opening and closing polls. The polls must be and remain open on the day of such an election between such hours as the board of trustees may determine, but not less than eight consecutive hours. The hours of opening and closing the polls shall be specified in the notice of election, otherwise such hours shall be the same as those provided for general state elections. Before the board receive any ballots, they must cause it to be proclaimed aloud at the place of election that the polls are open.

§ 16. Manner of voting. Any elector desiring to vote shall write his or her name and address on the roster provided for that purpose. If

no challenge is interposed, or if a challenge be interposed and overruled, the election officer shall give him a blank ballot, after registering the number of the same. The voter shall then be permitted to enter the voting booth and stamp his ballot. No persons shall be permitted within six feet of any voting booth except those voting or those assisting voters in the manner authorized by law. Before leaving the booth the voter shall fold the ballot so that the number thereof only is visible. He shall then hand it to the inspector who shall announce the name of the voter and number of his ballot. If found to correspond, the inspector shall tear off the number from the ballot and deposit the ballot in the ballot-box. Any member of the election board may administer and certify oaths required to be administered during the progress of the election.

§ 17. Assisting voters. Voters who cannot read, or by reason of physical disability are unable to mark their ballots may be assisted in voting in the manner provided by section one thousand two hundred eight of the Political Code.

§ 18. Challenges. Voters may be challenged and the challenge disposed of as provided in sections one thousand two hundred thirty-one to one thousand two hundred forty-two inclusive of the Political Code.

§ 19. Spoiled ballot. Any voter who shall spoil a ballot shall return the same to the inspector and obtain another. The inspector shall thereupon cancel the spoiled ballot by drawing two crossed lines over the face thereof in ink.

§ 20. Closing polls. When the polls are closed that fact must be proclaimed aloud at the place of election; and after such proclamation, no ballot must be received; provided, however, that if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote.

§ 21. Defacing unused and spoiled ballots. Immediately upon the closing of the polls, and before opening the ballot-box and proceeding to count the ballots, the inspector shall deface all the unused and spoiled ballots by drawing across the face thereof, in red ink, with a pen, two lines which shall cross each other; and all spoiled and unused ballots shall be placed within and sealed in an envelope before the ballot-box is opened.

§ 22. Canvass of vote. As soon as the polls are finally closed the officers must immediately proceed to canvass the votes given at such election. The canvass must be public, in the presence of bystanders, and must be continued without adjournment until completed and the result thereof is declared.

§ 23. Ballots folded together. If two or more separate ballots are found so folded together as to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed; then, if upon comparison of the count with the number of names of electors on the lists which have been kept by the clerks, it appears that the two ballots thus folded together were cast by one elector, they must be rejected.

§ 24. Ballots in excess of names on list destroyed. The ballots must be immediately replaced in the box, and if the ballots in the box exceed in number the names on the lists, one of the officers must publicly, and without looking into the box, draw out therefrom singly, and destroy, unopened, a number of ballots equal to such excess; and the board of election must make a record, upon the poll list of the number of ballots so drawn and destroyed. The number of ballots agreeing or being thus made to agree with the number of names on the lists, the lists must be signed by the members of the board.

§ 25. Count. After the lists are thus signed, the board must proceed to open the ballots and count and ascertain the number of votes cast for each person voted for. All ballots rejected for illegality must have indorsed upon the ballot the cause of such rejection, and be signed by a majority of the election board, and thereafter strung upon a string.

§ 26. Tallies. Each clerk must write down each office to be filled, and the name of each person marked in each ballot as voted for, to fill such office, and keep the number of votes by tallies, as they are read aloud. Such tallies must be made with pen and ink as the name of each candidate voted for is read aloud from the respective ballot, and immediately upon the completion of the tallies the clerks who respectively complete the same must draw two heavy lines in ink from the last tally mark to the end of the line in which such tallies terminate, and also write the initials of the person making the last tally in such line. The ballot so read and the tally sheet so kept must, during the reading and tallying, be within the clear view of watchers at the count.

§ 27. Rules for counting ballots. (a) In canvassing the votes any ballot which is not marked as provided by law shall be void; but such ballot must be preserved and returned with the other ballots; provided, however, that two or more impressions of the voting stamp in one voting square, or a cross (X) made partly within and partly without a voting square or space shall not make such ballot void. Any name written upon a ballot shall be counted for such name for the office under which it is written, provided it is written in the blank space therefor, whether or not a cross (X) is stamped or made with pen or pencil in the voting square after the name so written.

(b) If a voter marks more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the voter's choice for any office to be filled, his ballot shall not be counted for such office.

(c) If a voter stamps in the voting square after the name of any candidate and also writes the name of a person for such office in the blank space, such act does not invalidate his ballot, but his vote shall not be counted for any person for that office, but as to all other offices the ballot must be counted for the candidates opposite whose names the ballot is stamped in the voting squares.

(d) No mark upon a ballot which is unauthorized by this act shall be held to invalidate such ballot, unless it shall appear that such mark was placed thereon by the voter for the purpose of identifying such ballot.

§ 28. After counting. The ballot, as soon as the names marked on it as voted for are read and verified, must be strung on a string by one of

the officers and must not thereafter be examined by any person, but must, as soon as all are counted, be carefully sealed in a strong envelope, each member of the board writing his name across the seal.

§ 29. Lists containing number of votes. As soon as all the votes are counted and the ballots sealed up, lists must be attached to the tally lists containing the names of persons voted for and for what office, and the number of votes given for each candidate, the number being written at full length, and such lists must be signed by the members of the board.

§ 30. Lists sent to city clerk. Posting returns. Returns sent to city clerk. The board must, before it adjourns, inclose in a cover, and seal up and direct to the city clerk, the copy of the register upon which one of the officers marked the word "voted" as the ballots were received, all certificates of registration received by it, one of the lists of the persons challenged, one copy of the list of voters, and one of the tally lists, and list attached thereto. The board must also, before it adjourns, post conspicuously, on the outside of the polling place, a copy of the result of the votes cast at such polling place; such copy of the result must be signed by the members of the board. The board must also immediately transmit unsealed to the city clerk a copy of the result of the votes cast at such polling place, which copy must be signed by the members of the board, and which copy shall be open to the inspection of the public. It shall be a misdemeanor for any person to remove or deface such posted copy of the result or to delay or change the copy to be delivered to the city clerk.

§ 31. Other lists sent to county clerk. The other lists of voters, tally list and list attached thereto must be sent to the city clerk or registrar and retained by him open to inspection of all electors for at least six months.

§ 32. Delivery of sealed packages. The sealed packages containing the register, lists, papers, and ballots, must, before the board adjourns, be delivered to one of its members, to be determined by lot, unless otherwise agreed upon.

§ 33. Delivery of packages. What packages to contain. The member to whom such packages are delivered, must, without delay, deliver such packages without their having been opened, to the city clerk, who shall indorse on such packages the name of the party delivering them and date of such delivery.

One package to contain the voted ballots, only; one package to contain one poll and tally list only; one package to contain the precinct registers, index to register, list of voters challenged, and list of assisted voters; and one package to contain the unused ballots.

§ 34. Ballots kept twelve months. On receipt of the packages the clerk must file the one containing the ballots, and must keep it unopened and unaltered for twelve months, after which time, if there is not a contest commenced in some tribunal having jurisdiction about such election, he must burn the package without having opened or examined its contents.

§ 35. Canvass of returns by board of trustees. The board of trustees must meet at their usual place of meeting, on the first Monday after such election, to canvass the returns and install the newly elected officers.

The board of trustees must declare elected the persons having the highest number of votes given for each office. Upon the completion of the canvass and before installing the new officers, the board shall pass a resolution reciting the fact of the election and such other matters as are enumerated in the following section.

§ 36. Statement of result. The clerk of the board must, as soon as the result is declared, enter on the records of such board a statement of such result, which statement must show:

1. The whole number of votes cast in the city;
2. The names of the persons voted for, and the propositions voted upon;
3. The office to fill which each person was voted for;
4. The number of votes given at each precinct to each of such persons, and for and against each of such propositions;
5. The number of votes given in the city to each of such persons, and for and against each of such propositions voted upon.

§ 37. Certificate of election. The city clerk must immediately make out and deliver to each of such persons elected a certificate of election, signed by him, and duly authenticated; he shall also impose the constitutional oath of office and have them subscribe thereto.

§ 38. Campaign expenditures. It shall not be necessary for any candidate or nominee for a municipal office to file a statement of his expenditures used in aid of his election.

§ 39. General election law of state to apply. In all other respects, not otherwise provided for herein, such general municipal elections shall be held and conducted in accordance with the general election laws of the state so far as the same may be applicable. This act shall be liberally construed to promote the objects hereof, and no error, omission or irregularity shall ever be held to invalidate such an election providing the provisions of this act have been substantially complied with.

ACT 2389p.

An act to provide for the maintenance by municipalities of lighting systems along public streets, alleys and other public places and for the lighting thereof by electric current, gas or other illuminating agent; and for the assessment of the cost and expense thereof upon the property benefited and the manner of collecting such assessments.

[Approved May 16, 1919. Stats. 1919, p. 612. In effect July 22, 1919.]

§ 1. Authority to order works for municipal lighting district. Whenever the public interest or convenience may require, the city council of any municipality in this state in which a district has been established for lighting streets, alleys and other public places, shall have full power and authority to order the poles, posts, wires, pipes, conduits, lamps and other necessary works and appliances already installed in

or along the whole or any part of any one or more of the public streets, alleys or other public places in such municipality, for lighting purposes, to be maintained, and to order electric current, gas or other illuminating agent to be furnished for such lighting service for a period to commence at a time to be stated in the contract hereinafter provided, but not to exceed five years, from the date thereof, in the manner and under proceedings hereinafter provided.

§ 2. Resolution of intention. Report of board in charge of public improvements. Before ordering any improvement to be made which is authorized by section one of this act, the city council shall adopt a resolution declaring its intention so to do, briefly describing the proposed improvements and designating said district by describing the exterior boundaries thereof to be benefited by said improvements and to be assessed to pay the costs and expenses thereof, and to be known as the assessment district; provided, however, that the city council may, in its discretion, order in said resolution of intention that a certain portion or percentage of the costs and expenses of said improvement, the amount of which portion or percentage shall be specified in said resolution, shall be paid out of the treasury of such municipality from such fund as the city council may designate. The city council shall, in said resolution of intention, provide that the maintenance of said appliances and the furnishing of said electric current, gas or other illuminating agent shall be for a period stated in said resolution of intention, but not exceeding five years. The city council shall also in the same resolution refer the proposed improvement to the board, commission or officer of the city having charge and control of the construction of public improvements of the kind described in such resolution or to the city engineer or to such other board or officer of the city, or competent person employed by the city for such purpose, as the council may name in said resolution, and direct such board, commission, officer or person to make and file with the clerk of the council a report in writing, presenting the following:

- (a) Plans and specifications of the proposed improvement.
- (b) An estimate of the cost of said improvement, for the period of time specified in the resolution of intention.
- (c) A diagram showing the assessment district above referred to and also the boundaries and dimensions of the respective subdivisions of land within said district as the same existed at the time of the passage of the resolution of intention, each of which subdivisions shall be given a separate number in red ink upon said diagram. The said diagram shall govern for all details as to the extent of said assessment district.
- (d) A proposed assessment of the total amount of the costs and expenses of the proposed improvement upon the several subdivisions of land in said district in proportion to the estimated benefits to be received by such subdivisions, respectively, from said improvements; provided, that whenever any portion or percentage of the costs and expenses of such improvement is ordered to be paid out of the treasury of the municipality, as hereinbefore provided, the amount of such proportion or percentage shall first be deducted from the total estimated cost and expense of such improvement, and the assessment upon property, proposed in said report, shall include only the remainder of said

estimated costs and expenses. Said assessment shall refer to such subdivisions upon said diagrams by the respective red ink numbers thereon and it shall show the names of the owners, if known, otherwise designating them as unknown. No mistakes in the name of the owner of any parcel of land shall affect the validity of the assessment thereon.

§ 3. Consideration of report. Hearing of protests. Upon the filing of the report as provided in section two of this act, the said clerk shall present the same to the city council for consideration, and said council may modify the same in any respect and in case of any such modification, the report as modified shall stand as the report for the purpose of all subsequent proceedings. Thereafter, the council by resolution, shall appoint a time and place for hearing protests in relation to the proposed improvement, which time shall not be less than twenty days from the date of the passage of said resolution, and shall direct the clerk of the city council to give notice of said hearing in the manner hereinafter provided.

§ 4. "Notice of local improvement" to be posted and published. After the passage of the resolution of intention the clerk of said city shall cause to be conspicuously posted along all streets and parts of streets or other public places where said improvement is proposed to be made, at not more than three hundred feet apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed: "Notice of local improvement," in letters of not less than one inch in length and shall, in legible characters, state the fact and date of the passage of the resolution of intention, and of the filing of said report and the date fixed for the hearing of protests and briefly describe the improvement proposed to be made and refer to said resolution and report for further particulars. He shall also cause a notice similar in substance to be published by two successive insertions in a daily or weekly newspaper published and circulated in said municipality and designated by said council for that purpose. Said notices must be posted and published as above provided, at least ten days before the date set for the hearing of said protest.

§ 5. Objections. Hearing. Adoption of report. Assessment levy. Report. Unexpended balance. Any person interested, objecting to the proposed improvement or to the assessment therefor, may file a written protest stating his objections thereto, with the clerk of the city council at or before the time set for the hearing provided in section three hereof. The clerk shall indorse on every such protest the date of its reception by him, and at the time appointed for the hearing as above provided, shall present to said council all protests so filed. The council shall hear and consider said protests, at the time appointed therefor, as above provided, or at any time to which the hearings thereof may be adjourned, and pass upon the same, and may confirm, modify or correct said proposed assessment, and its decision shall be final and conclusive and, if such protests are sustained, the proceedings shall be abandoned but may be renewed at any time; and if such protests are denied, the proposed assessment shall be confirmed, and the city council shall be deemed to have acquired jurisdiction to further proceed in accordance with the provisions of this act. When, upon the hearing, said proposed

assessment is confirmed, modified or corrected, or in case no protests are filed, the report provided for in section two hereof shall be adopted as a whole, with any modifications or corrections that have been made therein, and the city council shall, by resolution, declare its action upon said report and assessment, and order said proposed improvement to be made. And the city council shall thereupon levy the assessment for the proportion or percentage required to pay for said improvement for the period of time beginning with the date of such levy and ending with the close of the following fiscal year, upon the respective subdivisions of land in the assessment district, and thereafter during the period of time provided in the resolution of intention, the city council shall on or before the beginning of the following fiscal year, levy in like manner the assessment for the proportion or percentage required to pay for such improvement for such year, and said board, commission or officer of the city authorized therefor shall, on or before sixty days prior to the commencement of such fiscal year, make and file with the city council a report in writing, presenting the following:

1. An estimate of the cost of said improvement for the ensuing fiscal year.

2. A diagram showing the assessment district referred to in the resolution of intention, as provided by section two of this act, also the boundaries and dimensions of the respective subdivisions of land within said district as the same existed at the time of the making of said last-mentioned diagram, each of which subdivisions shall be given a separate number in red ink on said diagram.

3. A schedule showing the proportionate amount of said assessment to be charged in proportion to the benefits to be received by each subdivision shown on the last above-mentioned diagram.

Any unexpended balance remaining in such fund at the expiration of any year shall be credited to the fund to be raised for the next ensuing fiscal year, and the assessment to be levied, as herein provided, for such ensuing year, shall be only for the amount required therefor after deducting from such estimated amount the amount of any such unexpended balance. Any unexpended balance remaining in such fund at the expiration of the period of time provided for in said resolution of intention shall, upon demands therefor made upon the city council of any such city, within one year from and after the expiration of the time specified in said ordinance of intention, be repaid pro rata to the persons by whom such assessments were paid; provided, however, that any such unexpended balance remaining in such fund and not demanded within said period of one year, as herein provided, shall be placed in such fund as the city council may order.

§ 6. Contest of validity of assessment. The validity of any assessment levied under this act shall not be contested in any action or proceeding unless the same is commenced within thirty days after the time said assessment is levied, and any appeal from a final judgment in such an action or proceeding must be perfected within thirty days after the entry of such judgment.

§ 7. Duty of clerk of council. Upon the levying of such assessment as provided in section five hereof, the clerk of said council shall trans-

mit to the city tax collector the diagram and assessment upon which such levy is based.

§ 8. Assessment-roll. Assessments payable immediately. Lien. Publication of notice of record of assessment-roll. Delinquent assessments. Upon the receipt of the diagram and assessment referred to in the last preceding section, the tax collector shall record the same in a suitable book to be kept for that purpose, and append thereto his certificate of the date of such recording, and such record shall be the assessment-roll. From the date of such recording all persons shall be deemed to have notice of the contents of such assessment-roll. Immediately upon such recording, the several assessments contained in such assessment-roll shall become due and payable, and each of such assessments shall be a lien upon the property against which it is made, paramount to all other liens except liens for state, county and municipal taxes, and shall only be discharged by payment of the assessment or by redemption of the land after sale for delinquency. The tax collector shall, upon the recording of such assessment, give notice by publication for five days in a daily newspaper, published and circulated in said city, or by two insertions in a weekly newspaper so published and circulated, that said assessment has been recorded in his office and that all sums assessed therein are due and payable immediately, and that payment of said sums must be made to him within thirty days after the date of the first publication or posting, which date shall be stated in the notice. Said notice shall also contain the statement that all assessments not paid before the expiration of the said thirty days shall be delinquent, and thereupon ten per cent of the amount of each such assessment shall be added thereto. When payment of any assessment is made, the tax collector shall mark opposite such assessment the word, "paid," with the date of the payment thereof, and shall give a receipt therefor. Upon the expiration of said period of thirty days, all assessments then unpaid shall become delinquent, and the tax collector shall mark each such assessment "delinquent," and shall add ten per cent to the amount thereof.

§ 9. Sale of property upon which assessments are delinquent. The tax collector shall, within thirty days after the date of such delinquency, begin the publication of a notice of sale of the property upon which the assessments have not been paid, which publication must be made by two insertions in a daily or weekly newspaper published and circulated in the city. The dates fixed for the sale of the property upon which assessments have not been paid shall be not less than five days, nor more than ten days, after the last publication of said list, or after the completion of posting—as the case may be. The list so published must contain a description of each lot or parcel of land delinquent, and opposite each description the name of the owner in the assessment-roll, and the amount of the assessment and costs due, including the cost of advertisement, which cost of advertisement shall not exceed the sum of fifty cents for each parcel of land separately assessed. He shall append to and publish with said delinquent list a notice that unless each assessment delinquent, together with the penalty and cost thereof, is paid, the property upon which the assessment is a lien will be sold at public auction, at a time and place to be specified in said notice.

At any time after such delinquency and prior to the sale of any parcels of land assessed and delinquent any person may pay the assessment thereon, together with the penalties and costs due thereon, including the cost of advertising, if such payment is made after the first publication of notice of sale.

At the time and place fixed therein the tax collector shall proceed with such sale, commencing at the head of the list of lands contained in such notice and continuing in the numerical order thereof until all the property is sold; provided, that he may postpone, or continue, the sale from day to day until the sale is completed. The tax collector shall separately sell each parcel of land described in such notice, or so much thereof as shall be necessary to realize the amount assessed against the same, together with the penalties and costs as aforesaid, and fifty cents for a certificate of sale. In case there is no other purchaser the same shall be struck off to the city as purchaser.

§ 10. Certificate of sale. The tax collector shall issue for each sale an original and duplicate certificate of sale, referring to the proceedings, describing the parcel sold, and giving the name of the purchaser and the amount for which said parcel was sold. The original certificate he shall deliver to the purchaser, and the duplicate he shall keep on file in his office.

§ 11. Redemption of property. At any time before the expiration of one year from the date of the sale, any property sold under the provisions of the preceding sections may be redeemed by the payment to the tax collector of the amount for which the property was sold, with an additional penalty of twenty per cent of said amount. Said redemption money shall be paid by the tax collector to the person holding the original certificate of sale upon his delivering up the same and receipting for the amount received from the tax collector therefor. Upon redemption of any parcel of land the tax collector shall enter the fact and date of such redemption upon the duplicate certificate of sale thereof.

§ 12. Deed to property. Notice to owner. Owner must pay for service of notice. At any time after the expiration of twelve months from the date of sale, the tax collector must execute to the purchaser, or his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof and the fact that no person has redeemed the property. The tax collector shall receive from the applicant for a deed, one dollar for making such deed, unless the municipality is the purchaser, in which case no charge shall be made therefor. The purchaser or his assignee must, at least thirty days before he applies for a deed, serve upon the owner of the property, and upon the occupant of such property, if the same is occupied, a written notice setting forth a description of the property, that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice, and the time when such purchaser or assignee will apply to the tax collector for a deed.

If the said owner cannot be found, after due diligence, said notice must be posted in a conspicuous place upon said property at least thirty days before the time stated therein, at which the application for a deed will be made. The person applying for a deed must file with the tax collector an affidavit or affidavits showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner; which affidavit or affidavits must be filed by the tax collector in his office. If redemption of the property is made after such affidavits are filed, and more than eleven months from the date of sale, the person making such redemption must pay, in addition to the other amounts required, three dollars for the service of notice and the making of such affidavits, which amount shall be paid over to the purchaser or his assignee in the same manner as other sums paid for redemption. No deed for any property sold for delinquent assessment shall be made until the purchaser or his assignee has complied with all the provisions of this section, and filed the proper affidavits with the tax collector.

§ 13. Deed prima facie evidence. The deed of the tax collector shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the execution thereof, and of title in the grantee.

§ 14. Collection and disbursement of fund for improvement. The funds collected by the tax collector under the proceedings herein provided for, shall be paid by said tax collector, as fast as collected, to the treasurer of the city, who shall place the same in a special fund designated by the name of the improvement proceeding, and payment shall be made out of said special fund only for the purpose provided for in this act. To expedite the making of any such improvement, the city council may at any time, transfer into said special fund, out of any money in the general fund, such sums as it may deem necessary, and the sums so transferred shall be deemed a loan to such special fund, and shall be repaid out of the proceeds of the assessments provided for in this act.

§ 15. Contracts to lowest bidder. Supervision of work. Work done by contract. At any time after the transmission of the diagram and assessment to the city tax collector, as in this act provided, the city council may let the contract or contracts for such improvement. Every such contract shall be let to the lowest responsible bidder after notice published by two insertions in some newspaper published in such municipality and designated by the city council for that purpose. Every bid shall be accompanied by a certified check amounting to ten per cent of the bid, payable to the order of said city clerk, and the same shall be forfeited to the municipality in case the bidder depositing the same does not, within fifteen days after the notice that the contract has been awarded to him, enter into a contract with the municipality for the work, the faithful performance of which shall be secured by an undertaking in such penal sums as the city council shall require, with sureties satisfactory to said council. The contract must provide that the work shall be done, and the work must be done, strictly in accordance

with the plans and specifications contained in the report provided for in this act. The work must be done under the supervision of the board, officer or person designated by the city council, and no work shall be paid for until it has been accepted by said board, officer or person. If the contractor abandons the work, or fails to proceed with the same as rapidly as required by his contract, the said city council may relet the work in the same manner as in the case of the first letting thereof and retain the amount of the cost of the same, and of any expense incidental to the reletting out of any funds due or to become due to the contractor, and also hold him and his sureties responsible for such cost and expense, and for any damages resulting from such abandonment or failure upon his bond; provided, however, that the city council, in its discretion may, at any time within ten days after the award of any contract, as above provided, or at any time within ten days after the time fixed for the opening of bids, if no bids have been received, order by resolution adopted by a vote of two-thirds of all its members, that said proposed contract be not made, and that the municipality itself execute the work embraced therein, in accordance with the plans and specifications adopted for such work, and employ the labor, and provide the material, appliances, supplies and illuminating agent necessary therefor; and the cost and expenses of such work shall be paid out of the aforesaid funds; and provided, further, that the amount appropriated and used from said funds for said purpose shall not exceed the amount of the bid upon which the award of contract aforesaid was made, or, if no bids have been received and the work is to be executed by the municipality itself, as herein provided, such cost and expense shall not exceed the amount of the estimate thereof provided for in section two of this act; and if such cost and expense shall exceed the amount of said bid, or of said estimate in case no bids are received, then such excess shall be met out of any moneys in the general fund in the treasury of said city; and provided, further, that at any time after the funds for the proposed improvement, or any part thereof, shall be in the hands of said treasurer, the city council, in its discretion, may, without calling for bids, order, by resolution adopted by a vote of two-thirds of all its members, that the municipality itself perform the work of such improvement, or the respective parts thereof, in accordance with the specifications and plans adopted for such work, and employ the labor, and provide the material, appliances, supplies, and illuminating agent necessary therefor; in which case the cost and expense of such work shall be paid out of the aforesaid funds and if such costs and expense shall exceed the amount of such estimates, then such excess shall be met out of the moneys in the general fund of the treasury of said city.

§ 16. Abandonment of proceedings. The city council may, at any time prior to the awarding of the contract for the improvement herein provided, by resolution abandon such proceedings and upon such abandonment all money collected for such improvement shall be repaid to the several parties paying the same.

§ 17. Application of act. This act shall in no wise affect an act entitled "An act to provide for the acquisition, installation, construction, reconstruction, extension, repair and maintenance by municipalities of waterworks, electric power works, gas works, lighting works,

and other public works and utilities; for the assessment of the cost and expenses thereof upon the property benefited; and for the issuance of improvement bonds to represent such assessments, and to repeal an act entitled "An act to provide for the lighting of public streets, lanes, alleys, courts and places in municipalities, and for the assessment of the costs and expenses thereof upon the property benefited thereby," approved March 21, 1905, approved June 6, 1913, or amendments thereto, or any other acts on the same subject, or applied to proceedings had thereunder, but it is intended to and does provide an alternate system of proceedings for making the improvements provided for by this act; and it shall be within the discretion of the city council of any municipality to proceed in making such improvements either under the provisions of this act, or under the provisions of such other acts; but when any proceedings are commenced under this act, the provisions of this act, and of such amendments thereof as may be hereafter adopted, and no other, shall apply to all such proceedings, and any provisions contained in said acts or any acts in conflict with the provisions hereof shall be void and of no effect as to the proceedings commenced under the provisions of this act. The election of the city council to proceed under the provisions of this act shall be expressed in its resolution of intention to order said improvement to be made.

§ 18. In cities having no newspaper. Any notice required by this act to be published in a daily or weekly newspaper may be given in municipalities where there is no such daily or weekly newspaper published and circulated, by posting such notice for four days in three public places in such municipalities.

§ 19. Definitions. The following words and phrases shall, where used in this act, have the following meanings:

1. The term "improvement" includes all of the improvements mentioned in section one of this act.

2. The terms "municipality" and "city" include all incorporated cities, cities and counties, and other corporations organized for municipal purposes.

3. The terms "city council" and "council" include any body or board in which by law is vested the legislative power of any municipality.

4. The terms "clerk" and "city clerk" include any person or officer who acts as clerk of said city council.

5. The terms "treasurer" and "city treasurer" include any person or officer who has charge and makes payment of the city funds.

6. The term "tax collector" includes any person or officer who is charged with the duty of collecting municipal assessments.

§ 20. Construction. Title. The provisions of this act shall be liberally construed to promote the objects thereof. This act may be designated and referred to as the "street lighting act of 1919."

TITLE 367a.

NATIONAL CITY.

ACT 2420.

An act conveying certain tide-lands and lands lying under inland navigable waters, situate in the bay of San Diego to the city of

National City, in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof.

[Approved March 21, 1917. Stats. 1917, p. 18. In effect July 27, 1917.]

Whereas, since the admission of California into the Union, all tide-lands along the navigable waters of this state and all lands lying beneath the navigable waters of the state have been and now are held in trust by the state for the benefit of all the inhabitants thereof for the purpose of navigation, commerce and fishing; and

Whereas, it is the duty of the state to govern, administer and control such lands and to improve and develop navigation, commerce and fishing thereon and thereover; and

Whereas, the state has not the general power of alienation of such lands, but may, when the interests of commerce, navigation and fishing require it, convey to municipalities limited and defined areas of such lands with the power to govern, control, improve and develop the same in the interest of all the inhabitants of the state; and

Whereas, the conveyance to the city of National City of the lands hereinafter described, together with the right to govern, control, improve and develop the same will result in great advantage and benefit to all the inhabitants of the state, it is provided:

§ 1. Tide-lands granted to National City. There is hereby granted and conveyed to the city of National City, in the county of San Diego, state of California, all of the lands situate on the city of National City side of said bay, lying and being between the line of mean high tide and the pier-head line in said bay, as the same has been or may hereafter be established by the federal government, and between the prolongation into the bay of San Diego to the pier-head line of the boundary line between the city of National City and the city of San Diego, and the prolongation into the bay of San Diego to the pier-head line of the boundary line between the city of National City and the city of Chula Vista.

§ 2. Use of lands. The city of National City shall have and there is hereby granted to it the right to make upon said premises all improvements, betterments and structures of every kind and character, proper, needful and useful for the development of commerce, navigation and fishing, including the construction of all wharves, docks, piers, slips, and the construction and operation of a municipal belt line railroad in connection with said dock system.

§ 3. No discrimination in rates. No grant, conveyance or transfer of any character shall ever be made by the city of National City of the lands described in section one, or of any part thereof, but the said city shall continue to hold said lands and the whole thereof unless the same revert or be receded to the state of California. The harbor of National City shall remain always a public harbor and the said city shall never charge or permit to be charged on any of the premises by this act conveyed any unreasonable rate or toll, nor make nor suffer to be made any unreasonable charge, burden or discrimination. In the event of a violation of any of the provisions of this act, the said lands and the whole thereof shall revert to the state of California.

§ 4. Maximum term of lease. The city of National City may lease for a term not exceeding twenty-five years any wharves, docks or piers constructed by it, and all such leases so executed shall reserve to the board of trustees of the city of National City, the right and privilege, by ordinance, to annul, change or modify such leases as in its judgment may seem proper. The aggregate amount of all wharves, docks and piers so leased by said city shall never exceed seventy-five per cent of all the wharves, docks and piers actually constructed.

§ 5. Conditions of lease. The city of National City, may lease not to exceed an aggregate of seventy-five per cent of the lands conveyed to it by this act, for a term not to exceed twenty-five years and upon which wharves, docks or piers have not been actually constructed, and, except by consent of the board of trustees of the city of National City under an ordinance of such board duly adopted, such leases shall not be assignable or transferable, nor shall any lessee have the right to sublet the leased premises or any part thereof, and all such leases so executed shall reserve to the board of trustees of the city of National City, the right and privilege, by ordinance to annul, change or modify such leases as in its judgment may seem proper; provided, however, that nothing in this act contained shall operate as a limitation upon the right and authority of the harbor commission of the state of California, at any time prior to the city of National City issuing its bonds as required in section six hereof, of leasing any of the lands herein granted and conveyed to said National City, and the right and authority to enter into such leases at any time prior to issuing of such bonds, is hereby expressly conferred upon said harbor commission.

§ 6. Harbor improvement by city. The foregoing conveyance is made upon the condition that the city of National City shall, within five years from the approval of this act, exclusive of such time as said city may be restrained from so doing by injunction issued out of any court of this state or of the United States, and exclusive of such further delay as may be caused by unavoidable misfortune or great public or municipal calamity, issue its bonds for harbor improvement purposes in an amount of not less than one hundred thousand dollars, and shall, within five years after the approval of this act, exclusive of the time in this section hereinbefore mentioned, commence the work of such harbor improvement, and the said work and improvement shall be prosecuted with such diligence, that not less than one hundred thousand dollars shall be expended thereon within five years from the approval of this act. If said bonds be not issued or said work be not prosecuted and completed as and in the manner herein provided, then the lands by this act conveyed to the city of National City shall revert to the State of California.

§ 7. State's right to use docks. The state hereby reserves unto it self at all times, the reasonable use of and access to all wharves, docks, piers, slips and quays hereafter constructed under the provisions of this act, for any vessel or water craft owned, leased, or operated by the state.

ACT 2433d.

An act providing for the return to the national guard of the state of all those organizations, officers, and members of the national

guard who entered the service of the United States in 1917 in the war against Germany, and relating to their privileges, exemptions and retirements.

[Approved May 7, 1919. Stats. 1919, p. 380.]

§ 1. Federal service considered as continuous state service. Each and all of the officers and members of the national guard and the naval militia of the state of California who were called into service by the call of the President and who were on the fifth day of August, 1917, drafted into federal service are hereby granted leave of absence from the state forces from the time of call or draft into federal service as national guard and until they shall have been mustered out from the federal service, and while serving as federal troops their time shall be considered as continuous in so far as it pertains to their service as state troops; provided, they re-enter the national guard of this state within ninety days of muster out from federal service.

§ 2. Privileges, exemptions and retirements. All members of the national guard who entered federal service or whose term of office or enlistment would have expired had they remained in the national guard of the state, are hereby granted all privileges, exemptions and retirements up to the date of being mustered out of said federal service, the same as if they had remained in the national guard of the state. In computing the term of service for any members regarding privileges, exemptions or retirements, provided by law, for officers and members of the national guard, the time which any officer or enlisted man has served in the army or navy of the United States shall be computed and allowed for as continuous service in so far as it pertains to state service; provided, that they re-enter the national guard of the state within a period of ninety days from the date of muster out of federal service.

§ 3. Preference in reorganization. When reorganizing the national guard of the state, those units who have or may be in federal service shall be first considered in such reorganization; provided, they shall request such re-entry into state service within the ninety days from the period of discharge from federal service.

§ 4. Rank. In compliance with the national defense act, all officers must be recommissioned and all enlisted men re-enlisted. All officers will be commissioned with the same rank as that held by them upon their entrance into federal service, or such rank as they may have attained while in federal service; provided, that in all cases officers must be commissioned in accordance with the table of organization provided by the war department of the United States government.

§ 5. Pay not allowed during leave of absence. No organization, officer or member hereby granted leave of absence shall draw or be allowed any pay, allowance, money or property from the state of California, during the said leave of absence, but organizations shall be entitled to all military allowances provided by law as soon as they are recruited up to the minimum required by law and accepted as national guard, and that fact is reported and approved by the governor.

TITLE 369a.

NAUTICAL SCHOOL.

ACT 2436.

An act to establish a nautical school at the port of San Francisco, to provide for the conduct and maintenance thereof, to make an appropriation therefor, and to authorize the governor to request and to receive aid from the United States in compliance with the provisions of an act of congress approved March 4, 1911.

[Approved May 14, 1917. Stats. 1917, p. 527. In effect July 27, 1917.]

§ 1. "California state nautical school" established. There is hereby established at the port of San Francisco a nautical school to be known as "the California state nautical school," for the instruction of pupils in navigation, steamship-marine engineering, and all matters pertaining to the proper construction, equipment and sailing of vessels, or any particular branch thereof.

§ 2. School board. The governor, the president of the state board of education, and the president of the state board of harbor commissioners shall constitute the nautical school board, which shall be the governing body of the school hereby established. The expenses incurred by the members of said board while engaged in the business of the nautical school shall be refunded to them from the appropriation herein provided.

§ 3. Duties of board. The said nautical school board shall provide and maintain at the nautical school, for the instruction and training of pupils in the science and practice of navigation, accommodations for the school on board a proper vessel, shall purchase and provide books, stationery, apparatus and supplies needed in the work of the school, shall appoint and remove instructors and other necessary employees and determine their number and compensation, shall fix the terms and conditions upon which pupils shall be received and instructed in the school, and be dismissed or discharged therefrom, and shall establish all regulations necessary for the proper management and conduct of the school and for carrying out efficiently the purposes of this act.

§ 4. Use of United States vessels. The nautical school board may receive from the United States government and use for the accommodation of the school, such vessel or vessels as the secretary of the navy may furnish. The governor is hereby authorized and directed to apply in writing to the secretary of the navy for a suitable vessel of the navy, with all her apparel, charts, books and instruments of navigation for the use of the school hereby established, and to request that the President of the United States detail proper officers of the navy as superintendents or instructors in the said school.

§ 5. Nautical school fund. There is hereby created the nautical school fund, which shall consist of such money as shall be appropriated from time to time by the legislature, and such sum as may be received from year to year from the government of the United States for the purpose of maintaining the school hereby established in compliance with the provisions of an act of congress entitled "An act for the establishment of marine schools and for other purposes," approved March 4, 1911.

There is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the establishment of said school and for its maintenance during the sixty-ninth and seventieth fiscal years, the sum of twenty-five thousand dollars, which shall become available when the nautical school board has received from the secretary of the navy a suitable vessel of the navy for the use of said nautical school.

§ 6. Vouchers. The moneys hereby appropriated shall be expended in accordance with law upon vouchers certified by the superintendent of the nautical school and approved by the nautical school board.

§ 7. Report. A report of the conduct of the affairs of said nautical school, including a statement of the moneys expended in its establishment and maintenance, shall be presented to the legislature at its convening for the forty-third session and at each biennial session thereafter.

TITLE 373.

NET CONTAINER BILL.

ACT 2453.

An act to provide for the indicating of the net quantity of foodstuffs and stuffs intended to be used or prepared for use as food for human beings when sold or offered or exposed for sale in containers and providing penalties for the violation thereof. [Approved May 24, 1913. Stats. 1913, p. 247.]

Amended 1915, p. 1263; 1917, p. 87; 1919, p. 145.

The title of the act was amended in 1917 and again in 1919 to read as follows:

An act to provide for the indicating of the net quantity of foodstuffs and stuffs intended to be used or prepared for use as food for human beings, and medicine, when sold or offered or exposed for sale in containers, and providing for the indicating of quantity in the sale of commodities in respect to which there exists a definite trade custom, and providing penalties for the violation thereof. [Stats. 1917, p. 87; 1919, p. 145.]

The remainder of the amendments of 1917 and 1919 follow:

§ 3. Application of act. The provisions of this act shall apply to foodstuffs and stuffs intended to be used or prepared for use as food or medicine for human beings and shall apply to any commodity when sold, offered or exposed for sale in containers. [Amendment approved May 3, 1919; Stats. 1919, p. 145.]

§ 5. Designation of quantity. The designation of the quantity of the commodity required by section four of this act shall be in terms of weight, measure or numerical count, subject, however, to the following provisions:

(a) The quantity of the contents so marked shall be the net amount of food or stuff or other commodity in the package or container.

(b) If the designation is by weight it shall be in terms of avoirdupois pounds and ounces; if the designation is in liquid measure it shall be in terms of the United States gallon of two hundred thirty-one cubic

inches and its customary subdivisions, i. e., in gallons, quarts, pints, or fluid ounces; provided, that, by like method, such designations may be in terms of the metric system of weight or measure.

(c) The quantity of solids shall be designated in terms of weight, and of fluids in terms of measure, except in case of an article in respect to which there exists a definite trade custom; in such case the designation shall be in terms of weight, or measure, or numerical count, in accordance with such custom.

(d) The quantity of the contents shall be designated in terms of weight or measure, unless the container be marked by numerical count and such numerical count gives accurate information as to the quantity of the food or other commodity in the package. When designation is by numerical count it shall be in English words or Arabic numerals.

(e) The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, but in such cases the designation must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(f) The quantity of viscous or semi-solid foods, or of a mixture of solids and liquids, may be stated in terms of weight and measure. When products are packed in brine or other preserving fluids, the weight or measure of such brine or fluids shall not be included in the weight or measure of the edible or commodity indicated on the container. [Amendment approved May 3, 1919; Stats. 1919, p. 146.]

This section was also amended in 1917. See Stats. 1917, p. 87.

§ 10. Container defined. The term "container" used in this act is hereby defined to be any receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put for sale, or to be offered or exposed for sale. No containers, boxes, or baskets wherein food products or other commodities are packed shall have a false bottom, or be so constructed as to facilitate the perpetration of deception or fraud. [Amendment approved May 3, 1919; Stats. 1919, p. 146.]

This section was also amended in 1917. See Stats. 1917, p. 87.

TITLE 377a.

NEWPORT BEACH.

ACT 2476.

An act granting certain tide-lands and submerged lands of the state of California to the city of Newport Beach, upon certain trusts and conditions.

[Approved May 25, 1919. Stats. 1919, p. 1011.]

§ 1. Tide-lands granted to Newport Beach. There is hereby granted to the city of Newport Beach, a municipal corporation of the state of California, and to its successors, all of the right, title and interest of the state of California held by said state by virtue of its sovereignty, in and to all that portion of the tide-lands and submerged lands within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean which border upon and are in front of the upland now owned by said city and such other upland as it may hereafter acquire, to be forever held by said city, and by its successors

in trust for the uses and purposes and upon the express conditions following, to wit:

(a) **Use of lands.** Said lands shall be used by said city and by its successors solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, ways and streets, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city. And said city or its successors shall not at any time grant, convey, give or alien said lands or any part thereof to any individual, firm, or corporation for any purposes whatever; provided, that said city or its successors may grant franchises thereon for a period not exceeding twenty-five years for wharves and other public uses and purposes, and may lease said lands or any part thereof for a period not exceeding twenty-five years for purposes consistent with the trust upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor.

(b) **Improvement of harbor.** Said harbor shall be improved by said city without expense to the state and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed on said lands or any part thereof for any vessel or other water craft or railroad owned or operated by the state of California.

(c) **Rates, tolls, etc.** In the management, conduct or operation of said harbor, or of any of the utilities, structures, or appliances mentioned in paragraph (a) no discrimination in rates, tolls or charges, or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city, or by its successors. The absolute right to fish in the waters of said harbor with the right of convenient access to said water over said lands for said purpose is hereby reserved to the people of the state of California.

ACT 2477.

An act granting to the city of Newport Beach, a municipal corporation, the right and authority to construct and maintain sewer, water, gas, and other conduits upon public lands.

[Approved May 25, 1919. Stats. 1919, p. 1012.]

§1. Conduit rights granted to Newport Beach. There is hereby granted to the city of Newport Beach, a municipal corporation of this state, the right, power and authority to construct and maintain over, across, and along the public lands of the state of California under and bordering upon Newport bay sewer, water, gas, and other pipe lines and conduits, and to go upon said public lands to construct and maintain the same.

TITLE 385.**NURSING.****ACT 2508b.**

An act to promote the better education of nurses and the better care of the sick in the state of California, to provide for and regulate the examination and registration of graduate nurses, and to provide for the issuance of certificates of registration as registered nurses to qualified applicants by the state board of health, and to repeal an act approved March 20, 1905, entitled, "An act to promote the better education of the practice of nursing the sick in the state of California, to provide for the issuance of certificates of registration as a registered nurse, to qualified applicants of the board of regents of the University of California, and to provide penalties for violation thereof."

[Approved June 12, 1913. Stats. 1913, p. 613.]

Amended 1915, pp. 21, 603; 1917, p. 44.

The amendment of 1917 follows:

§ 4½. **False representation in nurse's examination.** Any person who shall willfully make any false representation or who shall impersonate any other person or permit or aid in any manner any person to impersonate him in connection with any examination or application for examination or registration or request to be examined or registered such person shall be guilty of a misdemeanor. [New section added April 5, 1917; Stats. 1917, p. 45.]

§ 11. **Monthly report of receipts.** Within ten days after the beginning of each month the secretary of the state board of health shall report to the controller the amount and source of all collections made under the provisions of this act, and at the same time all such amounts shall be paid into the state treasury and shall be placed to the credit of the special fund to be known as the fund for examination and registration of nurses; provided, that whenever and as often as there is in the state treasury to the credit of the fund for the examination and registration of nurses, funds in excess of ten thousand dollars the same may be invested by the state board of control in the same manner that the funds of the state school land fund are invested and the interest upon such investment when collected shall be placed to the credit of the fund for the examination and registration of nurses. All amounts paid into this fund shall be held subject to the order of the state board of health, to be used only for the purpose of meeting necessary expenses in the performance of the purposes of and the duties imposed by this act. Claims against the fund shall be audited by the state board of health and by the board of control and shall be paid by the state treasurer upon warrants drawn by the state controller. [Amendment approved April 5, 1917; Stats. 1917, p. 45.]

ACT 2508c.

An act to promote the better education of trained attendants and the better care of the sick in the state of California; to provide for and regulate the examination and licensure of trained attendants; to provide for the issuance of licenses as trained attendants to

qualified applicants by the state board of health; to provide that the state board of health shall enforce the provisions hereof; to provide penalties for the violation of any of the provisions hereof and to repeal all acts and parts of acts inconsistent with the provisions of this act.

[Approved May 2, 1919. Stats. 1919, p. 242.]

§ 1. Certificates for trained attendants for sick. The state board of health is hereby authorized to issue certificates to applicants to care for the sick as trained attendants and to formulate and issue rules and regulations from time to time as may be necessary for the proper conduct of the care of the sick by a trained attendant; to establish centers of training for trained attendants; to prescribe the course of instruction and length thereof, and to provide for an examination before a license may be issued.

§ 2. Qualifications. Any person applying for the certificate as trained attendant shall be at least eighteen years of age, of good moral character, and, after one year from the passage of this act, shall have had not less than one year's practical experience in the care of the sick in a reputable hospital or sanatorium, connected with a school for trained attendants, and systematic instruction in the following subjects, namely: Anatomy and physiology, hygiene, diet for the sick, nursing care of the sick, including children and the aged, and obstetrics.

§ 3. Persons now engaged in practice. Provided that any person engaged in the practice of the care of the sick as a business or for hire as an attendant, practical or undergraduate nurse, or in any capacity other than a registered nurse, may be granted a certificate as a trained attendant without taking an examination, provided such application shall be made within one year of the passage of the act and that such application shall be accompanied by credentials of character and show extent of training and experience, and a license fee of five dollars.

§ 4. Examination. On or after one year following the passage of the act all applicants for certificate as trained attendants shall be required to pass an examination, the fee for which will be five dollars and will in no case be returned to the applicant. Said examination will be practical in character and designed to ascertain the applicant's fitness to practice her calling, and will be conducted by a committee of three examiners appointed by the board and under such rules and regulations as may be prescribed by said board, and shall be held at least every six months. Due notice of said examination shall be published in not less than three daily papers of the state. The subjects on which applicants will be examined are elementary anatomy and physiology, hygiene, diet for the sick, nursing methods in the care of the sick, including children and aged people, obstetrics. The board shall issue to each applicant successfully passing this examination a certificate as provided for in this act.

§ 5. Title. All persons who have been duly licensed in accordance with the provisions of this act shall be known and styled as trained attendants and may use the words "trained attendant" after their names.

§ 6. Penalty for false representation, etc. Any person who shall willfully make any false representation or who shall impersonate any other person or permit or aid in any manner any person to impersonate her in connection with any examination or application, shall be guilty of a misdemeanor. It shall be unlawful for any person to advertise as, or assume the title of trained attendant, or to use the words "trained attendant" after her name, or any other words, letters or figures to indicate that the person using the same is a trained attendant, or to impersonate in any manner or pretend to be a trained attendant.

§ 7. Revocation of license. The board shall have the power to revoke a license to any person for gross incompetency, dishonesty, addition to the use of alcohol or narcotic drugs, or for any habit rendering him or her unsafe or unfit to care for the sick. Before revocation, notice of such charges shall be sent to the defendant with opportunity to appear in his or her own defense.

§ 8. Penalty for violating act. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall upon conviction be liable to a fine of not less than ten dollars or more than one hundred dollars for the first offense, and not less than twenty dollars or more than two hundred dollars for each subsequent offense.

§ 9. Accounts, collections, etc. All accounts, collections and fees made under the provisions of this act shall be paid into the state treasury and shall be placed to the credit of the traveling and contingent fund of the state board of health.

§ 10. Repealed. All acts or parts of acts inconsistent with this act are hereby repealed.

TITLE 386.

OAKLAND.

ACT 2509.

Charter of. [Stats. 1911, p. 1551.]

Amended 1917, pp. 1699, 1948, 1963; 1919, pp. 1364, 1515.

ACT 2534.

An act granting certain tide-lands and submerged lands of the state of California to the city of Oakland and regulating the management, use and control thereof.

[Approved May 1, 1911. Stats. 1911, p. 1258.]

Amended 1917; Stats. 1917, p. 63; 1919, p. 1088.

The amendments of 1917 and 1919 follow:

§ 1. Tide-lands granted to Oakland. There is hereby granted to the city of Oakland, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California held by said state by virtue of its sovereignty in and to tide-lands and submerged lands, whether filled or unfilled, which are included within that portion of the city of Oakland that lies westerly of the western line of Pine street, as Pine street exists between Atlantic street and Goss street, and as shown upon that certain map entitled

"map of land on Oakland point (railroad ferry landing) city of Oakland, tract 406," filed May 24, 1864, in book of maps 5, page 33, records of Alameda county, and said western line of Pine street produced northerly and southerly, to be forever held by said city and by its successors in trust for the use and purposes and upon the expressed conditions following, to wit:

(a) **Use of lands.** That said lands shall be used by said city and its successors, only for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that said city, or its successors, may grant franchises thereon for limited periods, but in no event exceeding fifty years for wharves and other public uses and purposes, and may lease said lands or any part thereof for limited periods, but in no event exceeding fifty years, for the purposes consistent with the trusts upon which said lands are held by the state of California, and with the requirements of commerce or navigation at said harbor.

(b) **Improvement of harbor.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California.

(c) **Rates, tolls, etc.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said city or its successors.

(d) **Right to fish reserved to people.** There is hereby reserved, however, in the people of the state of California the absolute right to fish in all the waters of said harbor, with the right of convenient access to said waters over said land for said purpose. [Amendment approved May 25, 1919; Stats. 1919, p. 1088.]

This section was also amended in 1917. See Stats. 1917, p. 63.

TITLE 389.

OFFICERS.

ACT 2554.

An act relating to the liability of public officers for damages resulting from defects and dangers in streets, highways, public buildings and public works or property. [Approved April 26, 1911; Stats. 1911, p. 1115.]

Repealed 1919, p. 756. See post, Act 2554a.

ACT 2554a.

An act relating to the liability in damages of the officers of districts, towns, cities, cities and counties, counties and of the state of California for injuries to person or property resulting from defects and dangers in public streets, highways, bridges, buildings, work or property, prescribing the duties of certain public officers with respect thereto, and repealing an act entitled "An act relating to the liability of public officers for damages resulting from defects and dangers in streets, highways, public buildings, public work or property," approved April 26, 1911.

[Approved May 18, 1919. Stats. 1919, p. 756. In effect July 22, 1919.]

§ 1. When officers are not liable for damages. No officer of any district, town, city, city and county, county, or of the state of California, shall be liable for any damage or injury to any person or property hereafter resulting from the defective or dangerous condition of any public street, highway, bridge, building, work or property, unless it shall first appear: (1) That the injury sustained was the direct and proximate result of such defective or dangerous condition, (2) that such officer had notice of such defective or dangerous condition or that such defective and dangerous condition was directly attributable to work done by him, or under his direction, in a negligent, careless or unworkmanlike manner, (3) that he had authority and it was his duty to remedy such condition at the expense of the state or of a political subdivision thereof and that funds for that purpose were immediately available to him, and (4) that, within a reasonable time after receiving such notice and being able to remedy such condition, he failed so to do, or failed to take reasonable steps to give adequate warning of such condition; and then only when it shall further appear that such damage or injury was sustained while such public street, highway, bridge, building, work or property was being carefully used, and that due care was being exercised to avoid the danger due to such condition; provided, however, that this act shall not be construed as enlarging the duty or liability of any public officer.

§ 2. Counsel in defense of suit brought against officer. If suit is brought against any such officer of any district, town, city, city and county, county, or of the state of California, on account of any action, or work done by him, in his official capacity as such officer, when done under and according to the provisions of the law respecting his said office, it shall be the duty of the attorney for the district, the corporation counsel, city attorney, district attorney, county counsel, or attorney general of the state, as the case may be, to act as counsel in defense of such suit, unless provision has been made by law for the employment of other counsel in connection with the performance of the work out of which such suit arises, and in such event it shall be the duty of such other counsel to defend such suit.

§ 3. Stats. 1911, p. 1115, repealed. An act entitled "An act relating to the liability of public officers for damages resulting from defects and dangers in streets, highways, public buildings, public work or property," approved April 6, 1911, and all acts and parts of acts in conflict herewith are hereby repealed.

TITLE 394.**ORANGE COUNTY.****ACT 2580.**

An act granting certain tide-lands and submerged lands of the state of California to the county of Orange in said state upon certain trusts and conditions.

[Approved May 25, 1919. Stats. 1919, p. 1138.] .

§ 1. Tide-lands granted to Orange county. There is hereby granted to the county of Orange and to its successors all of the right, title and interest of the state of California held by said state by virtue of its sovereignty in and to all that portion of the tide-lands and submerged lands bordering upon and under Newport bay in the said county of Orange, which are outside of the corporate limits of the city of Newport Beach, a municipal corporation, the same to be forever held by said county and by its successors in trust for the uses and purposes and upon the express conditions following, to wit:

(a) **Use of lands.** Said lands shall be used by said county and by its successors solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, ways and streets, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said county. And said county or its successors shall not at any time grant, convey, give or alien said lands or any part thereof to any individual, firm, or corporation for any purposes whatever; provided, that said county or its successors may grant franchises thereon for a period not exceeding twenty-five years for wharves and other public uses and purposes, and may lease said lands or any part thereof for a period not exceeding twenty-five years for purposes consistent with the trust upon which said lands are held by the state of California, and with the requirements of commerce or navigation at said harbor.

(b) **Improvement of harbor.** Said harbor shall be improved by said county without expense to the state and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed on said lands or any part thereof for any vessel or other water craft or railroad owned or operated by the state of California.

(c) **Rates, tolls, etc. Right to fish reserved to people.** In the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a) no discrimination in rates, tolls or charges, or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said county, or by its successors. The absolute right to fish in the waters of said harbor with the right of convenient access to said water over said lands for said purpose is hereby reserved to the people of the state of California.

TITLE 397.

ORPHAN ASYLUM.

ACT 2595a.

An act appropriating money to meet additional expense for the support of orphans, half-orphans and abandoned children for the sixty-seventh and sixty-eighth fiscal years. [Approved January 29, 1917. Stats. 1917, p. 5. In effect immediately.]

This act appropriated \$250,000 for the purpose indicated.

TITLE 401.

PALO ALTO.

ACT 2612.

Charter of. [Stats. 1909, p. 1175.]

Amended 1911; Stats. 1911, p. 2040; 1917, Stats. 1917, p. 1859.

TITLE 403.

PAROLE COMMISSIONERS.

ACT 2623.

An act to authorize the state board of prison directors to provide for assisting paroled and discharged prisoners and to secure employment for the same and making an appropriation for that purpose.

[Approved May 14, 1917. Stats. 1917, p. 528. In effect July 27, 1917.]

§ 1. Authority to assist paroled and discharged prisoners. The state board of prison directors shall have the power and authority to provide for assisting paroled and discharged prisoners and to secure employment for the same and for that purpose they may employ necessary officers and employees, may purchase tools, and give any other assistance that, in their judgment, they may deem proper for the purpose of carrying out the objects and spirit of this act.

§ 2. Moneys drawn without submitting vouchers. Upon this act becoming effective, the state board of prison directors may draw upon the moneys herein appropriated in the amount of one thousand dollars, without submitting vouchers thereon, which amount shall, from time to time, be replenished by demand upon said appropriation equal to the amount of expenditures represented by vouchers submitted to the state board of control and filed with the controller.

§ 3. Appropriation. The sum of seventeen thousand dollars is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the purpose of this act; the state controller is hereby directed to draw his warrant therefor, payable to the state board of prison directors in such amount as may be required from time to time, and the state treasurer is directed to pay the same.

ACT 2623a.

An act to authorize the state board of prison directors to provide for assisting paroled and discharged prisoners and to secure employment for the same and making an appropriation for that purpose.

[Approved May 22, 1919. Stats. 1919, p. 832.]

§ 1. Assistance for paroled and discharged prisoners. The state board of prison directors shall have the power and authority to provide for

assisting paroled and discharged prisoners and to secure employment for the same and for that purpose they may employ necessary officers and employees, may purchase tools, and give any other assistance that, in their judgment, they may deem proper for the purpose of carrying out the objects and spirit of this act.

§ 2. Amounts to one thousand dollars drawn without vouchers. Upon this act becoming effective, the state board of prison directors may draw upon the moneys herein appropriated in the amount of one thousand dollars, without submitting vouchers thereon, which amount shall, from time to time, be replenished by demand upon said appropriation equal to the amount of expenditures represented by vouchers submitted to the state board of control and filed with the controller.

§ 3. Appropriation. The sum of twenty-nine thousand five hundred dollars is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for the purpose of this act; the state controller is hereby directed to draw his warrant therefor, payable to the state board of prison directors in such amount as may be required from time to time, and the state treasurer is directed to pay the same.

TITLE 405.

PASADENA.

ACT 2627.

Charter of. [Stats. 1901, p. 884.]

Amended 1905, p. 1011; 1909, p. 1198; 1913, p. 1457; 1919, p. 1502.

TITLE 406.

PAUPERS.

ACT 2631.

An act to provide for the maintenance and support, in certain cases, of indigent, incompetent, and incapacitated persons (other than persons adjudged insane and confined within state hospitals), becoming a public charge upon the counties or cities and counties within the state of California, and for the payment thereof into a fund for the maintenance and support of such persons.

[Approved March 23, 1901. Stats. 1901, p. 636.]

Amended 1917; Stats. 1917, p. 444.

The amendment of 1917 follows:

§ 5. Duty of board of supervisors. It shall be the duty of the board of supervisors of every county and every city and county as a whole, or by committee or by such person or society as it may authorize, to investigate every application for relief from the funds of such county or city and county, to supervise by periodic visitation every person receiving such relief, to devise ways and means for bringing persons unable to maintain themselves to self support and to keep full and complete records of such investigation, supervision, relief and rehabilitation, as shall be prescribed by the state board of charities and corrections. [Amendment approved May 14, 1917; Stats. 1917, p. 445.]

§ 10. Duty of state board of charities and corrections. It shall be the duty of the state board of charities and corrections to prescribe forms

of records for the use of board of supervisors and their agents in keeping records heretofore mentioned. [New section added May 14, 1917; Stats. 1917, p. 445.]

TITLE 408.**PENSIONS.****ACT 2643.**

An act to provide for the payment of retirement salaries to public school teachers of this state; creating a public school teachers' retirement salary fund, and also a public school teachers' permanent fund, providing for the administration of such funds, and making an appropriation for the uses of said funds.

[Approved June 16, 1913. Stats. 1913, p. 1423.]

Amended 1919; Stats. 1919, p. 500.

The amendment of 1919 follows:

§ 15. Service in California Polytechnic and normal schools. Service of a teacher in the California Polytechnic School with a valid certificate or a teacher with or without a certificate in a state normal school, shall be equivalent to service under legal certificate in a day or evening school, and the time of said service in the California Polytechnic School, or in a state normal school, shall be reckoned in determining the right of retirement salaries under provisions of sections thirteen and fourteen of this act. [Amendment approved May 9, 1919; Stats. 1919, p. 500.]

ACT 2644.

An act to provide for the gathering of data concerning teachers of California who are bound by the provisions of "An act to provide for the payment of retirement salaries to the public school teachers of this state; creating a public school teachers' retirement salary fund and also a public school teachers' permanent fund, providing for the administration of such funds and making an appropriation for the uses of said funds," approved June 16, 1913.

[Approved May 5, 1919. Stats. 1919, p. 312.]

§ 1. Teachers bound by retirement plan to file data. During the month of November, 1919, each teacher in the public schools of California, each teacher in a state normal school and each school administrator or other person who is bound by the provisions of "An act to provide for the payment of retirement salaries to the public school teachers of this state; creating a public school teachers' retirement salary fund and also a public school teachers' permanent fund, providing for the administration of such funds and making an appropriation for the uses of said funds," approved June 16, 1913, shall file with the state board of education at its offices in Sacramento, in person or by registered mail, a statement made under oath, of his age at his nearest birthday, his teaching experience in the public schools of California, his teaching experience in the public schools of other states of the United States of America, and any other experience he may have had in public schools or in the service of the state that may be counted as service under the provisions of said act, and such other information as may be required by said state board of education for the purpose of making an investigation and estimate of probable future expenditures from such fund.

§ 2. Records confidential. All such statements shall be considered confidential and no individual records shall be divulged by any official who has access to them and shall be used by the state board of education solely for the purpose of making such investigation and estimate, and such statements shall not be open to inspection by anyone except the state board of education, and its officers, or any person authorized to make such inspection by the legislature.

§ 3. List to be filed with county superintendent. On or before January 1, 1920, the state board of education shall file with the county superintendent of schools of each county, a list of the names of all teachers of such county who have filed the statement hereinbefore referred to. Upon receipt of such list, it shall be the duty of the county superintendent of schools to withhold payment of the first warrant for the payment of the salary of each teacher bound by the provisions of said act, who, being employed during the month of November, 1919, shall have failed to file such statement, and shall not issue a warrant for such payment until such statement has been filed with the state board of education and a receipt therefor presented.

ACT 2645.

An act to authorize the counties of the state of California to establish retirement systems for their employees.

[Approved May 20, 1919. Stats. 1919, p. 782.]

§ 1. Definitions. In this act, unless the context otherwise requires:

(a) The words "retirement system" mean the arrangements provided in this act for the payment of annuities, or the payment of total sums in lieu of annuities.

(b) The word "annuity" means the payments for life derived from money deposited by the employees and contributed by the county.

(c) The words "regular interest" mean interest calculated on March thirty-first, June thirtieth, September thirtieth and December thirty-first on payments received during the preceding quarter from the last of that quarter at four per cent per annum compounded annually on the last day of December.

(d) The word "employees" includes both appointive officers and employees of the county.

(e) The words "in continuous service" mean uninterrupted employment, except that a temporary lay-off on account of illness or for purposes of economy, a leave of absence, suspension or dismissal followed by reinstatement within one year shall not be considered as breaking the continuity of service; provided, further, that in case of reinstatement of any member who at the time of his separation from the service receives a refund under section six of this act, he shall be deemed to be a new entrant to the service and the monthly deductions from his salary shall be computed from the date of such reinstatement unless he shall, within ninety days from such reinstatement, return to the members' deposit reserve the amount refunded to him.

(f) The word "county" shall mean "county" or "city and county."

(g) The term "salary fund" shall mean in any city and county the fund from which salaries are ordinarily paid.

§ 2. Retirement system for county employees established. There is established in each of the several counties of the state, a retirement system for its employees, as defined in section three; provided, however, that the provisions of this act shall become effective in any particular county only upon condition that the provisions of this act are accepted by ordinance passed by a four-fifths' vote of its board of supervisors, in which event the provisions of this act shall become operative in such county on the first day of January, or on the first day of July next following the expiration of three months after the passage of said ordinance. Within thirty days after the passage of such ordinance, the clerk of the board of supervisors shall mail a certified copy of such ordinance to the insurance commissioner of this state, who shall forthwith issue a certificate that the retirement system, provided for in this act, is declared established in such county to become operative therein, as above set forth.

§ 3. Organization of retirement association. Whenever the provisions of this act shall become operative in any particular county a retirement association shall be organized as follows:

(1) Except as otherwise herein provided, all employees of the county shall become members of the association thirty days after the retirement system becomes operative, or thirty days after their entrance into the service; provided, however, that employees entitled to become beneficiaries under a retirement or pension system already provided by law or freeholders' charter, are exempt from the provisions of this act.

(2) No officer holding an elective office or elected by popular vote may become a member of the association.

(3) After one year subsequent to the formation of a retirement system any member who reaches or has reached the age of sixty years and who has been in the continuous service of the county for a period of ten years immediately preceding may retire, and any member who reaches the age of seventy must retire; provided, however, that within thirty days before reaching the age of compulsory retirement a member may be retained for a period not to exceed one year and similarly thereafter from year to year, if the head of the department or office in which he is employed, or the board or commission having power of appointment, certifies to the board of retirement that, by reason of his efficiency and willingness to remain, his further continuance would be advantageous to the public service and if such recommendation is approved by the board of retirement and the board of supervisors.

(4) After the said first year has elapsed any member who has completed a period of thirty-five years of continuous service may retire or may be retired at any age by the officer, board or commission having power to dismiss such member if such action be deemed advisable for the good of the service.

(5) After the said first year has elapsed any member who becomes permanently disabled for any cause whether incurred in the performance of duty or otherwise shall be retired in the same manner as prescribed in subdivision (4) of this section.

(6) Membership in the association shall be evidenced by membership certificate and the right to an annuity shall be evidenced by an annuity certificate to be issued by the board of retirement.

(7) Nothing contained in this act shall be construed as in any way affecting the power of removal vested in officers, boards or commissions.

§ 4. (1) Board of retirement. The management of the retirement system is hereby vested in the board of retirement, consisting of three members, one of whom shall be the county treasurer. The second member shall be a member of the association elected by the latter within thirty days after the date when the retirement system becomes operative as provided under section two, in a manner to be determined by the county board of supervisors. The third member shall be an officer or employee of the county chosen by the board of supervisors. The first person so chosen or appointed as third member shall serve for two years; otherwise and thereafter the term of office of the two elected members shall be three years. On a vacancy occurring in the board for any cause or on the expiration of the term of office of any member, a successor of the person whose place has become vacant or whose term has expired shall be chosen in the same manner as was his predecessor. Separation from the service of the county of a member of the board of retirement shall automatically vacate his office.

(2) **Compensation.** The members of the board of retirement shall serve without compensation, but they shall be reimbursed out of the funds of the county, appropriated in section five (1) to defray the cost of operating the retirement system, for any expense or loss of salary or wages which they may have incurred through service on the board.

(3) **County treasurer shall have control of funds.** Subject to the approval of the board of retirement, the county treasurer shall have charge and control of and shall safely keep the funds of the system, and shall invest and reinvest the same, and may from time to time sell any securities held by him and invest and reinvest the proceeds therefrom, and any and all unappropriated income of said funds; provided, however, that all funds received by him not required for current disbursements shall be invested in first mortgages on improved real estate situated within the county not exceeding sixty per cent of the value thereof; or in bonds of the United States or of the state of California, or of any county, city and county, or municipal corporation, or other subdivision thereof; or deposited at interest in any state or national bank doing business within the county; provided, that the credit of the county shall not be given or lent in aid of, or to, any person, association, or corporation, whether municipal or otherwise, nor shall it be pledged in any manner whatever for the payment of the liabilities of any individual, association, municipal or other corporation whatever. He may, whenever he sells such securities, deliver the securities so sold upon receiving the proceeds thereof, and may execute any and all documents necessary to transfer the title thereto. The duties herein imposed upon the county treasurer shall be deemed a part of his official duties and for the faithful performance of which he shall be liable on his official bond.

(4) **Employees' retirement fund.** A trust fund account to be known as employees' retirement fund is hereby created to be opened upon the books of the auditor and treasurer of the counties adopting a retirement system under the provisions of this act.

All transfers or payments to the retirement system, and all withdrawals and other cash transactions, shall be accounted upon the books of the auditor and treasurer in and out of this fund account, in the manner they would be accounted if they were county transactions.

All warrants drawn on the employees retirement fund shall be signed by the treasurer and at least one other member of the board of retirement, who shall be designated by such board, but no warrant so drawn shall be valid until it has been countersigned and numbered by the county auditor and a record made of it by him.

(5) **By-laws and regulations.** The board of retirement shall have power to make by-laws and regulations not inconsistent with the provisions of this act and such by-laws and regulations shall become effective when approved by the board of supervisors. The by-laws shall provide among other things:

(a) **Election of officers.** For the election of officers, terms for which elected, times of meeting and all other matters relating to the administrative procedure of the board.

(b) **Exemption from membership.** In the discretion of the board, for exemption from membership of persons whose tenure is temporary, or intermittent, or part time; and for exemption from membership, or for reduced rate of deposit (which in no such case shall be less than two dollars per month) of, or by persons whose rate of compensation is less than eighty dollars per month, or by persons whose compensation is measured by a per diem wage.

(c) **Employee's statement.** For the filing of a sworn statement by every person who is or who shall have become an employee of the county, showing date of birth, nature and duration of employment with the county, compensation received, and giving any other information that may be required by the board that will enable it to determine eligibility for membership and retirement.

(d) **Forms.** For forms of membership and annuity certificates and for such other forms as may be required.

(6) **Statement of county treasurer to insurance commissioner.** The county treasurer in January of each year shall, unless for cause the insurance commissioner shall have granted an extension of time, file in the office of the insurance commissioner a sworn statement which shall exhibit the financial condition of the retirement system at the close of the thirty-first day of the preceding December and its financial transactions for the year ending with such day. Such statement shall be in a form approved by the insurance commissioner and shall show the following assets and liabilities:

A. ASSETS.

- (1) Cash on hand.
- (2) Cash on deposit.
- (3) Securities owned.
- (4) All other assets, showing each kind separately.

B. LIABILITIES.

- (1) Members' deposit reserve—Less than ten years—The total of the deposits of members actually received by the treasurer or due from the

county under section five, (2), (a), for the first nine and a fraction years, and held subject to withdrawal by such members, together with regular interest thereon separately reported.

(2) **Members' deposit reserve**—Ten years and over—The total of the deposits of members who have made deposits for ten or more years actually received by the treasurer or due from the county under section five, (2), (a), and held subject to withdrawal by such members, together with regular interest thereon separately reported.

(3) **County advance reserve**—The unused amount advanced by the county during the first ten years under section five, (2), (d).

(4) **County contribution reserve**—An amount equal to the net amount of the deposits by members that have made deposits for ten or more years plus regular interest, as reported under the provision of subdivision (6), B, (2) of this section.

(5) **Annuity reserve**—The present worth of the combined annuities as a group entered upon under section six, on the basis of the mortality and annuity tables and regular interest rates provided for in this act. The unpaid annuities, resulting from the death of members before the full amount reserved for such annuities has been paid, shall not be deducted from this reserve but such amounts shall be used for the payment of annuities of persons exceeding their life expectancy.

(6) **Prior service annuity reserve**—The unexpended amount contributed by the county for the payment of annuities for prior service as provided by section six 2, B (4), and section five, (4), which must not be less than the amount of the annuities due and unpaid.

(7) **Gifts and bequests**—The amount received as gifts or bequests and held under the terms of such gifts or bequests.

(8) **All other liabilities.**

C. RESULTING SURPLUS OR DEFICIT.

(1) **Surplus if assets exceed liabilities.**

(2) **Deficit if liabilities exceed assets.**

Creation of Funds.

§ 5. Creation of funds. The funds of the retirement system shall be raised as follows:

(1) **Expense.** Expense—The county shall appropriate annually such an amount as may be necessary to defray the entire expense of administration according to estimates prepared by the treasurer. All payments for this purpose except salaries shall be from the general fund of the county and all liabilities created hereunder shall be deemed liabilities created by law.

(2) **Deposit and contribution funds.** Deposit and contribution funds—(a) **Deposits by members.** From the first salary or wage warrant drawn in each month in favor of each member of the association for an amount not less than four dollars, there shall be deducted, by the county auditor or other officer charged with the duty of drawing salary or wage warrants, the sum of four dollars which shall be paid by such officer to the county treasurer and placed to the credit of the member's account in the members' deposit reserve; provided, that where the board of retirement has, in accordance with the by-laws, permitted the exemption of certain members or the deductions of smaller amounts from their

salaries or wages, the action of the board in such cases shall govern. Deductions shall not be made for any member for a period longer than twenty-five years.

(b) **Contributions by the county.** Whenever any member has made his or her deposits for ten years during a period of not less than ten years, or whenever a member becomes permanently disabled during the first ten years of his or her membership and is entitled to an annuity or to a lump sum payment from the county under the provisions of this act, the county shall transfer to the county contribution reserve, from the county advance reserve or from the salary fund if the former is not large enough a sum equal to that contributed by such member with regular interest added thereto. Thereafter for a period not exceeding fifteen years, the county shall at the end of each month contribute a sum equal to the sum deposited by such member during that month.

(c) Whenever any member entitled to an annuity retires or is retired under the provisions of this act, during the first ten years of its operation, an amount equal to the amount deposited by such member with regular interest shall be transferred from the county advance reserve, or from the salary fund if the former is not large enough, to the county contribution reserve.

(d) **Deposit and contribution funds.** For the first ten years after the adoption of this act by any county in this state the board of supervisors thereof shall pay or transfer to the retirement system an amount not less than one per cent of the pay-roll for the preceding year, which amount shall be paid from the salary fund, and be used only for the purpose of making contributions under the provisions of section five, (2), (b), and (c).

(e) If the amount so reserved shall at the end of ten years be in excess of the amount required to be contributed under provision of this act the balance shall be used in making contributions in the following year or years.

If the amount to be contributed by the county during the tenth year after the establishment of the retirement system is greater than the amount reserved under the provisions of this subdivision, the difference shall be contributed from the salary fund.

(3) **Annuity fund**—The annuity fund shall be created by transfers from the deposit and contribution funds as follows:

(a) When a member has been retired upon an annuity, the amount of his deposits plus regular interest shall be deemed transferred from the deposit fund to the annuity fund.

(b) A similar amount shall be deemed transferred from the contribution fund.

(c) The actual funds, i. e., the cash and other assets of the retirement system, shall be treated as a whole and no attempt made to keep and invest separately the amounts coming in from the several sources of income, but separate reserve or other accounts shall be kept to show from what sources the income is derived and for what purpose and to show the several liabilities of the system to be paid from the funds.

(4) **Prior service annuity fund**—Upon the establishment of the retirement system and upon the first of the first month of each succeeding quarter, there shall be contributed by the county from the salary fund a sum as determined by the board of retirement equal to the total

amount of prior service annuities as defined in section six 2, B, (4), that will be payable during the time that will intervene before the beginning of the next quarter.

Nothing herein contained however shall prevent a county from creating a fund for the payment of prior service annuities by dividing the total amount to be raised for this purpose as determined by the board of retirement into monthly, quarterly or annual contributions of equal amount; provided, that there shall always be in this fund a balance not less than the current demands against it.

Distribution of Funds.

§ 6. Distribution of funds. The county treasurer shall administer the funds of the retirement system in accordance with the following plan:

1. The cost of operation of the retirement system shall be borne by the county from funds provided under section five, (1), and the liabilities incurred in connection therewith paid as other county charges are paid. These expenses are hereby made county charges.

2. Deposit, contribution, and annuity funds—

A. REFUNDS.

(1) **Refunds.** Should a member separate from the service of the county for any cause except permanent disability before retirement, there shall be paid to him or, in case of death to his legal representatives, all the money that shall have been paid in by him under section five, (2), (a), with regular interest on such deposits.

(2) The amount contributed by the county for such member with regular interest shall be transferred from the county contribution reserve to the surplus and deficit account.

B. ANNUITIES FROM EMPLOYEE'S DEPOSITS AND CONTRIBUTIONS BY THE COUNTY.

(1) **Annuities.** Any member who reaches the age of sixty years and has been in the continuous service of the county for ten years immediately preceding and then or thereafter retires or is retired, any member who retires or is retired at the age of seventy years, or thereafter, and any member who retires or is retired for the good of the service or for permanent disability under the provisions of section three, (4) and (5), shall receive a life annuity to which the sum of his deposits under section five, (2) (a), with regular interest and contributions by the county with regular interest under section five, (2), (b), and (c), shall entitle him according to the annuity tables adopted by the board of retirement in one of the following forms at his option:

(a) A life annuity, payable quarterly.

(b) A life annuity payable quarterly with the provision that in the event of the death of the annuitant before receiving payments equal to the sum at the date of his retirement of his deposits under section five, (2), (a), with regular interest, the difference shall be paid to his legal representatives.

(2) **Annuities for permanent disability.**—Any member who has been retired for permanent disability as provided under section three, (5) shall receive an annuity based upon the sum of his deposits and of the

county's contributions with regular interest. Except that any member who receives compensation from the county under any workmen's compensation act or by virtue of any judgment obtained against the county for permanent disability, shall in lieu of such annuity receive a refund of all the money that has been paid in by him under section five, (2), (a), with regular interest on such deposits. The annuities paid hereunder shall cease whenever, upon investigation, the board of retirement shall find that such disability has been removed, but if the member has not received a sum equal to the amount he deposited with regular interest the difference shall be refunded to him.

(3) If the sum of the deposits made by an employee entitled to an annuity and the contributions by the county with regular interest do not amount to more than five hundred dollars, such amount shall be paid to the retiring employee in one lump sum in lieu of an annuity.

(4) Annuities based on prior service—Any member in the service of the county at the time this law becomes operative shall, upon being retired receive an annuity based upon an annuity reserve of such sum as the county's contributions at regular interest would have produced for the period of years, not exceeding twenty-five, that he shall have been in the actual service of the county at the date of retirement, plus the amount of the reserve created by his own deposits with regular interest. In all such cases that portion of the annuity not produced by the member's deposits and similar contributions by the county shall be paid from the prior service annuity reserve. Nothing herein contained shall prohibit any employee from paying into the retirement system any sums in excess of the regular monthly contributions. Any payment so made shall be made in accordance with rules adopted by the board of retirement, be credited to a separate and special account of the employee so making the payment, held for his sole use and benefit, and increased with regular interest as provided by this act. When a member who has made an extra deposit retires or separates from the service of the county, the amount of such extra deposit with regular interest shall be returned to him in a lump sum, or used to increase his annuity reserve and annuity, as the circumstances of each particular case may require.

(5) The amount of the surplus as of December thirty-first of each year, if there be a surplus, shall be paid into the salary fund of the county. The deficit, if there be a deficit, shall be made good by a transfer from the salary fund of the county, on order of the board of supervisors, to the fund of the retirement system.

(6) Refunds to the county shall go to the fund from which disbursements were originally made.

Taxation, Attachments and Assignments.

§ 7. Taxation, attachments and assignments. The title to all property acquired under the provisions of this act shall be taken in the name of the county. The title to any moneys which may become due to any member shall not pass from the county to such member until such member is entitled thereto under the provisions of this act.

That portion of the wage of a member deducted or to be deducted under this act, the right of a member to an annuity, and all his rights in the fund of the retirement system shall be exempt from taxation, and from the operation of any law relating to bankruptcy or insolvency, and shall not be attached or taken upon execution or other process of

any court. No assignment of any right in or to said funds shall be valid.

Supervision by Insurance Commissioner.

§ 8. Supervision by insurance commissioner. The insurance commissioner shall prescribe for each county that adopts a retirement system under the provisions of this act mortality and annuity tables based upon the rate of interest herein named and may later modify such tables or prescribe other tables to represent more accurately the cost of the annuity system, and may determine the application of the change so made. He shall also prescribe and supervise methods of bookkeeping of each retirement association formed under the provisions of this act.

The insurance commissioner shall at least once in each year, either personally or by deputy or assistant, thoroughly inspect and examine the affairs of the retirement association to ascertain its financial condition, its ability to fulfill its obligations, whether all parties in interest have complied with the provisions of law applicable to the association, and whether the transactions of the board of retirement have been in accordance with the rights and equities of those in interest. The retirement system shall be credited, in the account of its financial condition, with the amounts due from the county, under the provisions of section five, its investments with fixed maturities at amortized values, and its other investments at a reasonable valuation.

For the purposes aforesaid the insurance commissioner or other persons making examination shall have access to all the securities, books and papers of the retirement system, and may summon and administer oaths and examine as witnesses the members of the board of retirement or any other person, relative to the financial affairs, transactions and conditions of the retirement system. The insurance commissioner shall preserve in a permanent form a full record of the proceedings at such examination and the results thereof. Upon the completion of such examination, verification and valuation, the insurance commissioner shall make a report in writing of his findings to the board of retirement and shall send a copy thereof to the county board of supervisors.

§ 9. Violation of act. If, in the judgment of the insurance commissioner, the county or the board of retirement have violated or neglected to comply with any of the provisions of this act, or of the rules and regulations established by the board of retirement hereunder, he shall give notice thereof to the county and to the board of retirement, and thereafter if such violation or neglect continues shall forthwith present the facts to the attorney general for his action. It shall be the duty of the attorney general by mandamus or other proper proceedings in his own name to compel compliance with this act.

§ 10. Purpose of act. Constitutionality. The purpose of this act is to recognize a public obligation to such of its employees as may become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for a retirement annuity as an additional element of compensation for future services, and at the same time to provide a means whereby public employees who may become incapacitated may be replaced by more capable employees to the betterment of the public service without prejudice and without inflicting a hardship upon the employees removed.

This act, therefore, shall be given a liberal interpretation with a view of carrying out such purpose, and it shall not be construed as a local measure or one intended as a benefit to particular persons or places.

"In case any section, or sections, or part of any section, of this act, shall be found to be unconstitutional or invalid, for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

ACT 2645a.

An act to provide for teachers employed by the California Polytechnic, the Whittier State School, the California School for Girls, the Preston School of Industry, and the California School for the Deaf and Blind holding valid certificates in this state being made subject to the burdens and entitling them to all the benefits of an act entitled "An act to provide for the payment of retirement salaries to public school teachers; creating a public school teachers' retirement salary fund, and also a public school teachers' permanent fund; providing for the administration of such funds, and making an appropriation for the uses of said funds," approved June 16, 1913.

[Approved May 3, 1919. Stats. 1919, p. 151.]

§ 1. Teachers in state schools entitled to pension benefits. All teachers employed by the Whittier State School, the California School for Girls, the Preston School of Industry, the California Polytechnic School in the county of San Luis Obispo, and the California School for the Deaf and the Blind holding valid certificates in this state shall be subject to the burdens and entitled to all the benefits of an act entitled "An act to provide for the payment of retirement salaries to public school teachers; creating a public school teachers' retirement salary fund, and also a public school teachers' permanent fund; providing for the administration of such funds, and making an appropriation for the uses of said funds," approved June 16, 1913; and the contributions of said teachers shall be collected and paid into the treasury of the state in the same manner as in the several state normal schools.

TITLE 410.

PETALUMA.

ACT 2650.

Charter of. [Stats. 1911, p. 1799.]

Amended 1915; p. 1803; 1919, p. 1434.

TITLE 417a.

PLUMBING.

ACT 2712a.

An act providing for the examination, certification and registration of plumbers, prescribing powers and duties of the state board of health in reference thereto, and penalties for a violation of the provisions hereof.

[Approved April 6, 1917. Stats. 1917, p. 73. In effect July 27, 1917.]

§ 1. "Master plumber" defined. "Journeyman plumber" defined. Certain terms as used in this act shall be construed as follows:

(a) The term "master plumber" means one who has an established place of business and works by contract.

(b) The term "journeyman plumber" means one who, as an employee, personally installs plumbing work, but does not mean a helper or an apprentice working under the direct personal supervision of a plumber who holds a temporary permit or a certificate of competency issued pursuant to the provisions of this act.

§ 2. Certificate of competency. It shall be unlawful for any journeyman plumber or master plumber in any city or town maintaining a public sewer system to personally install any plumbing or drainage system or portion thereof unless he shall first obtain a temporary permit or a certificate of competency issued pursuant to and as provided for in this act.

§ 3. Examining board. In each county in which there is a city or town having a sewer system, the state board of health shall appoint an examining board of three members, one of whom must be a journeyman plumber who has had at least five years' practical experience as a plumber in this state, one a master plumber who has engaged in the plumbing business as a master plumber for at least five years in this state, and one a regularly licensed and practicing physician of this state. They shall serve for twelve, eighteen and twenty-four months respectively, or until their successors are duly appointed and qualified, and each member shall receive as compensation fifty cents for each applicant examined, such compensation to be paid out of the funds of the state board of health semi-annually. Within ten days after their appointment the board shall meet and choose one of its members to act as secretary of the board. The state board of health shall provide each examining board with the necessary application forms, registration books, temporary permits, certification blanks, and all tools, materials and office or shop room in which to properly conduct the examinations. Applications for examination may be made in writing. The state board of health shall adopt such rules and regulations as may be necessary and advisable to carry out the purposes of this act.

§ 4. Application for certification. Examination. Application for certification shall be made to the secretary of the examining board. The fee for filing the application shall be two and one-half dollars and shall be paid to the secretary of the examining board and by him to the state board of health to the credit of the contingent fund thereof. In no case shall the filing fee be returned to the applicant. The examining board shall issue to the applicant a temporary permit which shall be valid only until the examination is held and the certificate granted or denied. The examination shall consist of an oral or written examination and practical test and shall be of sufficient strictness to properly test the qualifications of the applicant as to his knowledge of plumbing, house draining and ventilation. If the applicant shows by a proper examination that he is qualified the board shall issue to him a certificate of competency which shall thereafter be renewed every twelve months without the necessity of an examination, upon the payment of an annual fee of two dollars. Any person possessing such a certificate of competency to work in a particular county shall be entitled to work at the plumbing business in any other county in this state upon registering with the examining board thereof. Such registration shall be without cost and without examination.

§ 5. Revocation of certificate. Said board may make such rules and regulations as may be necessary to effectively carry out the provisions

of this act and may at any time revoke a certificate granted by it for the violation of any such rules or regulations or of municipal building, plumbing or sanitary ordinance.

§ 6. Provisions of city charters. Nothing in this act contained shall be deemed to repeal or in any manner supersede the authority conferred upon the board of health, department of public health, or health officer, by the charter of any incorporated city or city and county, or the power, under such charter, to enact ordinances providing for the conduct of any of the matters and things embraced within the terms of this act.

§ 7. Penalty. Any person violating any provisions of this act shall be guilty of a misdemeanor as defined in section nineteen of the Penal Code.

TITLE 419.

POISONS.

ACT 2724.

An act to regulate the sale and use of poisons in the state of California and providing a penalty for the violation thereof.

[Approved March 6, 1907. Stats. 1907, p. 124.]

Amended 1909, p. 422; 1911, p. 1106; 1913, p. 692; 1915, pp. 863, 1066; 1919, p. 1275.

The title of the amendatory act of 1919 said that a new section 8g was added to the act but no such section is incorporated in the act. See note at end of act.

The amendment of 1919 follows:

§ 7. Penalty for unlawful sale of narcotics. Second offense. Third offense. Disposition of fines. Schedule "A." Schedule "B." Any person violating any of the provisions of sections eight or eight a of this act shall upon conviction be guilty of and shall be punished as follows, viz., for the first offense said person so convicted shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars, and not to exceed four hundred dollars, or by imprisonment for not less than fifty days and not exceeding one hundred eighty days, or by both such fine and imprisonment; for the second offense said person so convicted shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars, and not to exceed five hundred dollars, or by imprisonment for not less than ninety days and not exceeding six months, or by both such fine and imprisonment; and for the third offense said person so convicted shall be deemed guilty of a felony and shall be punished by imprisonment in the state prison for not less than one year and not more than five years. Any person violating any of the provisions of this act, except those contained in sections eight or eight a, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than thirty dollars, nor more than two hundred dollars, or by imprisonment for not less than thirty days and not more than fifty days, or by both such fine and imprisonment. All moneys, forfeited bail or fines, received under the operation of this act shall be paid by the magistrate receiving same, seventy-five per cent to the state

board of pharmacy, and twenty-five per cent to the city treasurer of the city, if incorporated, or to the county treasurer of the county in which the prosecution is conducted. The following is schedule "A" referred to in section one, viz: Schedule "A," arsenic, its compounds and preparations, corrosive sublimate, and other poisonous derivatives of mercury, cyanide of potassium, strychnine, hydrocyanic acid, oils of croton, rue, savin, and tansy, phosphorus and its poisonous derivatives and compounds, strophanthus or its preparations, aconite, belladonna, nux vomica, veratrum viride, their preparations, alkaloids or derivatives, and poison containing any of the poisons enumerated in this schedule.

The following is schedule "B": Hydrochloric or muriatic acid, nitric acid, oxalic acid, sulphuric acid, bromide, chloroform, cowhage, creosote, ether, solution of formaldehyde or formaline; cantharides, cocculus indicus, all their preparations; iodine, or its tinctures, oil of pennyroyal, tartar emetic, and other poisonous derivatives of antimony, sugar of lead, sulphate of zinc, wood alcohol, lysol and compound solution of cresol. [Amendment added May 27, 1919; Stats. 1919, p. 1274.]

§ 8. Unlawful to sell certain narcotic drugs. Regulation concerning sale. It shall be unlawful for any person, firm or corporation to sell, furnish or give away or offer to sell, furnish or give away or to have in their or his possession any cocaine, opium, morphine, codeine, heroin, alpha eucaine, beta eucaine, nova caine, flowering tops and leaves, extracts, tinctures and other narcotic preparations or hemp or loco weed (*Cannabis sativa*), Indian hemp, peyote (*Anhalonium*), or chloral hydrate or any of the salts, derivatives or compounds of the foregoing substances or any preparation or compound containing any of the foregoing substances or other salts, derivatives or compounds excepting upon the written order or prescription of a physician, dentist or veterinary surgeon, licensed to practice in this state, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, written in by the person writing said prescription, or if ordered by a veterinary surgeon it shall state the kind of animal for which ordered and shall be signed by the person giving the prescription or order. Such order or prescription shall be permanently retained on file by the person, firm or corporation who shall compound or dispense the articles ordered or prescribed, and it shall not be again compounded or dispensed if each fluid or avoirdupois ounce contains more than ten grains of chloral hydrate, or four grains of Indian hemp or loco weed excepting upon the written order of the prescriber for each and every subsequent compounding and dispensing. No copy or duplicate of such written order or prescription shall be made or delivered to any person but the original shall be at all times open to inspection by the prescriber and properly authorized officers of the law and shall be preserved for at least three years from the date of the filing thereof; provided, that the above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers to pharmacies, as defined in section one of an act entitled "An act to regulate the practice of pharmacy in the state of California and to provide a penalty for the violation thereof; and for the appointment of a board to be known as the California state board of pharmacy," approved March 20, 1905, and acts amendatory thereof; or physicians, nor to each other, nor to the sale at retail in pharmacies by pharmacists to physicians, dentists or veterinary surgeons duly

licensed to practice in this state; provided, further, that all such whole sale jobbers, wholesalers and manufacturers, in this section mentioned shall keep in a manner readily accessible, the written orders or blank forms required to be preserved under the provisions of section two of the act of congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing or giving away of opium or coca leaves and salts, derivatives or preparations. And said records shall always be open for inspection by any peace officer or any member of the board of pharmacy or any inspector authorized by said board and such records shall be preserved for at least two years after the date of the last entry therein. The taking of any order, or making of any contract or agreement, by any traveling representative, or any employee, of any person, firm or corporation, for future delivery in this state, of any of the articles or drugs mentioned in this section shall be deemed a sale of said articles or drugs by said traveling representative, or employee, within the meaning of the provision of this act; provided, further, that a true and correct copy of all orders, contracts or agreements, taken for narcotic drugs specified in this section shall be forwarded by registered mail to the secretary of the California state board of pharmacy within twenty-four hours after the taking of such order, contract or agreement, unless such order, contract or agreement is recorded as required under the provisions of section two of an act of congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing or giving away of opium or coca leaves, their salts, derivatives or preparations of some wholesale jobber, wholesaler, or manufacturer permanently located in this state, as provided for in this section. It shall be unlawful for any practitioner of medicine, dentistry or veterinary medicine to administer to himself as a habitual user or furnish to or prescribe for the use of any other habitual user of the same, or of anyone representing himself as such, any cocaine, opium, morphine, codeine, heroin, or chloral hydrate, or any salt, derivative or compound of the foregoing substances or their salts, derivatives or compounds; and it shall also be unlawful for any practitioner of medicine or dentistry to prescribe or give any of the foregoing substances for himself or any person not under his treatment in the regular practice of his profession, or for any veterinary surgeon to prescribe or furnish any of the foregoing substances for the use of himself or any other human being; provided, however, that the provisions of this section shall not be construed to prevent any duly licensed physician from furnishing or prescribing in good faith as their physician by them employed as such, for any habitual user of any narcotic drugs who is under his professional care, such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of evading the purposes of this act; provided, that such licensed physician shall report in writing, over his signature, by registered mail, to the office of the California state board of pharmacy, within twenty-four hours after the first treatment, each and every habitual user of such narcotic drugs as are enumerated in this section, whom he or she has taken, in good faith, under his or her professional care, for the cure of such habit, such report to contain the date, name and address of such patient, and the name and quantity of the narcotic or narcotics prescribed in such treatment; and provided, further, that the above pro-

visions shall not apply to preparations of the United States pharmacopoeia and national formulary or other recognized or established formula or remedies sold or dispensed without a physician's prescription containing not more than two grains of opium, or one-fourth grain of morphine, or one grain of codeine, or one-eighth grain of heroin, or ten grains of chloral hydrate or four grains of Indian hemp or loco weed in one fluid ounce, or, if a solid preparation, in one ounce, avoirdupois, except tincture opii camphorata (commonly known as paregoric) which may be sold only upon the prescription of a physician licensed to practice in this state and said prescription shall not be again refilled or dispensed. [Amendment added May 27, 1919; Stats. 1919, p. 1276.]

§ 8½. Limit of prescriptions to habitual users. Reports of physician. Any licensed physician treating any habitue under section eight of this act shall not prescribe for or furnish such habitue more than eight grains of opium, or four grains of morphine, or two grains of cocaine, or two grains of heroin for each daily treatment and at the end of fifteen days of such treatment the said physician shall not prescribe for or furnish to such habitue, for each daily treatment, more than four grains of opium, or two grains of morphine, or one grain of cocaine, or one grain of heroin, and at the end of thirty days from the first treatment, the prescribing or furnishing of any of the narcotic drugs above enumerated shall be entirely discontinued; and the physician shall report by registered mail as required in section eight of this act, and shall in the same manner further report in fifteen days, and in thirty days, the progress of the patient under the treatment so administered by him; otherwise, said treatment shall not be considered in good faith as provided in section eight of this act; provided, however, that any licensed physician may prescribe for or furnish his patient as their physician employed by them as such, and who is suffering with some incurable disease, ailment, or injury, any of the narcotic drugs mentioned in section eight, in such quantity as may be necessary for a reasonable length of time and the physician prescribing or furnishing any of the narcotic drugs must personally furnish a signed, detailed report in writing, to the office of the California state board of pharmacy, by registered mail, within twenty-four hours after writing the first prescription or furnishing the narcotic drug to such patient; and provided, further, that the California state board of pharmacy may employ a licensed physician to interview, examine and report the result of such interview or examination of any patient coming under the provisions of this section; provided, further, that the California state board of health shall furnish, upon request in writing from the California state board of pharmacy, a list of incurable diseases or ailments which, in its judgment, might require excessive amounts of narcotic drugs to be prescribed for or furnished by a physician for relief or benefit. [New section added May 27, 1919; Stats. 1919, p. 279.]

§ 8e. Unlawful to sell hypodermic syringe or needle without physician's order. Permit to sell. Penalties. It is hereby made unlawful for any person to sell, vend, give away, or furnish, either directly or indirectly, to any person other than a duly licensed physician, licensed to practice and prescribe medicines in this state, or to a dentist or a veterinarian, or a pharmacist licensed to practice in this state, or person holding an unrevoked license to practice osteopathy, an instrument

commonly known as a hypodermic syringe, or an instrument commonly known as a hypodermic needle, without a written, signed order from a duly licensed physician, dentist or veterinarian licensed to practice and prescribe medicine in this state, said order to contain the name and address of the party for whom ordered; or for any person other than a physician, dentist, veterinarian or pharmacist licensed to practice in this state, to have in his possession such an instrument commonly known as a hypodermic syringe or an instrument commonly known as a hypodermic needle, or any instrument or contrivance used for the same purpose as a hypodermic syringe or hypodermic needle, unless said instrument or contrivance was purchased by said person through and with a written order signed by a duly licensed physician, dentist or veterinarian licensed to practice and prescribe medicine in this state or person holding an unrevoked license to practice osteopathy, as above provided. No order, certificate or prescription shall be for more than one hypodermic syringe or for more than three hypodermic needles and no copy or duplicate of such order shall be made for or delivered to any person and said order or prescription shall be accepted and filled only once; provided, however, that the above restrictions shall not prevent any duly registered nurse of this state or student nurse in any hospital or training school for nurses from obtaining or possessing any hypodermic syringe and hypodermic needles when working under the immediate direction and supervision of a licensed physician or licensed dentist; provided, further, that the board of pharmacy may upon application and at its discretion issue a permit, revocable at the discretion of the said board, to any duly registered pharmacist, for a limited period, permitting and authorizing such pharmacist to sell and dispense hypodermic syringes and needles for specified purposes, to persons not addicted to the use of the narcotic drugs enumerated in this act, and sales made under the authority of and in conformity with the terms of such permit shall not be construed to be in violation of the provisions of this section.

Any person violating any of the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished as follows: For the first offense by a fine of not less than twenty-five dollars and not more than fifty dollars or by imprisonment for not less than twenty-five days and not more than fifty days or by both such fine and imprisonment; and for each subsequent offense by a fine of not less than fifty dollars and not more than one hundred dollars or by imprisonment for not less than fifty days and not more than one hundred days or by both such fine and imprisonment. All fines, moneys, or forfeited bail imposed for violation of this section, upon collection thereof, shall be disposed of as is provided for in the disposition of fines, moneys or forfeited bail under section seven of this act. [New section added May 27, 1919; Stats. 1919, p. 279.]

§ 8f. Definitions. For the purpose of this act the terms "veterinarian," "dentist," "pharmacist" shall be deemed to mean and shall refer only to persons who hold valid, unrevoked certificates to practice their respective professions in this state, issued by their respective examining boards in California. The term "physician," or "duly licensed physician," or "physician duly licensed to practice in this state," or "duly licensed physician licensed to practice and prescribe medicine in this

state," or "practitioner of medicine," or "licensed physician," shall be deemed to mean and refer only to persons holding a valid and unrevoked physician's and surgeon's certificate, or certificate to practice medicine and surgery, issued by the board of medical examiners of the state of California or under the terms or provisions of any preceding medical practice act of the state of California. New section added May 27, 1919; Stats. 1919, p. 1281.]

§ 9. Sale of carbolic acid. The sale or furnishing of carbolic acid (phenol) in quantities of less than one pound, is prohibited unless upon the prescription of a physician, dentist, or veterinary surgeon duly licensed to practice in this state, but this prohibition shall not apply to solution of carbolic acid (phenol) containing not over ten per cent of the carbolic acid (phenol) and not less than ten per cent of ethyl alcoholic. All sales of carbolic acid (phenol) thus diluted so as to contain no more than ten per cent of carbolic acid (phenol) may be made under the same conditions as the drugs enumerated in schedule "B" as found in section seven, but sales of carbolic acid (phenol) containing more than ten per cent of said acid shall be registered subject to the same regulation as the poisons enumerated in schedule "A" as found in section seven. [Amendment approved May 27, 1919; Stats. 1919, p. 1281.]

The going into effect of the foregoing amendments and additions was delayed by the filing of a referendum petition. They will be voted on at the general election held in November, 1920, or at any special election which may be called by the Governor prior to such regular election.

TITLE 420.

POLICE.

ACT 2735.

Creating police relief, health, life insurance, and pension fund.
[Stats. 1889, p. 56.]

Amended 1891, pp. 287, 469; 1897, p. 52; 1917, pp. 119, 120; 1919, p. 101.

The amendments of 1917 and 1919 follow:

§ 3. Who entitled to receive police pensions. Whenever any person at the taking effect of this act, or thereafter, shall have been duly appointed or selected, and sworn, and have served for twenty years, or more, in the aggregate, as a member, in any capacity or any rank whatever, of the regularly constituted police department of any such county, city and county, city, or town which may hereafter be subject to the provisions of this act, said board shall upon the application of such person, order and direct that such person, after becoming sixty years of age, be retired from further service in such police department, and from the date of the making of such order the service of such person in such police department shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund a yearly pension equal to one-half of the amount of salary attached to the rank which he may have held in said police department for the period of one year next preceding the date of such retirement; provided, that any person who comes within the purview of this section, who has otherwise com-

plied with its provisions and who has served for thirty years or more as herein provided shall upon his application, be retired from further service upon a yearly pension equal to two-thirds of the amount of such yearly salary. [Amendment approved April 15, 1919; Stats. 1919, p. 101.]

This section was also amended in 1917. See Stats. 1917, p. 119.

§ 12. Moneys to be paid into police pension fund. The board of supervisors, or other governing authority, of any county, city and county, city, or town shall, for the purposes of said "police relief and pension fund" hereinbefore mentioned, direct the payment annually, and when the tax levy is made, into said fund of the following moneys:

First—Not less than five nor more than ten per centum of all moneys collected and received from licenses for the keeping of places wherein spirituous, malt, or other intoxicating liquors are sold.

Second—One-half of all moneys received from taxes or from licenses upon dogs.

Third—All moneys received from fines imposed upon the members of the police force of said county, city and county, city, or town, for violation of the rules and regulations of the police department.

Fourth—All proceeds of sales of unclaimed property.

Fifth—Not less than one-fourth nor more than one-half of all moneys received from licenses from pawnbrokers, billiard-hall keepers, second-hand dealers, and junk stores.

Sixth—All moneys received from fines for carrying concealed weapons.

Seventh—Twenty-five per centum of all fines collected in money for violation of county, city and county, city, or town ordinances.

Eighth—All rewards given or paid to members of such police force, except such as shall be excepted by the chief of police.

Ninth—The board of supervisors, or other governing authority, of any county, city and county, city or town shall for the purposes of said "police relief and pension fund" provide in addition to the salary now paid or which may be hereafter paid to each member of the police department an amount equal to two per cent of the salaries paid to the policemen of such county, city and county, city or town during the preceding year, payable from the funds of such municipal corporation. [Amendment approved April 14, 1917; Stats. 1917, p. 120.]

ACT 2736.

An act relating to senior rights of members of paid police departments of counties, cities and counties, cities or towns.

[Approved February 23, 1907. Stats. 1907, p. 46.]

Amended 1917; Stats. 1917, p. 1610.

The amendment of 1917 follows:

§ 1. Senior rights in police department. Whenever a member of a paid police department of any county, city and county, city or town shall have served ten years as a member of such police department, he shall be entitled to senior rights in the assignment of duties in the order of their seniority and shall be entitled to day work or to any position held by a member of the same rank not ten years in the service. [Amendment approved June 1, 1917; Stats. 1917, p. 1610.]

§ 2. Penalty for failure to make assignments. Any police official whose duty it is to assign the members of the police department to their duties and who fails to make assignments in accordance with the provisions hereof shall forfeit one month's salary. All money forfeited under this act shall be paid into the treasury of the county, city and county, city or town in which the forfeiture occurs. It shall be the duty of the district attorney to enforce the provisions hereof. [Amendment approved June 1, 1917; Stats. 1917, p. 1611.]

TITLE 421.

POLICE COURTS.

ACT 2741a.

An act to establish police courts in cities of the first and one-half class, to fix the jurisdiction of said courts and to provide for the officers thereof, to prescribe the powers and duties of the officers of said courts, and to fix the compensation of certain officers thereof, and to repeal an act entitled "An act to establish police courts in cities of the first and one-half class, to fix their jurisdiction and provide for officers of said courts and fix the compensation of certain officers thereof," which became a law under the provisions of the constitution of the state of California without the governor's approval, on the 5th day of March, 1901, and all acts amendatory of said act or supplementary thereto.

[Approved June 6, 1913. Stats. 1913, p. 469.]

Amended 1917; Stats. 1917, p. 417.

The amendment of 1917 follows:

§ 6. Clerk. Bond, salary, duties, monthly account. Business hours. Dockets. Said police court shall have a clerk for each of the judges of said court, who shall be appointed by the judge of said court presiding in the department thereof in which the said clerk is to act, and one additional clerk who shall be appointed by the presiding judge of said court. Each of said clerks shall hold office for the term of four years from the date of his appointment. Each such clerk shall be ex officio a clerk of the city justices of the peace. Each of said clerks shall give a bond in the sum of five thousand dollars, with at least two sureties, to be approved by the mayor, conditioned for the faithful discharge of the duties of his office. Each of said clerks shall receive an annual salary of two thousand one hundred dollars, payable in equal monthly installments out of the treasury of said city, which salary shall be full compensation for all services rendered by him. Each of said clerks shall keep a record of the proceedings of said court and issue all processes ordered by the city justices or either of them, or by said police court or a judge thereof, and receive and pay into the city treasury all fines imposed and collected by said court, and all forfeitures of cash deposited in lieu of bail in said court, and all other moneys which may come into his hands belonging to or payable to said city. They shall also render each month to the city council an extract and detailed account under oath of all fines imposed and collected and of all fines imposed and uncollected since their last reports. They shall prepare

and approve bonds and may, in the absence of a judge of said court, fix the amount of bail to be required of any defendant charged in such court with any offense of which such court has jurisdiction. Such clerk may also justify bail, and may administer and certify oaths. Said clerks shall remain at the courtrooms of said court during business hours and during such reasonable times thereafter as may be necessary for a proper performance of their duties. Before receiving any monthly payment of salary each of said clerks shall make and file with the city auditor an affidavit that he has deposited with the city treasurer all moneys that have come into his hands belonging to the city. Any violation of this provision shall be a misdemeanor. Said clerks shall keep, compile and be the custodians of the dockets, files and records of said court. Said dockets shall, in civil cases, be kept in conformity to the provisions of sections nine hundred eleven, nine hundred twelve, nine hundred thirteen and nine hundred fourteen of the Code of Civil Procedure of the state of California. In criminal cases the docket shall contain in each case:

1. The title of the case;
2. The demurrer, if any;
3. The motion to dismiss, if any, based upon any defect of the complaint in substance or form;
4. The ruling of the court upon any demurrer or motion to dismiss;
5. The defendant's plea;
6. Any order of the court setting the time for hearing of any demurrer or motion, or setting case for trial;
7. The names of the witnesses sworn and examined at the trial;
8. The verdict;
9. The time set for rendering judgment, if judgment is not passed immediately after verdict or plea of guilty; and the waiver of time for sentence, if there be such waiver;
10. The judgment;
11. A minute of all motions, rulings and orders made after verdict of judgment;
12. The dates of the various actions or things required to be recorded.

Each of said clerks shall perform such other duties as the court by a majority vote of the judges thereof may determine in regulating and conducting the business of said court, and said judges may select one of the said clerks to supervise and audit the books, records and accounts of the several departments of said court in co-operation with the city auditor of said city, and to perform such other duties as said judges may require.

TITLE 422a.

POTATOES.

ACT 2747.

An act to provide for the certification of potato seed, authorizing the state commissioner of horticulture to employ a potato inspector and to fix his salary, declaring the violation of the provisions hereof to be a misdemeanor and making an appropriation to carry out the purposes hereof.

[Approved May 27, 1919. Stats. 1919, p. 1229. In effect July 27, 1919.]

§ 1. Certification of potato seed. The state commissioner of horticulture is hereby empowered to promote and protect the potato industry of California, and to establish and enforce such rules and regulations as may be deemed necessary for the examination and certification of potatoes grown within the state of California, for the purpose of producing improved varieties or a higher quality of seed. He shall issue to each grower a certificate showing the variety, quality and freedom from insect pests and diseases of the seed crop examined, and each certificate shall show the amount of seed which can be sold thereunder. All such certified potato seed shall be labeled with copies of the certificate, such additional copies to be furnished by the state commissioner of horticulture. The state commissioner of horticulture shall fix a reasonable charge to cover the cost of such inspection and certification, and shall publish a list of the growers of all such seeds. All money collected under this section shall be paid into the state treasury for use in the enforcement of this act.

§ 2. Potato inspector. Upon the passage of this act the state commissioner of horticulture shall employ a "potato inspector," who shall have an intimate knowledge of the potato industry, who shall be an expert on varieties, and who shall be qualified to carry on potato investigations and inspections for the purpose of certification of seed. The salary of the "potato inspector" shall be fixed by the state commissioner of horticulture, and he shall be paid the expenses incurred by him while traveling in the performance of his duties.

§ 3. Penalty. Any person, company, firm, or corporation, who willfully misbrands, adulterates, or otherwise misrepresents or interferes with the grade or quality of certified seed, or who in any way changes the certificates issued by the state commissioner of horticulture, shall be guilty of a misdemeanor.

§ 4. Appropriation. Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of ten thousand dollars to be used during the seventy-first and seventy-second fiscal years in carrying out the purposes of this act.

§ 5. Repealed. All acts, or parts of acts in conflict herewith are hereby repealed.

TITLE 430.

PROSTITUTION.

ACT 2799.

An act to establish an institution for the confinement, care and reformation of delinquent women, to provide for its maintenance, conduct and government, to provide for commitment and admission thereto, and to make an appropriation therefor.

[Approved May 3, 1919. Stats. 1919, p. 246. In effect in part July 22, 1919; see section 19.]

§ 1. California industrial farm for women. There shall be established within this state an institution for the confinement, care and reformation of delinquent women, to be known as the California industrial farm for women.

§ 2. Purpose. The purpose of said institution shall be to provide custody, care, protection, industrial and other training and reformatory help for delinquent women.

§ 3. Board of trustees. Oath. Expenses. Said institution shall be under the management and control of a board of trustees of five members appointed by the governor, three of whom shall be women. The terms of office of said trustees shall be five years each; provided, that the terms of office of those first appointed shall be one, two, three, four and five years, respectively, and the governor in making such appointments shall indicate the respective terms for which the appointments are made.

Before entering upon the discharge of their duties, the trustees shall take an oath in writing to faithfully discharge the same.

The members of the board of trustees shall be entitled to their reasonable expenses, including traveling expenses, incurred in the discharge of their duties.

§ 4. Duties of board. The duties of said board of trustees shall be:

(a) To organize itself, adopt general rules for the holding of its meetings and the transaction of its business, and for the administration and conduct of the institution.

(b) To select, purchase and procure with all reasonable dispatch a suitable site of not less than two hundred acres, with the necessary appurtenances, for said institution. Such site shall be of such character as to afford ample opportunity for agricultural work and training to those committed to the institution. If there be already owned by the state land suitable for such site or as a part thereof, and not used, or in the opinion of the state board of control not necessary for use by the state for another purpose, such land may be appropriated by the board of trustees with the consent of the state board of control as the site, or part of the site, of said institution.

(c) To construct and equip in connection with or appurtenant to the site so procured or appropriated the buildings, improvements and plant necessary for the accomplishment by said institution of the purposes for which it is established.

The board of trustees are authorized, if they deem it advisable, pending the construction of the permanent buildings, improvements and plant, to construct and equip temporary accommodations and to commence and carry on the work of the institution.

(d) To conduct, supervise and administer the institution for the purposes for which it is established, together with the right to possess, control and administer any and all property given or appropriated to or for the benefit of said institution, either by way of endowment, public or private, or otherwise.

(e) The board of trustees shall employ a skilled superintendent, who shall be a woman, not one of their number, and who shall reside at and have the immediate charge and management of the institution, subject to the control and supervision of the board of trustees. The board shall authorize the employment of such other assistants, officers or employees as may be necessary.

(f) The board of trustees shall report biennially to the governor.

§ 5. Meetings. The board of trustees shall meet at said institution in regular session once a month and in special session as they may deem necessary, and the office of any member who is absent from two consecutive regular sessions, or from more than three regular sessions, in the course of any calendar year, shall, unless such absences are excused by the governor in writing, filed with the board, ipso facto become vacant.

§ 6. Bond of superintendent. The superintendent shall give a bond to the state in such sum as may be prescribed by the board of trustees, but not less than ten thousand dollars, conditioned upon the faithful discharge by her of her duties.

§ 7. Women assistants. All regularly employed assistants, officers and employees, whose duties bring them in contact with the inmates of the institution, shall be women as far as practicable.

§ 8. (a) Commitment to institution. When any woman, eighteen years of age or over is found guilty by any court within this state of prostitution, soliciting for prostitution, keeping a house of ill-fame or residing in such house, frequenting any dance-hall, hotel, rooming-house, or other public place, for the purpose of prostitution, or of vagrancy because of being a common prostitute or a common drunkard, she shall in lieu of any other sentence or disposition provided by law, be committed by the court in which she is so found guilty to said institution for an indeterminate period of not less than six months nor more than five years.

(b) Admission refused, when. The said board of trustees shall not be required to receive for admission any woman committed to said institution, if, in its opinion the accommodations at said institution or the state of its finances is such as not to justify her reception.

§ 9. Transfer from penal or reformatory institution. Any woman, eighteen years of age or over, confined under sentence or commitment in any penal or reformatory institution or prison within this state, may be transferred therefrom for the serving of her sentence or the term of her commitment, or the balance thereof, to the said institution, with the consent of the trustees thereof, by order of the governing official or board of officials of the institution or prison in which she is confined.

§ 10. Admission on request of woman. Any woman, eighteen years of age or over, may, upon her written request, be admitted to said institution by the board of trustees thereof if it believes that she is or is in danger of becoming a prostitute, common drunkard, or a criminal. Such person shall be discharged by order of the trustees at any time upon her written request therefor in writing, unless she has been adjudged to be feeble-minded, as hereinafter provided.

§ 11. Delivery to institution. Woman attendant. Upon the commitment or transfer of any woman to said institution under the preceding sections it shall be the duty of the officer having custody of her, or required to take custody of her, to deliver her to said institution, receiving therefor the fees payable for the transportation

of prisoners to the state prison. Such officer shall at the same time deliver to said institution a certified copy of the judgment of conviction and of the order of commitment or order of transfer.

Every woman so committed or transferred under this act shall be accompanied by a woman attendant from the place of commitment or transfer until delivered to the institution.

§ 12. Care of children. If any woman received by or admitted to the institution have a child under two years of age, or gives birth to a child while an inmate of said institution, such child may be admitted to and retained in the institution until it reaches the age of two years, at which time the board of trustees may arrange for its care elsewhere; and provided, that at their discretion in exceptional cases the board of trustees may retain such child for a longer period of time.

§ 13. History of inmates. There shall be kept at the institution a record of the history and progress of every woman received by it during the period she is under its control and, so far as practically possible, prior and subsequent thereto, and all judges, court officials and employees, district attorneys, sheriffs, chiefs of police and peace officers shall furnish such institution with all data in their possession or knowledge relative to any inmate that said institution may request. If upon the arrest of any woman it be discovered that she was theretofore an inmate of said institution, it shall be promptly notified of her arrest.

§ 14. (a) Examination and training. Discharge. Every woman received by said institution shall be examined mentally and physically and shall, if retained by said institution, be given the care, treatment and training adapted to her particular condition. Such care, treatment and training shall be along the lines best suited to develop her mentality, character and industrial capacity to a point where she can be honorably discharged from the institution with reasonable safety and benefit to herself and to the public at large. Upon her reaching such point, in the judgment of the board of trustees, she shall be honorably discharged from the institution, unless she has been transferred to it under section ten hereof and has not fully served her sentence, in which case she shall be recommended by the board of trustees to the governor of the state for pardon.

(b) Transfer to Pacific Colony. If any woman, upon her admission to said institution and examination and observation thereat, is found by the board of trustees thereof to be feeble-minded or moron within the meaning of section sixteen of the act of the legislature of the state of California approved June 1, 1917, creating an institution to be known as the Pacific Colony, such board of trustees may institute proceedings to have such person adjudged to be feeble-minded, and in case of such adjudication shall thereafter have the custody and control over her as a feeble-minded person until discharged or transferred from said institution. The proceedings for the adjudication of any such person as feeble-minded shall conform to those provided in that behalf by said act creating the Pacific Colony. Any such person so adjudicated to be feeble-minded may, by order of the board of trustees of said institution, be transferred to said Pacific Colony or other institution provided by the state for the care of the feeble-minded, with the consent of the governing board of such latter institution and upon such transfer

such governing board shall have the same authority and control over such person as theretofore possessed by the board of trustees of the institution created by this act.

(c) **Discharge on expiration of maximum term.** Any person committed to said institution under sections eight or nine hereof shall in any case be discharged therefrom upon the expiration of the maximum period for which she has been committed to said institution unless she has been theretofore adjudged to be feeble-minded as hereinbefore provided.

§ 15. **Parole.** The board of trustees shall have the right to parole any inmate of the institution at such time and upon such terms as it may deem wise and to recall such parole in its discretion and to retake her into the custody of the institution. The board of trustees shall have the power to employ parole agents for the purpose of affording protection, assistance and guidance to women on parole.

§ 16. (a) **Sale of articles. Employment of inmates.** The said institution may manufacture or raise for sale supplies or produce for use in any state institution, and the board of trustees may in their discretion, pay to any inmate producing or assisting in the production of such article the proceeds, or a part of the proceeds, of the sale thereof. The board of trustees shall also have the power to employ inmates in actual work in the institution and to fix their compensation, if any, therefor and to pay the same at such times and in such manner as the board of trustees may see fit.

(b) **Disposition of moneys received from sales.** All moneys received from the sale of articles of any description, supplies or produce as provided in section sixteen, subdivision (a) of this act, shall be paid to the state treasurer, to be placed in the contingent fund to the credit of the said institution and for its use.

§ 17. **Penalty for aiding in escape.** Any person who aids in or connives at the escape of any inmate from said institution, or in or at her eluding of pursuit in case she has escaped or her parole has been recalled, or in or at any breach of her parole, shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than one hundred dollars or more than one thousand dollars, or by imprisonment in the county jail for not less than three months or more than one year, or by both fine and imprisonment.

§ 18. **Fees of court officers.** In all proceedings relating to commitments under this act the fees and compensation of the sheriff and other officers of the court shall be such as are allowed by law for like proceedings and services in criminal cases.

§ 19. **Proclamation by governor.** When said institution is ready for the admission of women thereto, the board of trustees thereof shall certify such fact to the governor, who shall make due proclamation thereof, and thereupon, but not before, sections eight and nine hereof shall become effective.

§ 20. **State commission in lunacy not to supervise.** The California industrial farm for women, its inmates, trustees, officers, employees and property, shall be exempt from the operation of Chapter one, Title V,

Part III, of the Political Code, and free from the supervision, inspection or control of the state commission in lunacy.

§ 21. Appropriation. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of one hundred fifty thousand dollars for the purposes of this act, and the controller of the state is hereby directed, on requisition of the board of trustees, duly audited by the state board of control, to draw his warrant on the state treasurer in favor of said board of trustees for any moneys duly appropriated to meet any expenditures under this act.

TITLE 431.

PROTECTION DISTRICTS.

ACT 2804.

An act to provide for the formation of protection districts in the various counties of this state, for the improvement and rectification of the channels of innavigable streams and watercourses, for the prevention of the overflow thereof, by widening, deepening, and straightening and otherwise improving the same, and to authorize the boards of supervisors to levy and collect assessments from the property benefited to pay the expenses of the same.

[Approved March 27, 1895. Stats. 1895, p. 247.]

Amended 1897, p. 219; 1903, p. 328; 1909, p. 807; 1911, p. 446; 1917, p. 1219, 1919, pp. 442, 461.

The amendments of 1917 and 1919 follow:

§ 6. District governed by supervisors. Powers. Emergency work. Surveys. Maps. Plans, etc. Each protection district shall be governed and controlled by the board of supervisors of the county in which it is situated. Said board shall have power, in the name of the county and in behalf of the district, to purchase, receive by donation, or acquire by condemnation any rights of way or other real or personal property necessary to carry out the purposes for which the district was formed, and for that purpose all the provisions of the Code of Civil Procedure relating to eminent domain are hereby made applicable to proceedings in behalf of such district to condemn property. The said board shall also have power to employ such engineers, surveyors and others as may be necessary to survey, plan or locate, or supervise the construction or repair of, the improvements necessary to carry out the purposes for which the district was formed; to construct, maintain and keep in repair any and all improvements, and do all other things requisite or necessary to carry out the purposes of the district; and to employ the services of any person, legal or otherwise, which in the judgment of said board, may be necessary to carry out said purposes. All work done in any district shall be ordered by the board of supervisors of the county in which said district is located and shall be under the direction of the county surveyor or county engineer. All work which shall exceed an estimated cost of one thousand dollars shall be advertised and let to the lowest bidder; provided, however, that at the time flood waters shall threaten the levee of a district the board of supervisors may order emergency work done without advertising for bids therefor. As soon

as said district is formed, the board shall cause a survey of the contemplated improvements to be made, or adopt a survey already made, and shall also cause a map of such survey, and plans and specifications showing such improvements in detail, to be prepared, and they shall adopt such surveys, maps, plans and specifications, and thereafter all such improvements shall be made in accordance with the survey, maps, plans and specifications so adopted; provided, that at any time after the adoption of said survey, map, plans and specifications, and before the commissioner's report of assessment of benefits and award of damages has been finally adopted and confirmed by the board, said board may rescind their action in adopting said survey, map, plans and specifications, and may modify the same or adopt others in place thereof, in which case a new assessment shall be made, or may, by a four-fifths vote of the members thereof, abandon the contemplated improvement and dissolve the said protection district, in which case the expenses already incurred in behalf of such district shall be a county charge. [Amendment approved May 11, 1919; Stats. 1919, p. 461.]

§ 10. Duty of viewers. Assessments. Said commissioners shall proceed to view the lands embraced within the boundaries of such protection district, and may examine witnesses under oath, to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land and damage to improvements and property affected and also the estimated amount of the costs of the proposed work or improvement and the expenses incident thereto, and having determined the same, shall proceed to assess the same to the county or counties and upon the lands embraced within the exterior boundaries of such protection district. Such assessment shall be made in the manner following, to wit: The board of supervisors shall assess to the county or counties where more than one is an interested and benefited party or parties not exceeding one-half of such assessment; provided, that in no case shall a county be liable for an amount in excess of one-fourth thereof or for any sum greater than two thousand five hundred dollars where there are two or more counties within which said district is formed, and the remainder of such assessment may be made upon the lands within said district in proportion to the benefits to be derived from said work or improvement, so far as said commission can reasonably estimate the same, including in such estimate the streets in such municipal corporation and the property of any railroad company, within said district, if such there be. And each year thereafter it shall be the duty of the assessor of the county in which the district is situated to assess and enter upon his assessment-roll the property within such protection district. [Amendment approved May 11, 1919; Stats. 1919, p. 441.]

§ 11. Commissioners shall make report with plat of district. Said commissioners, having made their assessment of benefits and damages, shall, with all diligence, make a written report thereof to the board of supervisors, and shall accompany their report with a plat of the district, showing the land taken or to be taken for the work or improvement; and the lands assessed, showing the relative location of each district, block, lot, or portion of lot or other piece of land, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each

block and lot, or portion of lot, or other parcel or parcels of land taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in all respects. When the report and plat are approved by the board of supervisors, a copy of said plat (appropriately designated and certified by the clerk of said board as a correct copy of the plat on file in his office) shall be, by the clerk of said board, recorded in the office of the recorder and filed in the office of the assessor of the county. Said report of the commissioners shall also contain the names of the persons owning lands taken, or to be taken, for such work or improvement; the names of the land owners who consent to give the right of way, and their written consent thereto; the names of land owners who do not consent, and the amount of damage claimed by each, and the amount of damages awarded to each by the commissioners. [Amendment approved May 11, 1919; Stats. 1919, p. 442.]

§ 20½. Refund of unused assessments. Assessments levied and collected under the terms of this act, if unused, and unapplied for a period of one year after the day on which said assessments become due and payable, may be refunded by the board of supervisors in the manner provided by law for the refund of state and county taxes. [New section added May 26, 1917; Stats. 1917, p. 1219.]

§ 21. Protection district tax levy. The board of supervisors shall, at the time of making the levy of taxes for county purposes for each year, levy a tax upon the real estate in each protection district in their county sufficient in amount to raise the amount of money which will be needed for the current year for maintaining and repairing the works and improvements of said district. Any tax upon the lands within said district, levied either for the purposes specified in section seventeen or for the purposes specified in this section, shall be assessed against said lands in proportion to the benefits to be derived by said lands as shown by the report of the commission adopted by the board of supervisors as hereinbefore provided for. Said tax, when levied, shall be entered upon the assessment-roll and collected in the same manner as state and county taxes. When the same is collected, it shall be placed in the treasury of the county to the credit of the current expense fund of said district, and shall be used only for the purpose for which it was raised. Payments shall be made from said fund in the same manner as from the improvement fund of the district. [Amendment approved May 11, 1919; Stats. 1919, p. 462.]

ACT 2806.

An act to provide for the formation, organization and government of storm-water districts, for the purpose of protecting the land therein from damage from storm water and from the waters of any innavigable stream, watercourse, canyon or wash, for the construction of the necessary works of protection by said district, and for the levying of taxes and assessments to pay for the cost of constructing, repairing and maintaining such improvements.

[Approved March 13, 1909. Stats. 1909, p. 339.]

Amended 1913, p. 504; 1917, p. 214; 1919, p. 525.

The amendments of 1917 and 1919 follow:

§ 1. Storm-water districts formed. Petition of land owners. Resolution of intention. Hearing. Notice. Storm-water districts may be formed under the provisions of this act for the purpose of protecting the lands in such district from damage by storm water, dams, ditches, dikes and other structures, and by spreading, conserving, storing, retaining or causing to percolate into the soil any or all waters of any innavigable stream, watercourse, canyon or wash. Said storm-water districts may include within their exterior boundaries land which lies within incorporated territory with land which lies in unincorporated territory, or said districts may be formed from land lying wholly within or wholly without incorporated territory. When twenty-five per cent or more owners of land whose names appear as such upon the last assessment-roll in any district of land which lies in one body and is liable to damage from storm water or from the waters of any innavigable stream, watercourse, canyon or wash, shall present a petition to the board of supervisors of the county in which said land lies, or if the same lies in more than one county, then to the board of supervisors of the county in which the greater area of such land lies, setting forth the exterior boundaries of said district and asking that the district so described be formed into a storm-water district under the provisions of this act. The said board of supervisors shall pass a resolution declaring their intention to form or organize said portion of said county or counties into a storm-water district for the purpose of protecting the land therein from damage from storm water and from the waters of any innavigable stream, canyon or wash, and describing the exterior boundaries of the district. Said resolution shall fix a time and place for the hearing of the matter not less than thirty days after the passage thereof, and direct the clerk of said board to publish the notice of the intention of the board of supervisors to form such storm-water district and of the time and place fixed for the hearing, and shall designate some newspaper of general circulation published and circulated in said proposed storm-water district, or if there is no newspaper so published and circulated, then some newspaper of general circulation published and circulated in each county in which any part of said proposed district is situated in which said notice is to be published. [Amendment approved May 10, 1919; Stats. 1919, p. 321.]

This section was also amended in 1917. See Stats. 1917, p. 215.

§ 2. Publication of notice. Notice to owners. Thereupon said clerk shall cause to be published in the newspaper or newspapers so designated, for a period of twenty days before the date fixed for the hearing, a notice, which shall be headed "Notice of intention of the board of supervisors to form a storm-water district." Said notice shall set forth the fact of the passage of such resolution with the date thereof, the boundaries of the proposed district, and the time and place for the hearing, and shall state that it is proposed to assess all property embraced in said proposed storm-water district, for the purpose of paying the damages, costs and expenses of constructing and repairing such dikes, levees, ditches, canals, reservoirs, shafts and other improvement as may be necessary to protect the land in said district from damage from storm water and from waters of any innavigable stream, canyon or wash, or to spread, conserve, store, retain or cause to percolate into the soil within such district any or all of such waters, and the necessary expense

of maintaining said district, and shall refer to the resolution for further particulars. The assessor shall certify to the clerk the name of each owner of land in the proposed district whose name appears as such on the last assessment-roll of the county or counties in which said proposed district lies, and said clerk shall forthwith send a copy of said notice by registered mail, postage prepaid, to each owner so certified, addressed to such owner at his address given on said assessment-roll or, if no address is given, then at his last known address, or if it be not known, then at the county seat of the county in which his land lies. Said clerk shall make and file in his office an affidavit of such mailing, showing the names and addresses of the persons to whom such notices were sent, which shall be prima facie evidence that such notices were mailed as herein required. [Amendment approved May 4, 1917; Stats. 1917, p. 215.]

§ 3. Objections. Any person interested objecting to the formation of such proposed district, or to the extent thereof, may, at or before the time fixed for the hearing of the matter, file a written objection thereto, with the clerk of said board of supervisors, who shall indorse thereon the date of its reception by him, and shall at the time fixed for the hearing, place all such objections filed with him before said board of supervisors. [Amendment approved May 4, 1917; Stats. 1917, p. 216.]

§ 4. Hearing. Declaration of supervisors. At the time fixed for the hearing, or to which the hearing may be adjourned, the board of supervisors shall hear the objections filed, if any, and pass upon the same. Said board may, in its discretion, sustain any or all of the objections filed, and may change or alter the boundaries of such proposed district to conform to the needs of the district, except that they shall not include therein any territory not included in the boundaries mentioned in the petition, and may, in their discretion, declare such storm-water district formed with the boundaries designated by them, and shall designate such district by name as the — storm-water district of — county (or counties); provided, that no such district shall be formed wherein a majority of the owners of property in said district, according to the last previous assessment-roll, object. Said storm-water district may be organized and incorporated and managed as herein expressly provided, and may exercise the powers herein expressly granted or necessarily implied. The county clerk shall immediately cause to be filed with the secretary of state a certified copy of such order of the board of supervisors, and from and after the date of the filing of such certified copy, the district named therein shall be deemed incorporated as a storm-water district with all the rights, privileges and powers set forth in this act, and necessarily incident thereto. [Amendment approved May 10, 1919; Stats. 1919, p. 525.]

This section was also amended in 1919. See Stats. 1917, p. 216.

§ 5. Control of district. Each storm-water district shall be under the control of three trustees, to be elected as hereinafter provided, who shall constitute the governing board thereof. Each trustee shall be a freeholder of the district and shall have resided therein at least one year next preceding his election; provided, however, that when unincorporated territory is included with incorporated territory in said district, at least one of said trustees shall be an eligible freeholder of the unincorporated territory, if such there be residing in said district, and

shall give bond in such sum as the board of supervisors who formed the district shall fix, which bond shall be approved by a superior judge of said county and filed with the county clerk thereof. Said trustees, except those first elected, shall take office on the first day of July next succeeding their election, and shall hold office for the term of two years and until their successors are elected and qualified. [Amendment approved May 10, 1919; Stats. 1919, p. 526.]

§ 16. Installment assessments. Duty of tax collector. Payment of assessments. After said report has been adopted, the board of trustees, if they consider the total sum to be raised for the payment of the cost of such improvements too great to be properly expended in one year, or too great to be raised in one year by assessment against the property in such storm-water district, may by order entered upon their minutes, provide that the total sum assessed shall be raised in any number of equal annual installments, not exceeding ten. When the board has adopted the report and determined the number of equal annual installments in which such assessment shall be raised, they shall cause their clerk to forward to the tax collector of the county in which such district is situated, who shall file the same in his office, a certified copy of the report, assessment and plat as adopted and confirmed by said board of trustees, together with a certified copy of the order of said board, fixing the number of equal annual installments in which such assessment is to be raised, and the county tax collector shall enter said assessments upon the county assessment-roll in the same manner as county taxes. From and after such entry upon the county assessment-roll, the first year's installment of the amount assessed thereon against each parcel of land shall become due and payable immediately, and the total amount assessed against each parcel of land shall constitute a lien thereon; and thereafter installments of the assessment for the succeeding years shall become due and payable on the first Monday of October of each year; provided, that any or all subsequent installments of the assessment on any parcel of land may, at the option of any person desiring to pay the same, be paid at any time after the first installment becomes due and payable. If the district is situated in two or more counties, a certified copy of said report, assessment, plat and order of the board of trustees shall be filed with the tax collector of each county in which any part of said district is situated, and thereafter each tax collector shall enter the assessments upon the assessment-roll of his county and proceed as to the property in said district within his own county in the manner hereinafter directed, and the assessment on the property in said county shall be collected in the manner hereinafter directed. [Amendment approved May 4, 1917; Stats. 1917, p. 215.]

§ 16a. Assessments raised by installments. When the board of trustees orders that the sum to be assessed shall be raised by annual installments as provided in section sixteen of the act, said board shall have the power to provide that all installments after the first installment shall bear interest at the rate of not to exceed seven per cent per annum until paid, said interest to be collected in the same manner as the principal and together with the principal be a lien against the property assessed.

Said board of trustees when the assessments are to be paid by annual installment shall have the power to enter into contracts for said work

providing for payments on said contracts in annual installments, not exceeding ten, and not exceeding the amount to be raised by the annual assessment installment provided for in section sixteen a of this act. Interest not to exceed seven per cent per annum may be paid on deferred contract installments. Said contract installments together with interest shall be a lien on the funds raised by annual assessments [New section added May 10, 1919; Stats. 1919, p. 526.]

§ 17. Notice by tax collector that assessments are due. Annual notice. Within one month after the filing of such certified copy of said report, assessment, plat and order with the tax collector, and the entry of the same upon the county assessment-roll, said tax collector shall give notice by ten days' publication in a newspaper of general circulation published in said district, or if there is none, in a newspaper of general circulation published in his county, that the assessment-roll of — storm-water district of — county, has been filed in his office, and entered upon the county assessment-roll, with the date of such entry; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent and will be collected in the same manner as delinquent taxes. If the first Monday in January next ensuing is less than three months from the date of filing the assessment-roll with the tax collector, the date, to be stated in the notice, shall be three months after such entry upon the county assessment-roll. The tax collector shall note on the county assessment-roll all assessments paid, with the dates of payment, giving receipts as in the case of payments of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes paid into such treasury. All collections of subsequent installments of the assessment shall be made in the same manner as above set forth, and the tax collector shall annually (after the first year), immediately after the first Monday of October give notice as above directed that the (giving the number) annual installment of the assessments of said district is now due and payable, and that if not paid on or before the first Monday of January next ensuing, the same will become delinquent and will be collected in the same manner as delinquent taxes; and the same proceedings shall be had thereon as upon the collection of the first assessment. If said district is situated in two or more different counties, all moneys collected on account of such assessment shall be paid into the treasury of the county in which said district was organized. [Amendment approved May 4, 1917; Stats. 1917, p. 217.]

§ 26a. Bonded indebtedness. Election. Notice. Whenever the board of trustees deem it necessary for the district to incur a bonded indebtedness, it shall, by resolution, so declare and state the proposition to be submitted to the electors, the purpose for which the proposed debt is to be incurred, the amount of debt to be incurred, the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed twenty years, and the maximum rate of interest to be paid, which shall not exceed six per cent per annum, payable semi-annually. The board of trustees shall fix a date upon which an election shall be held, for the purpose of authorizing said bonded indebtedness to be incurred. It shall be the duty of the board of trustees to provide for

holding such special elections on the day so fixed and in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Such board of trustees shall give notice of the holding of such election, which notice shall contain the resolution adopted by the board of trustees of the district, boundaries of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and one clerk in each precinct. Such notice shall be published for two weeks in at least one newspaper, and not more than two newspapers published in such district, which newspaper or newspapers shall be designated by the board of trustees; and if there is no newspaper printed in such district, then by publication for two weeks in one newspaper published in the county in which such district is situated, or by posting such notice in three public places therein, at least two weeks before the date of such election. All the expenses of holding such election shall be borne by the district. The returns of such election shall be made, the votes canvassed by said board of trustees on the first Monday following said election, and the results thereof ascertained and declared in accordance with the general election laws of the state, so far as they may be applicable, except as herein otherwise provided. The secretary of the board of trustees, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted. In all respects not otherwise provided for herein, said election shall be called, managed and directed as is by law provided for general elections in this state applicable thereto. [New section approved May 4, 1917; Stats. 1917, p. 218.]

§ 26b. Bonds issued if two-thirds vote favors. If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of and assented to the incurring of such indebtedness, then the board of trustees may, by resolution, at such time or times as it deems proper, provide for the form, denomination and execution of such bonds and for the issuance of any part thereof, and may sell or dispose of the bonds so issued at such time or times and in such manner, either in cash in lawful money of the United States, or its equivalent, as it may deem to be to the public interest, but not for less than the par value thereof; said bonds shall be signed by the president and clerk of said district and the seal of the district shall be affixed. [New section added May 4, 1917; Stats. 1917, p. 219.]

§ 26c. Bonds exempt from taxation. Any bonds issued by any district, under the provisions of this act, are hereby given the same force as bonds issued by any municipality, and shall be exempt from all taxation within the state of California. [New section added May 4, 1917; Stats. 1917, p. 219.]

§ 26d. Bonds lien upon property of district. Any bonds issued under the provisions of this act shall be a lien upon the property of the district and the lien of the bonds of any issue shall be a preferred lien to that of any subsequent issue. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district

shall be and remain liable to be assessed from such payments. [New section added May 4, 1917; Stats. 1917, p. 219.]

§ 26e. Estimate of amount to pay interest and principal. Tax levy. The board of trustees of each storm-water district shall annually during the month of August estimate the amount of money which will be needed to pay the interest and such portion of any bond issue maturing prior to the preceding August, and certify such amount to the board of supervisors of the county or counties in which said district lies. Such boards or boards of supervisors shall, at the time of making the levy of taxes, for county purposes for that year, levy a tax upon the real property in their county in said district, sufficient in amount to raise the sum estimated by the board of trustees to be necessary. When the district is in two or more counties, the amount to be raised upon the part of the district in each county shall be in proportion to the assessed valuation of the several portions of the districts in the respective counties. Said tax, when levied, shall be entered upon the assessment-roll and collected in the same manner as the state and county taxes. When the same is collected, it shall be placed in the treasury of the county in which said district is organized, to the credit of the bond fund of said district, and shall be used only for the purpose for which it is raised. [New section added May 4, 1917; Stats. 1917, p. 220.]

§ 27. Proceedings for disincorporation. Any storm-water district may be disincorporated at any time before the adoption of the first commissioner's report by proceedings had in the following manner: Whenever a petition praying for such disincorporation shall be presented to the trustees of said district signed by a majority of the land owners therein, they shall call an election in the same manner as elections for members of the board of trustees are called, and submit to the electors of said district the question of disincorporation. Said election shall be held in all respects in the same manner as regular elections of trustees of the district. If it appears that a majority of the electors voting at said election have voted in favor of disincorporation, the trustees shall cause such fact to be entered upon their minutes, and shall forward a copy of such entry to the board of supervisors by whom the district was organized, who shall file the same with their clerk, and from the date of such filing, said district shall be deemed disincorporated; provided, that if at the time of the dissolution, or disincorporation of said district, there be any outstanding bonded or other indebtedness of such district, then taxes for the payment of such bonded or other indebtedness shall be levied and collected, the same as if such district had not been dissolved and disincorporated, but for all other purposes, such district shall be deemed dissolved and disincorporated from the time of the forwarding of said copy of such entry to said board of supervisors. [Amendment approved May 4, 1917; Stats. 1917, p. 220.]

ACT 2808.

An act to validate bonds of Coachella valley storm-water district of Riverside county, California, and all proceedings relating thereto. [Approved March 31, 1919. Stats. 1919, p. 18. In effect July 22, 1919.]

TITLE 435.**PUBLIC HEALTH.****ACT 2827.**

An act to provide for the reporting of occupational diseases. [Approved April 21, 1911. Stats. 1911, p. 953.]

Repealed 1917; Stats. 1917, p. 432.

ACT 2830.

An act for the preservation of the public health of the people of the state of California, and empowering the state board of health to enforce its provisions, and providing penalties for the violation thereof.

[Approved March 23, 1907. Stats. 1907, p. 893.]

Amended April 1, 1911, Stats. 1911, p. 565, and June 13, 1913, Stats. 1913, p. 796; May 24, 1917, Stats. 1917, p. 920.

The amendment of 1917 follows:

§ 2. Unlawful to discharge sewage in streams. Unlawful to moor house-boat two miles above intake. It shall be unlawful to discharge, drain or deposit, or cause or suffer to be discharged, drained or deposited, any sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, offensive, injurious or dangerous to health, into any springs, streams, rivers, lakes, tributaries thereof, wells or other waters used or intended to be used for human or animal consumption or for domestic purposes, or to maintain a sewer farm or to erect, construct, excavate, or maintain, or cause to be erected, constructed, excavated or maintained, any privy, vault, cess-pool, sewage treatment works, sewer-pipes or conduits, or other pipes or conduits, for the treatment and discharge of sewage or sewage effluents or impure waters, gas, vapors, oils, acids, tar, or any matter or substance offensive, injurious or dangerous to health, whereby the same shall overflow lands or shall empty, flow, seep, drain, condense into or otherwise pollute or affect any waters intended for human or animal consumption or for domestic purposes, or any of the salt waters within the jurisdiction of this state; or to add to, modify or alter any of the plant, works, system thereof or manner or place of discharge or disposal; or to erect or maintain any permanent or temporary house, camp, or tent, so near to such springs, streams, rivers, lakes, tributaries, or other sources of water supply, as to cause or suffer the drainage, seepage, or flow of impure waters, or any other liquids, or the discharge or deposit therefrom of any animal, mineral, or vegetable matter, to pollute such waters without a permit from the state board of health, as hereinafter provided.

It shall also be unlawful for the owner, tenant, lessee or occupant of any house-boat or boat intended for or capable or being used as a residence, house, dwelling or habitation, or for the agent of such owner, tenant, lessee or occupant to moor or anchor the same or permit the same to be moored or anchored in or on any river or stream, the waters of which are used for drinking or domestic purposes by any city, town

or village within a distance of two miles above the intake or place where such city, town or village water system takes water from such river or stream; provided, however, that in the transportation of any such house-boat on any such river or stream nothing herein contained shall prevent the owner, agent, tenant or occupant of such house-boat from mooring or anchoring the same when necessary within the limits herein fixed and established; provided, such house-boat shall not remain moored or anchored within such limits for a longer period than one day. [Amendment approved May 24, 1917; Stats. 1917, p. 920.]

§ 3. Petition for permission to discharge sewage, etc., into stream. Plan of work. Hearing. Whenever any county, city and county, city, town, village, district, community, institution, person, firm, or corporation, shall desire to deposit or discharge, or continue to deposit or discharge into any stream, river, lake or tributary thereof, or into any other waters used or intended to be used for human or animal consumption or for domestic purposes, or into or upon any place the surface or subterranean drainage from which may run or percolate into any such stream, river, lake, tributary or other waters, any sewage, sewage effluent, or other substance by the terms of section two of this act forbidden so to be deposited or discharged, or whenever any such county, city and county, city, town, village, district, community, institution, person, firm or corporation shall desire to deposit or discharge, or continue to deposit or discharge any sewage, sewage effluent, trade wastes or any animal mineral or vegetable matter or substance, offensive, injurious or dangerous to health in any of the salt waters within the jurisdiction of this state, or to maintain a sewer farm or to permit the overflow of sewage on to any land whatever, or shall desire to erect, construct, excavate or maintain any privy, vault, cesspool, sewage treatment works, sewer-pipe or conduits, or other pipes or conduits for the treatment and discharge of sewage, sewage effluents, or any matter offensive, injurious or dangerous to health, or shall desire to add to, modify or alter any of the plant, works, or system or manner or place of discharge or disposal, he or it shall file with the state board of health a petition for permission so to do, together with a complete and detailed plan, description and history of the existing or proposed works, system, treatment plant and of such proposed addition to, modification or alteration of any of the plant, works, system or manner or place of discharge or disposal, such plans and general statement to be in such form and to cover such matters as the state board of health shall prescribe. Thereupon a thorough investigation of the proposed or existing works, system and plant, and all circumstances and conditions by it deemed to be material, shall be made by the state board of health. As a part of such investigation, and after ten days' notice by mail to the petitioner, a hearing or hearings may be had before said board or an examiner appointed by it for the purpose. At such hearing or hearings witnesses who testify shall be sworn by the person conducting the hearing, and evidence, oral or documentary, may be required, a record of which shall be made and filed with said board. Upon the completion of such investigation said board,

(a) **Petition denied when discharge would endanger public health. Appointment of person to take charge of plant. Temporary permit.** If it shall determine as a fact that the substance being or to be discharged

or deposited is such that under all the circumstances and conditions it may so contaminate or pollute such stream, river, lake, tributary or other waters or lands on which it may be discharged, deposited or caused to overflow, as to endanger the lives or health of human beings or animals, or to constitute a nuisance, or does or may constitute a menace to public health or a nuisance, or that under all the circumstances and conditions it is not necessary so to dispose of such substance, the state board of health shall deny the prayer of such petition; and shall order petitioner to make such changes as the state board of health shall deem proper for the purpose of this act. The state board of health may order the appointing of a competent person, to be approved by said board, and to be paid by said petitioner, who shall take charge of and operate such plant or system so as to secure the results demanded by the state board of health; and said board may order such repair, alteration or additions to the existing system, plant and works that the sewage or substance being or intended to be discharged or disposed of shall not contaminate or pollute streams or other water supplies, or endanger the lives, health or comfort of human beings or animals; and said board may order such changes of method, manner and place of disposal and the installation of such treatment works that streams and other water supplies will not be polluted or contaminated and the works and disposal shall not constitute a menace to health of human beings or animals, or a nuisance; which orders shall designate the period within which the desired changes are to be made; provided, however, that a temporary permit may be issued by the state board of health for said period to permit compliance with such order or orders.

(b) **Petition granted when discharge would not endanger public health. Permits revocable. Examinations by state board of health. Report on works, etc. Suit to enjoin discharge of sewage into streams. Public nuisance. Penalty for violation.** If it shall determine, as a fact, that the substance being or to be discharged or deposited, is not such that under all the circumstances and conditions, it will so contaminate or pollute such stream, river, lake, tributary or other waters, as to endanger the lives or health of human beings or animals, or to constitute a nuisance, and that under all the circumstances and conditions it is necessary so to dispose of such substance, it shall grant to petitioner a permit authorizing petitioner so to deposit or discharge or to continue to deposit or discharge such substance; provided, however, that such permit shall not be construed to permit any act forbidden by any provision of the laws of this state relative to the preservation or propagation of fish or game, or relative to the deposit of debris into the streams of the state, or relative to the obstruction of navigation; and provided, further, that all permits issued hereunder shall be revocable by said board at any time or subject to suspension if said board shall determine, as a fact, that the substance discharged or deposited by virtue thereof causes or may cause a contamination or pollution of waters or land that does or may endanger the lives or health of human beings or animals, or does or may constitute a nuisance; and provided, also, that nothing contained in this act shall be construed as limiting or denying the power of any incorporated city, city and county, town or village to declare, prohibit and abate nuisances, or as limiting or denying the power of the state board of health to declare or abate nuisances.

The state board of health and its inspectors shall at any and all times have full power and authority to and shall be permitted to, enter into and upon any and all places, inclosures and structures for the purpose of making, and to make, examinations and investigations to determine whether any provision of this act is being violated. Whenever any petitioner shall be granted any permit by said board and under the provisions of this act, such petitioner shall furnish to said board upon demand a complete report upon the condition and operation of the system, plant or works, which report shall be made by some competent person designated for the purpose by said board, and at the sole cost and expense of the holder of the permit.

Any county, city and county, city, town, village, district, community, institution, person, firm or corporation, who shall deposit, discharge or continue to deposit or discharge, into any stream, river, lake, or tributary thereof, or into any other waters, used or intended to be used for human or animal consumption or for domestic purposes, or into or upon any place the surface or subterranean drainage from which may run or percolate into any such stream, river, lake, tributary or other waters, or into any of the salt waters, or lands, within the jurisdiction of this state, any sewage, sewage affluent or other substance by the terms of section two of this act forbidden to be so deposited or discharged, without having an unrevoked permit so to do, as in this act provided, may be enjoined from so doing by any court of competent jurisdiction at the suit of any person or municipal corporation whose supply of water for human or animal consumption or for domestic purposes is or may be affected, or by the state board of health.

Anything done, maintained, or suffered, in violation of any of the provisions of section 2 or section 3 of this act shall be deemed to be a public nuisance, dangerous to health, and may be summarily abated as such.

Every county, city and county, city, town, village, district, community, institution, firm, corporation or person, or any officer, employee or agent thereof upon whom the duty to act is cast, who shall violate any provision or part thereof of section 2 or 3 of this act, or who shall fail to obey, observe or comply with any direction, order, requirement or demand or any part or provision thereof of the state board of health, or who aids or abets any such county, city and county, city, town, village, district, community, institution, firm, corporation or person, or any officer, employee or agent thereof in any failure to obey or comply with the provisions of this act or the orders of the state board of health as provided in this act, shall become liable for and forfeit to the state of California the penal sum of not more than one thousand dollars to be fixed by the court for each and every offense. The continued existence of any violation of this act for each and every day beyond the time stipulated for compliance with any of its provisions or of any order of the state board of health as provided herein shall constitute a separate and distinct offense. All penalties are to be recovered by the state in civil action brought by the state of California and such penalties when collected shall be paid into the general fund of the state treasury.

Every officer, agent, or employee of any county, city and county, city, town, village, district, community, institution, firm, corporation or person who shall violate or fail to comply with any of the provisions of sec-

tion 2 or section 3 of this act or with the order or orders of the state board of health or any part thereof, or who aids or abets in any failure to observe and comply with any such provision, order, or part thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment, for each offense. Each day's violation of this provision shall constitute a separate and distinct offense. [Amendment approved May 24, 1917; Stats. 1917, p. 921.]

ACT 2836a.

An act to prevent the introduction, and provide for the investigation and suppression of contagious or infectious diseases, and appropriating money to be used for such purpose.

[Approved June 7, 1913. Stats. 1913, p. 868.]

Amended 1917; Stats. 1917, p. 671.

The amendment of 1917 follows:

§ 2. Extermination of rodents, insects, vermin etc., by property owners. Extermination by state board of health. Whenever any land, place, building, structure, wharf, pier, dock, vessel or water craft, or other property is infested with rodents, insects, or other vermin which are liable to convey or spread contagious or infectious disease from an existing focus declared by the state board of health, it shall be the duty of said board to at once notify the person, firm, copartnership, corporation, city, city and county, county, or district, owning said land, place, building, structure, wharf, pier, dock, vessel or water craft, or other property of the existence of said rodents, insects or other vermin, and said notice shall direct said owner to proceed immediately to exterminate and destroy said rodents, insects, or other vermin, and to continue in good faith such measures as may be necessary to prevent their return. Service of such notice upon a trustee, executor or administrator of the estate of the recorded owner of said property shall be deemed sufficient notice to the owner as provided herein and in the event the owner is absent from the state or cannot with due diligence be found, said notice shall be mailed to such owner addressed to his address given on the last completed assessment-roll of the county, or city and county in which said property is situate, or if no address be so given, then to his last known address and a copy of said notice shall be posted in a conspicuous place upon said property for a period of ten days. In the event that said owner fails, refuses or neglects to proceed and continue as above provided, within ten days from date of receipt of said notice, the state board of health may proceed to destroy said rodents, insects or other vermin, and take other appropriate measures to prevent their return, and the cost thereof shall be repaid to the state board of health by the owner of said land, place building structure, wharf, pier, dock, vessel, water craft or other property; provided, however, that said owner shall not be liable for expenditures in any one year, in excess of ten per cent of the assessed valuation of such property, and the appropriation provided in section one of this act shall be reimbursed by the amount so paid, and may be again expended in a similar manner. [Amendment approved May 18, 1917; Stats. 1917, p. 671.]

§ 3. Lien on property for payment of expense of extermination. Disposition of proceeds. Receiver. Bond. Any and all sums so expended by said state board of health shall be a lien upon the property on which such rodents, insects or other vermin shall have been destroyed, or other appropriate measures taken. The state board of health shall cause to be filed in the office of the county recorder of the county wherein said property is situated a notice setting forth the amount so expended by the state board of health and claiming a lien upon such property for the amount of such expenditures. Such claim of lien must be filed within six months after the first item of expenditure. An action to foreclose such lien shall be commenced within six months after the filing and recording of said notice of lien, which action shall be brought by the state board of health through its attorney and for its benefit; provided, however, that the lien provisions of this act shall not apply to the property of any county, city and county, municipality, district, or other public corporation, but it shall be the duty of the governing body of such county, city and county, municipality, district or other public corporation to repay the state board of health the amount expended by it upon such property under the provision of this act upon presentation by said state board of health of a verified claim or bill showing the amount of such expenditures.

When the property is sold, enough of the proceeds to satisfy such lien and the costs of foreclosure shall be paid into the state treasury for the benefit of the fund herein created and the overplus, if any there be, shall be paid to the owner of the property if known, and if not known, shall be paid into the court for the use of such owner when ascertained.

When it appears from the complaint in such action that the property on which such lien is to be foreclosed is likely to be removed from the jurisdiction of the court, the court may appoint a receiver to take possession of the property and hold the same while the action may be pending or until the defendant shall execute and file a bond, with sufficient sureties, conditioned for the payment of any judgment that may be received against him in the action and all costs. [Amendment approved May 18, 1917; Stats. 1917, p. 672.]

ACT 2840b.

An act regulating the cleaning, laundering, sale, offering for sale, and furnishing for use to employees, of wiping rags; authorizing counties, cities and counties, cities and towns, to enact ordinances prohibiting the cleaning, laundering, sterilizing, and sale of wiping rags without a permit, and to issue and revoke permits to clean, launder, and sell wiping rags within their respective jurisdiction; authorizing peace and health officers to make inspections of wiping rags, and making violations of this act a misdemeanor.

[Approved April 25, 1913. Stats. 1913, p. 86.]

Amended 1917, p. 1609.

The amendment of 1917 follows:

§ 3. Not to be cleaned in laundry. Any person or corporation who shall wash, cleanse or launder soiled rags or soiled cloth material for

wiping rags by the same machinery or appliances by which clothing and articles for personal wear or household use are laundered, shall be guilty of a misdemeanor. [Amendment approved June 1, 1917. Stats. 1917, p. 1609.]

ACT 2840c.

An act to provide for the formation, government, organization, operation and dissolution of local health districts in any part of the state and for changing the boundaries thereof, the appointment and compensation of local district health officers, their deputies and assistants; defining the qualifications, powers and duties of such officers; and to provide for the assessment, levy, collection, custody and disbursement of taxes therein.

[Approved May 21, 1917. Stats. 1917, p. 791. In effect July 27, 1917.]

§ 1. Local health district may be organized. A local health district may be organized, incorporated and managed as herein provided, and may exercise the powers herein granted or necessarily implied. Such a district may include incorporated or unincorporated territory or both, in any one or more counties; provided, that the territory of the district consists of contiguous parcels and that the territory of no municipal corporation is divided.

§ 2. Petition of voters. Publication. Hearing. Boundaries. Whenever the formation of a local health district is desired, a petition, which may consist of any number of instruments, may be presented at a regular meeting of the board of supervisors of the county in which the proposed district or portion thereof is situated, signed by registered voters of each unit of the district equal in number to at least ten per cent of the number of votes cast in each unit respectively for the office of governor at the last preceding general election at which a governor was elected. For the purposes of this act all unincorporated territory in a proposed district and in one and the same county shall be regarded as an entirety and as a unit, and each incorporated city or town in a district shall likewise be regarded as a unit. If an incorporated city or town is included, the common council, board of trustees or other governing body thereof shall, by resolution duly authenticated, request the inclusion of the city or town in the proposed district. The petition shall set forth and describe the proposed boundaries of the district and shall pray that the same be created under the provisions of this act. Prior to the time at which the petition is to be presented, the text thereof shall be posted for thirty successive days in three public places in each incorporated city or town and unincorporated district; and a reference to said text shall be published along with the notice herein mentioned in this paragraph and the following paragraph for four successive publications in a daily, semi-weekly or weekly newspaper of general circulation printed and published in each incorporated city or town included therein, and if there is no such newspaper published in the city or town, then the text of the petition shall be posted for the same length of time in three public places as herein specified. The text of the petition so posted and published by reference as herein mentioned shall have annexed thereto a notice stating the time and place of the meeting of the board of supervisors at which the same will be presented. When the

petition is composed of more than one instrument, one copy only thereof need be published or posted as herein specified in the posting and publication of the text and notice. No more than five of the names attached to the petition need appear in such publication or posting, but the number of signers must be stated. At least one month prior to the time at which the petition is to be presented, a copy of the text, notice and petition must be filed with the state board of health and board of supervisors of the county or counties.

With such publication there shall also be published, and if posted, there shall also be posted, a notice of the time of the meeting of the board when such petition will be presented and that all persons interested therein may then appear and be heard. At such time the board of supervisors shall hear the petition and those appearing thereon, and also all protests and objections to the same, and may adjourn such hearing from time to time, not exceeding two months in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures thereto, shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing the board shall make such changes in the proposed boundaries as may be deemed advisable and shall define and establish such boundaries; provided, that if the board deems it proper to include therein any territory not included within the proposed boundaries, they shall first give notice of their intention so to do, in the same manner as required for notice of the initial hearing.

§ 3. Testimony. Order establishing district. Certificate of incorporation. Upon the hearing of the petition the board of supervisors shall determine whether it complies with the provisions of this act and whether the public necessity or the welfare of the inhabitants of the proposed territory requires the formation of the district, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. The findings of the board shall be final and conclusive against all persons except the state of California upon suit commenced by the attorney general. If it appears to the board that the petition complies with the provisions of this act and that the public necessity or the welfare of the inhabitants requires the formation of the district, it shall by an order entered on its minutes so declare its findings, and shall further declare and order that the territory within the boundaries so fixed and determined be established as a local health district, under an appropriate name selected by the board, which name shall include the words "local health district." The county clerk shall immediately file a certified copy of the order with the secretary of state and with the county clerk of each county in which the district or any portion thereof is situated. Within ten days of such filing the secretary of state shall issue and deliver to the county clerk a certificate reciting that the local health district (naming it) has been duly incorporated under the laws of the state of California. The county clerk shall deliver this certificate to the board of trustees of the district at the first meeting of the board. From and after the date of the certificate of the secretary of state, the district named therein shall be deemed incorporated as a local health district with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

§ 4. Board of trustees. Number. Vacancy. Term. Within thirty days of the issuance by the secretary of state of the certificate of incorporation of the district, a board of trustees for the district shall be appointed. The board shall consist of one trustee to be appointed from each unit in the case of unincorporated territory by the board of supervisors, and in the case of an incorporated city or town, by the local governing body thereof; provided, that if the board of trustees hereby created consists of less than five members, then the board of supervisors shall appoint from the district at large enough additional members to make a board of five trustees, if the unit of the district at large is within one county; and if there are several units of the district at large in more than one county, then by the board of supervisors of the county where such unit is situated; and by the boards of supervisors jointly if the district at large constitutes units in several counties and one additional member is to be appointed. A vacancy shall be filled by the appointing power for the unexpired term. The governing board of the district shall be called "the board of trustees of — local health district" (inserting the name of the particular district). The trustees shall hold office for the term of two years from and after the second day of the calendar year next succeeding their appointment; provided, however, that the first board of trustees appointed in a district shall at their first meeting so classify themselves by lot that one-half of their number, if the total membership is an even number, and if uneven, then that a bare majority of their number, shall go out of office at the expiration of one year, and the remainder at the expiration of two years from the second day of the calendar year next succeeding their appointment.

§ 5. Officers. Expenses. Meetings. The members of the board of trustees shall meet on the first Monday subsequent to thirty days after the issuance of the certificate of incorporation by the secretary of state, and shall organize by the election of one of their members as president and one as secretary. The members of the board shall serve without compensation except that each shall be allowed his actual necessary traveling and incidental expenses incurred in attending meetings of the board. The board shall provide for the time and place of holding its regular meetings and the manner of calling the same, and shall establish rules for its proceedings and may adopt such rules and regulations not inconsistent with law as may be necessary for the exercise of the powers conferred and the performance of the duties imposed upon the board. Special meetings may be called by three trustees and notice of the holding thereof shall be mailed to each member at least forty-eight hours before the meeting. All of its sessions, whether regular or special, shall be open to the public, and a majority of the members of the board shall constitute a quorum for the transaction of business.

§ 6. Powers. Each local health district shall have and exercise the following powers:

- (1) To have and use a corporate seal and alter it at pleasure;
- (2) To sue and be sued in all courts and places and in all actions and proceedings whatever;
- (3) To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description, both within and without the limits

of the district, and to control, dispose of, convey and encumber the same and create a leasehold interest in same for the benefit of the district;

(4) To acquire, construct, maintain and operate all works and equipment necessary for the inspection of water, milk, meat and other foods, the extermination of rodents and the disposal of garbage and waste;

(5) To employ public health nurses and health visitors and to co-operate with educational authorities in health inspection in public or private schools in the district;

(6) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district;

(7) To enforce all statutes relating to the public health and vital statistics, and all orders, quarantine regulations and rules prescribed by the state board of health;

(8) To enforce such local orders and ordinances pertaining to health and sanitary matters within the district as may be authorized by the appropriate local authorities;

(9) To unite with any other local health district or districts in the exercise of any of the powers herein granted to and vested in each district, the cost thereof to be paid by each district in such proportion as may be agreed upon by the respective district boards of trustees;

(10) To exercise all other needful powers for the preservation of the health of the inhabitants of the district, whether such powers are herein expressly enumerated or not;

(11) This grant of power is to be liberally construed for the purpose of securing the well-being of the inhabitants of the district.

§ 7. District health officer. Expenses. Powers. Appointment of district officers, etc. The board shall appoint and fix the compensation of a district health officer, who may be removed by the board only by a two-thirds vote of the members thereof. He shall be the holder of a degree in medicine, sanitary engineering or public health and shall have had at least one year's experience in public health work. He shall devote his entire time to the duties of his office and is expressly prohibited from engaging in any other occupation or business. The board shall provide suitable supplies, equipment and office facilities for the health officer and, upon the recommendation of the health officer, shall fix the compensation and define the powers and duties of such deputies and assistants to the health officer as the board may deem necessary to carry out the provisions of this act. If a meat inspector is employed, he shall be a graduate veterinarian legally qualified to practice veterinary medicine in the state of California.

The health officer, his deputies and assistants, shall receive their actual necessary expenses incurred in the performance of their duties. In enforcing state statutes, orders, regulations and rules and local orders and ordinances the health officer shall have such powers as are or may be hereafter conferred by general law upon county or municipal health officers. All district officers, deputies and assistants other than the health officer and the members of the board of trustees shall be appointed and may be removed by the board of trustees on the recommendation of the health officer, subject to such rules and regulations as the board of trustees, in its discretion may adopt for the appointment and employment of deputies and assistants, based on merit, efficiency, character and industry.

§ 8. Health officer administrative head. The health officer shall be recognized as the administrative head of the district and, except as herein otherwise prescribed, shall exercise the powers granted to and vested in the district; provided, that he may not purchase property or incur expenditures without the approval or ratification of the board of trustees.

§ 9. Estimate of amount needed. Levy of tax. Apportioned among counties. Annually, at least fifteen days before the first day of the month in which county taxes are levied, the board of trustees of each local health district shall furnish to the board of supervisors of the county in which the district or any part thereof is situated an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year. Thereupon it shall be the duty of the board of supervisors to levy a special tax upon all taxable property of the county lying within the district sufficient in amount to maintain the district. The tax shall in no case exceed the rate of fifteen cents on each one hundred dollars of the assessed valuation of all taxable property within the district, but it may be in addition to all other taxes allowed by law to be levied upon such property. The tax shall be computed, entered upon the tax rolls and collected in the same manner as county taxes are computed, entered and collected. All moneys so collected shall be paid into the county treasury to the credit of the particular local health district fund and shall be paid out on the order of the district board, signed by the president and secretary thereof. If the district embraces territory lying in more than one county, the amount estimated shall be ratably apportioned among the several counties in the district in proportion to the assessed value of the property in the several counties included within said district as shown upon the last assessment-rolls of the said counties, and the estimate apportioned to the several counties shall be rendered to their respective boards of supervisors and the tax shall be levied and collected by the officials of each county upon the property of the district lying therein.

§ 10. Annexation of territory. Petitions. Proposition submitted to electors. If majority favor. Annexation of municipal corporation. Any territory, incorporated or unincorporated, lying adjacent and contiguous to a local health district, may be added and annexed to such district at any time upon proceedings being had and taken as in this act prescribed; provided, that in such annexation the territory of no municipal corporation may be divided. The board of trustees of such district, upon receiving a written petition therefor containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment-roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "For annexation," or "Against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election

in a newspaper printed and published in such district, and also in a newspaper printed and published in such territory so proposed to be annexed. The board of trustees shall canvass, separately, the votes cast within said district, and the votes cast within said territory so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the secretary of state describing said property proposed to be annexed and upon receipt of such last-mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the — local health district (naming it), and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of each county in which such local health district or any portion thereof is situated. From and after the date of such certificate the territory named therein shall be deemed added and annexed to and shall form a part of said local health district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed includes a municipal corporation, consent to annexation shall first be obtained from the governing board thereof, and an authentic copy of the resolution or order of such board so consenting to such annexation shall be attached to the petition and be made a part thereof.

§ 11. Dissolution of district. A district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by its board of trustees upon the question of dissolution and the proposition which shall be submitted to the electors at such election shall be as follows: "Shall the district be dissolved?" Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in the district. If two-thirds of the votes at such election shall be in favor of the dissolution of the district, the board of trustees shall certify such fact to the secretary of state, and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the local health district (naming it) has been dissolved, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of each county in which the district or any portion thereof is situated. From and after the date of such certificate the district named therein shall be deemed disincorporated and the property of the district shall be ratably apportioned among the several municipalities included in the district and the county or counties in which the district or any portion thereof is situated, in proportion to the assessed value of the property included within said district as shown upon the last county assessment roll or rolls.

§ 12. Conditions. Whenever it appears that the territory of the proposed district is in more than one county, it is to be expressly understood in this act that the phrase "board of supervisors" shall include plural as well as singular and that the same procedure and law as herein set forth for the establishing of such local health district in a county only shall likewise apply to the adjoining county or counties whose ter-

ritory or portion thereof is included in the proposed local health district, and that no district involving more than one county shall be formed without the concurrent consent of the respective board of supervisors of each of said counties, as well as the consent of the municipalities included therein, and that such district shall be officially incorporated under the laws of the state of California when the respective counties have fully complied with the laws herein specified, and when the secretary of state has received the respective certified copies of the orders of the counties and delivered to the respective county clerks within the time in this act specified his certificate reciting that the local health district has been duly incorporated under the laws of the state of California.

§ 13. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

ACT 2844c.

An act to provide for the establishment and maintenance of a bureau of tuberculosis under the direction of the state board of health; defining its powers and duties; providing for the granting of state aid to cities, counties, cities and counties and groups of counties for the support and care of persons afflicted with tuberculosis; making an appropriation therefor, and repealing certain acts of the legislature of the state of California.

[Approved June 12, 1915. Stats. 1915, p. 1530.]

Amended 1919; Stats. 1919, p. 852.

The amendment of 1919 follows:

§ 3. Compensation of cities, etc., maintaining tuberculosis wards. May receive pay patients. Delegates from group of counties. Committees. Acquisition and disposal of land. Each county to pay proportionate share. Admission of applicants. Every city, county, city and county, or group of counties is hereby authorized and empowered to establish and maintain a tuberculosis ward or hospital for the treatment of persons in the active stages of tuberculosis. Every city, county, city and county, or group of counties which establishes and maintains a tuberculosis ward or hospital shall receive from the state the sum of three dollars per week for each person suffering from tuberculosis, cared for therein at public expense who is unable to pay for his support and who has no relative legally liable and financially able to pay for his support and who has been a bona fide resident of the city, county, city and county, or group of counties for one year; provided, that the city, county, city and county, or group of counties shall not become entitled to receive such state aid unless the tuberculosis ward or hospital conforms to the regulations of and is approved by the state bureau of tuberculosis. Said hospitals shall be allowed to receive pay patients. The medical superintendent of each hospital receiving state aid under this act shall render semi-annually to the state bureau of tuberculosis

a report under oath showing, for the period covered by the report, (1) the number of patients suffering from tuberculosis cared for therein at public expense, unable to pay therefor, and (2) the number of weeks of treatment of each such patient.

Every group of counties desiring to establish and maintain a tuberculosis ward or hospital for the treatment of persons suffering from tuberculosis shall appoint, by its board of supervisors, one of its members as a delegate, who shall attend the general meetings of the delegates of each county in said group; the necessary expense incurred in attending such meetings shall be a county charge.

The body thus formed shall be called the hospital central committee. The said delegates from each county are authorized and empowered to enter into an agreement with the other counties for and on behalf of the county appointing them binding said county to the joint enterprise and apportioning the cost of constructing and establishing said hospital and also apportioning cost of maintaining same.

All sums found due from any county according to its agreement duly entered into shall be a debt against said county and may be collected in the manner provided by law by the said hospital central committee or in its behalf by the board of supervisors of any county in said groups in any county thereof, by action instituted and tried in the county in which said hospital is situated.

The hospital central committee shall have power to appoint a committee to supervise and superintend the construction of the building, approve the bills, and do the usual things required of a building committee.

The hospital central committee shall constitute the governing body of said hospital and shall have the same powers and duties in regard thereto that a board of supervisors has over the county hospital, and shall hold meetings to be governed, as provided by rules duly adopted by said committee for its government, which rules may provide for the addition of other counties to the group, and shall have power to appoint such committees as necessary and prescribe their duties.

Any land required may be acquired or disposed of by the hospital central committee in such manner as it may be determined by a three-fourths vote of the members thereof; provided, that all counties comprising a group shall have had notice of the intention to acquire or dispose of the same. Title to land may be held in the name of the entire group or in any county composing the same as trustee for the use and benefit of all, as may be determined by said hospital central committee.

Each county in said group is authorized, empowered, and directed to pay its proportionate share to the hospital central committee, of such amount as the said committee may designate, to constitute a cash revolving fund to carry on the usual work and expense of the hospital. Each month a statement of the expenses of said hospital shall be sent to the board of supervisors, of each county, together with a claim for its proportionate share of said expenses. Said amounts when collected shall be paid into said cash revolving fund.

Said hospital central committee shall have the power to determine and pass upon the right of admission to said hospital of applicants subject to the limitations of this act. [Amendment approved May 22, 1919; Stats. 1919, p. 853.]

§ 4. Appropriation. The sum of two hundred thousand dollars is hereby appropriated, in addition to any amounts heretofore appropriated, out of any money in the state treasury not otherwise appropriated, to be expended by the state board of health in carrying out the provisions of this act; provided, however, that not more than the sum of thirty thousand dollars shall be available for the purposes of said act other than the state aid therein provided. All claims against this appropriation shall be submitted for approval and audit to the state board of control, and shall be paid in accordance with law; provided, that there may be withdrawn from such appropriation with the permission of the state board of control and without at the time furnishing vouchers and itemized statements a sum not to exceed five hundred dollars. Said sum so drawn shall be used as a revolving fund where cash advances are necessary and at the close of each fiscal year or at any other time upon the demand of the board of control must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control and the controller. [Amendment approved May 22, 1919; Stats. 1919, p. 854.]

ACT 2844e.

An act to prevent the providing for common use of receptacles for drinking purposes in public places, and prescribing penalties for violations thereof.

[Approved June 1, 1917. Stats. 1917, p. 1517. In effect July 31, 1917.]

§ 1. Drinking cups for common use unlawful. It shall be unlawful for any person, firm or corporation conducting, having charge of, or control of, any hotel, restaurant, saloon, soda fountain, store, theater, public hall, public or private school, church, hospital, club, office building, park, playground, lavatory or wash-room, barber-shop, railroad train, boat, or any other public place, building, room or conveyance, to provide or expose for common use, or permit to be so provided or exposed, or to allow to be used in common, any cup, glass, or other receptacle used for drinking purposes.

§ 2. "Common use" defined. For the purposes of this act the term "common use" when applied to a drinking receptacle shall be defined as its use for drinking purposes by, or for, more than one person without its being thoroughly cleansed and sterilized in boiling water or steam between consecutive uses thereof; provided, that nothing in this act is to be construed as prohibiting the use of cups or devices for individual use only; provided, further, that the state board of health may by resolution prescribe other acceptable methods of sterilization which may be used in place of the methods specified in this act.

§ 3. Protection of water-cooler used for supplying drinking water. No cask, water-cooler or other receptacle shall be used for storing or supplying drinking water to the public or to employees unless it is covered and protected so as to prevent persons from dipping the water therefrom or contaminating the same. All such containers shall be provided with a faucet or other suitable device for drawing the water; provided, that jugs, cans, buckets and similar receptacles without faucets

or other devices for withdrawing water may be used if the water is protected against contamination and is withdrawn by pouring only.

§ 4. Duty of health officers. It shall be the duty of the state board of health and of all health officers of counties, municipalities and health districts to enforce the provisions of this act.

§ 5. Penalty for violation. Any person, firm or corporation violating any provision of this act is guilty of a misdemeanor and shall be liable to a fine not exceeding twenty-five dollars for each offense.

ACT 2844f.

An act to prevent the keeping of towels for common use in public places and prescribing penalties for violations of the provisions thereof.

[Approved June 1, 1917. Stats. 1917, p. 1518. In effect July 31, 1917.]

§ 1. Towel for common use unlawful. No person, firm or corporation conducting, operating, having charge of, or control of, any hotel, restaurant, factory, store, barber-shop, office building, school, public hall, railroad train, railway station, boat, or any other public place, room or conveyance, shall maintain or keep in or about any such place any towel for common use.

§ 2. "Common use" defined. For the purpose of this act the term "common use" when applied to a towel shall be defined as its use by, or for, more than one person without its being laundered by a process involving exposure to boiling water or steam between consecutive uses of such towel; provided, that the state board of health may by resolution prescribe other acceptable methods of sterilization which may be used in place of the methods specified in this act.

§ 3. Duty of health officers. It shall be the duty of the state board of health and of all health officers of counties, municipalities and health districts, to enforce the provisions of this act.

§ 4. Penalty for violation. Any person, firm or corporation violating any of the provisions of this act is guilty of a misdemeanor and shall be liable to a fine not exceeding twenty-five dollars for each offense.

ACT 2844g.

An act to provide for the establishment and maintenance of a bureau of child hygiene under the direction of the state board of health, prescribing its powers and duties and making an appropriation to carry out the provisions hereof.

[Approved May 27, 1919. Stats. 1919, p. 1234. In effect July 27, 1919.]

§ 1. Bureau of child hygiene established. The state board of health shall maintain a bureau of child hygiene which in addition to the duties and powers hereinafter prescribed shall have charge of such matters and shall have such powers as may, from time to time, be referred to and delegated to it by the state board of health. Said board shall appoint a director of said bureau who shall be a duly licensed and practicing physician of any system of therapeutics and whose salary shall be fixed

by the state board of health. The state board of health may also employ and fix the compensation of other additional professional and clerical assistants and such compensation shall be paid from the funds provided for the maintenance of the bureau of child hygiene.

§ 2. Powers and duties of bureau. This bureau shall have the power under the direction and supervision of the state board of health to investigate conditions affecting the health of the children of this state and to disseminate educational information relating thereto; provided, however, that nothing in this act shall be construed as giving the said bureau of child hygiene the power to force compulsory medical or physical examination of children. It shall be the duty of said bureau, upon request, to advise all public officers, organizations and agencies interested in the health and welfare of children within the state of California.

§ 3. Appropriation. The sum of twenty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated to be expended in accordance with law for the purpose of carrying out the provisions of this act. All claims against this appropriation shall be audited by the state board of health and by the board of control, and shall be paid by the state treasurer upon warrants drawn by the state controller.

TITLE 437.

PUBLIC LANDS.

ACT 2845a.

An act to provide for the resalection by the state of lands heretofore selected and sold by the state where the selection has been rejected or canceled because of the subsequent exclusion of the base lands from a national forest; and prescribing certain maximum fees to be charged by agents or attorneys for services performed hereunder, and prescribing penalties for the violation hereof.

[Approved May 26, 1917. Stats. 1917, p. 1218. In effect July 27, 1917.]

Amended 1919, p. 313.

§ 1. Reselection of land when selection rejected. Where the state has made a selection of other land in lieu of a sixteenth or thirty-sixth section located within a national forest which had been created by proclamation of the President of the United States at or prior to the date when such selection was made and said selection has been or may be held for cancellation, or canceled, because the base land was thereafter excluded from such national forest, the surveyor-general shall make an amendatory selection or a new selection upon application of the record owner of the certificate of purchase issued for the selected land; provided, that the applicant for a resalection forward to the surveyor-general the fees required by the United States land office; and provided, further, that nothing herein contained shall be construed to require the surveyor-general to make any such amendatory selection or new selection in any case wherein the base land originally assigned

in support of such selection was situate within an area temporarily withdrawn from entry for purposes of examination by order of the secretary of the interior, and was thereafter restored to the public domain without ever having been in fact incorporated within a national forest or a permanent forest reserve. [Amendment approved May 6, 1919; Stats. 1919, p. 313.]

§ 2. Penalty for charging fee over twenty-five dollars. No person who, as attorney or agent for the owner of the certificate of purchase embracing the selected land, applies to the state surveyor-general to amend such state selection or to reselect the land embraced therein, shall charge, demand, or receive for such service any fee or other compensation in excess of the sum of twenty-five dollars. Any violation of the provisions of this section shall be a misdemeanor and shall be punished by a fine not to exceed one hundred dollars, or by imprisonment in the county jail not to exceed thirty days or by both such fine and imprisonment; provided, however, that nothing herein contained shall be held, deemed, or construed, to apply to any person who also acts as agent or attorney for such owner before the general land office of the United States at Washington, D. C., or before the secretary of the interior, in case it becomes necessary to take any action to protect such selection against adverse proceedings.

AOT 2845h.

An act providing for the reselection by the state of lands heretofore selected and sold by the state where the selection has been canceled or held for cancellation because the base lands have been used for another selection or were incorrectly described.

[Approved May 6, 1919; Stats. 1919, p. 322. In effect July 22, 1919.]

§ 1. Reselection of lands where selection canceled. Where, under authority of section two thousand two hundred seventy-five of the Revised Statutes of the United States, the state has made a selection of other land in lieu of a sixteenth or thirty-sixth section within any Indian or military reservation, or within a permanent forest reserve or national forest established by proclamation of the President of the United States, and where through inadvertence or mistake the surveyor-general of the state has designated as base for such selection land which has also been used as the basis for some other selection or has incorrectly described the base and where such selection has been or may be canceled or held for cancellation by the general land office of the United States for the reason that the base designated therefor has been so used or was incorrectly described, the surveyor-general may, in his discretion, where the state has sold the selected lands, and upon application by the record owner of the certificate of purchase therefor, make an amended selection or reselection of such land upon valid base of the character designated for the original selection, whenever such base is available; provided, that the party applying for relief under this act shall pay all fees and expenses required under the rules of the United States land office; and provided, further, that nothing herein contained shall be held, deemed, or construed to require the surveyor-

general to make any amended selection or reselection in any case where the base land designated in support thereof was within an area temporarily withdrawn from entry by the secretary of the interior and subsequently restored to the public domain without having been incorporated within any such permanent forest reserve or national forest.

ACT 2859a.

An act providing for the sale of certain state lands.

[Approved May 19, 1915. Stats. 1915, p. 605.]

The entire act was amended in 1919 [Stats. 1919, p. 306] to read as follows:

§ 1. Sale of school lands authorized. Exchange for lands of United States. The unsold portions of the sixteenth and thirty-sixth sections of school lands not included within the exterior boundaries of national reservations, the unsold portions of the five hundred thousand acres granted to the state for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant which are not suitable for cultivation shall be sold at public auction to citizens of the United States by the surveyor-general under rules and regulations prescribed by him, payment to be made as follows: The full purchase price of the land, or ten per cent thereof and interest to the first day of January following at the rate of six per cent per annum on the unpaid balance of the purchase price, to be paid at the time of sale; the unpaid balance of the purchase price shall bear interest at the rate of six per cent per annum, payable in advance on the first day of each year, at which time the purchaser may pay as many one-tenths of the purchase price as he may desire; provided, that the legislature may require the payment of the unpaid balance of the purchase price within five years after the passage of an act requiring such payment. All payments to be made to the county treasurer of the county in which the land is situated.

§ 2. Surveyor-general authorized to sell lands. Watersheds or reservoir sites. From and after the date upon which this act takes effect, the surveyor-general may sell in like manner and upon like conditions as to payment and interest any of the lands heretofore reserved from sale by the provisions of section three thousand four hundred eight *b* of the Political Code which have not been used as bases for indemnity selections, as provided in section three thousand four hundred six *a* of said code, or otherwise disposed of under any law of this state; provided, however, lands which in his judgment contain growth valuable for forest-cover protection to watersheds, or are valuable for reservoir sites, shall not be sold or exchanged under the provisions of this act.

Whenever he shall deem it to the advantage of the state so to do, he may, with the concurrence of the state board of control, exchange for lands of the United States of equal area, pursuant to law, any of said reserved lands in place, and the lands so acquired in exchange may be thereafter sold in the same manner and upon like conditions as to payment and interest as hereinabove set forth. Nothing herein

contained shall be construed to affect the right of the surveyor-general to use as bases for indemnity scrip, as provided in sections three thousand four hundred six *a*, three thousand four hundred eight *b*, three thousand four hundred eight *c* and three thousand four hundred eight *d* of the Political Code, any of said reserved lands not otherwise disposed of under the provisions of this act.

§ 3. Purchase of land by settler. Whenever any person shall make actual settlement, in good faith, upon any such land, with intent to purchase the same pursuant to the provisions of an act entitled "An act providing for the sale of certain state lands suitable for cultivation," approved May 19, 1915, and the surveyor-general shall, thereafter, upon an examination of such land, determine it to be unsuitable for cultivation, he may, with the concurrence of the state board of control, fix a price at which such land may be sold to such actual settler, as provided in the act last named, and such actual settler shall have the right to purchase such land, at the price so fixed, at any time within a period of six months thereafter. The purchase price of all timber lands shall be paid in full at the time of sale.

§ 4. Rejection of bids. In any and all notices of public sale, the surveyor-general shall reserve the right to reject any and all bids.

§ 5. Patent. When the full purchase price has been paid the purchaser shall be entitled to a patent for the land.

§ 6. Repealed. Those parts of all acts in conflict with this act are hereby repealed.

ACT 2859b.

An act providing for the sale of certain state lands suitable for cultivation.

[Approved May 19, 1915. Stats. 1915, p. 634.]

Amended 1919, Stats. 1919, p. 308.

The entire act was amended in 1919 [Stats. 1919, p. 308] to read as follows:

§ 1. School lands suitable for cultivation to be sold. Price. The unsold portions of the sixteenth and thirty-sixth sections of school lands not included within the exterior boundaries of national reservations, the unsold portions of the five hundred thousand acres granted to the state for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant, which are suitable for cultivation shall be sold to actual settlers in quantities not exceeding three hundred twenty acres to any one person under the provisions of section three thousand four hundred ninety-five of the Political Code, at a price to be fixed by the state board of control and the state surveyor-general, payment to be made as follows: The full purchase price of the land, or ten per cent thereof and interest to the first day of January following, at the rate of six per cent per annum on the unpaid balance of the purchase price; the unpaid balance of the purchase price shall bear interest at the rate of six per cent per annum, payable in advance on the

first day of each year, at which time the purchaser may pay as many one-tenths of the purchase price as he may desire; provided, that the legislature may require the payment of the unpaid balance of the purchase price within five years after the passage of an act requiring such payment.

§ 2. Actual settlers defined. Actual settlers, within the meaning of this act, are persons who have resided in good faith on the land for a period of not less than one year, to the exclusion of any other residence or fixed place of habitation during such time.

§ 3. Purchase of land by settler. Any person who shall in good faith settle upon any land in the belief that the same was suitable for cultivation shall, in the event the surveyor-general, upon inspection, determines said land to be unsuitable for cultivation, be a preferred purchaser for a period of six months from the date of such decision; provided, that in cases where the surveyor-general has heretofore decided that lands settled upon were unsuitable for cultivation said settlers shall be preferred purchasers for a period of six months from the date that this act takes effect.

ACT 2867b.

An act authorizing the issuance of letters patent to the heirs at law of P. W. Fahey, deceased, for certain swamp and overflowed land in Tuolumne county, California. [Approved May 21, 1917. Stats. 1917, p. 771. In effect July 27, 1917.]

The nature of the act sufficiently appears from the title.

ACT 2874a.

An act providing for the leasing of certain state lands and making an appropriation for the purposes of this act.

[Approved May 17, 1917. Stats. 1917, p. 576. In effect July 27, 1917.]

§ 1. Application to lease land. Fee. Any person, firm or corporation desiring to lease any of the unsold portions of the sixteenth and thirty-sixth sections of school lands and the unsold portion of the listed lands selected from the public lands of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant must make application therefor to the surveyor-general of the state, describing the lands sought to be leased by legal subdivisions. The application must be accompanied by the filing fee of five dollars. All applications to lease lands under this act shall be approved or rejected by the surveyor-general within ninety days after the receipt thereof.

§ 2. Annual rental. Upon receipt of an application to lease any of the lands under this act the surveyor-general shall appraise such lands and fix the annual rental per acre therefor; such charge to be approved by the state board of control.

§ 3. Lease executed. Whenever any lease is delivered to the applicant by the surveyor-general the lessee shall within fifteen days thereafter, execute and return such lease to the state surveyor-general and make payment of the first annual rental. The surveyor-general shall

receive the money and give a receipt therefor. All subsequent annual payments of rental must be paid to the state surveyor-general in like manner fifteen days after they become due. In case payments are not made as herein provided, the lease and all rights thereunder shall cease and terminate.

§ 4. Term of lease. No lease shall be for a period longer than ten years, and such lease shall terminate upon the sale of said lands, or any portion thereof, by the state and the lessee shall be notified by registered mail by the state surveyor-general upon the sale of said land at public auction to the highest bidder as provided in that certain act entitled "An act providing for the sale of certain state lands," approved May 19, 1915. The date of the termination of the lease shall be on the date the certificate of purchase is issued to the purchaser of the land from the state of California by the register of the state land office, except when a lease embraces land suitable for cultivation and an application from an actual settler to purchase said land is received and filed by the surveyor-general, then the lease shall terminate on the date said application is filed of record in the surveyor-general's office and the lessee is to be notified by registered mail of the filing of said application to purchase said land, or any portion thereof, from the state and of the termination of the lease. Possession under any lease hereby authorized shall not be held, deemed or construed to be adverse to that of any person who becomes an actual settler upon any portion of land in such lease described, with intent to purchase the same in the manner provided by law.

§ 5. Land designated as bases for indemnity selections. Any lease for sixteenth and thirty-sixth sections or any portion thereof which may now or may hereafter be included within the exterior boundaries of a national reservation or of a reserve, or within the exterior boundaries of lands withdrawn from public entry, shall terminate whenever the state of California shall designate said lands as bases for indemnity selections as provided by law. The lessee is to be notified by the surveyor-general by registered mail whenever the state of California designates the land as bases for indemnity selection or selections.

§ 6. Surrender of lease. If a lease is terminated by reason of the filing of an application to purchase land suitable for cultivation, or by the sale of land at public auction, or by the designation of land as bases for indemnity selection or selections, the lessee shall surrender the lease to the surveyor-general and receive in exchange therefor from the surveyor-general a certificate showing the proportionate amount of the annual payment to be refunded to the lessee, for the tract or tracts of land that have been disposed of by the state of California, and the state controller, upon the surrender to him of the said surveyor-general's certificate, with the approval of the board of control indorsed thereon, shall issue to the lessee a warrant for the said amount payable out of the state school land fund and the state treasurer shall pay the same. If all the tracts of land described in said surrendered lease have not been disposed of by the state, the lessee shall be entitled, without the payment of any additional fee, to a new lease for the remaining tracts of land

for the balance of the unexpired term of the surrendered lease, at the same annual rental per acre.

§ 7. Duty of surveyor-general. The surveyor-general is hereby authorized to prepare, make, execute and deliver all papers, instruments, and documents and to do any and all things necessary to carry out the provisions of this act.

§ 8. Payment of moneys. All moneys received as rental for such lands above mentioned shall be paid into the state school land fund.

§ 9. Appropriation. There is hereby appropriated out of any moneys in the state treasury to the credit of the state school land fund, not otherwise appropriated, the sum of three thousand dollars, or so much thereof as may be necessary, to be used in refunding unearned rentals under the provisions of section six of this act.

ACT 2875f.

An act to provide for the forfeiture of certain lands to the state in the event of the nonpayment of delinquent interest upon any part of the unpaid portion of the purchase price thereof, together with penalties and costs as herein provided, as well as for the forfeiture of all moneys previously paid thereon, whether for principal or interest; prescribing the duties of certain public officers with respect thereto; providing for the giving of notice hereof; prescribing certain remedies; and making an appropriation for the purposes of this act.

[Approved May 24, 1917. Stats. 1917, p. 926. In effect July 27, 1917.]

§ 1. Lands to be sold unless interest and penalties paid. All lands sold by this state for which certificates of purchase were issued prior to the first day of May, A. D. one thousand nine hundred eleven, for which full payment was not made at the time of purchase, and upon which any interest upon any part of the unpaid portion of the purchase price thereof is delinquent at the time this act shall take effect, shall be forfeited to the state, without the necessity of re-entry or judicial ascertainment, and shall revert to the particular class of land to which it originally belonged, to be resold under the provisions of existing law, or any future law, unless all such delinquent interest, together with all additional interest becoming due on the first day of January, A. D. one thousand nine hundred eighteen, and all penalties and costs herein specified, shall be fully paid, as herein provided, on or before the thirtieth day of June, A. D. one thousand nine hundred eighteen.

§ 2. List of lands upon which payments delinquent. On or before the first day of October, A. D. one thousand nine hundred seventeen, the register of the state land office shall prepare, or cause to be prepared, statements showing, by counties, and by proper legal descriptions, all lands in each of the several counties in this state for which there are outstanding and not annulled as provided by article six of chapter one of title eight of part three of the Political Code any certificate or certificates of purchase which were issued prior to the first day of May, A. D. one thousand nine hundred eleven, and upon which any interest upon

veyed exempted from forfeiture, when. Any person of the whole or any portion of the lands described in the purchase included in any such statement, but to never been surrendered, may protect his lands such proportion of the interest delinquent certificate described as the acreage claimed in such certificate. He shall register of the state land office satisfy his right to such land, and obtain from the treasurer of the proper county, a statement stating the amount to be paid, which shall include the costs imposed by section nine hereof. Upon compliance made within the time herein limited such land shall be excepted from the forfeiture prescribed in this act. The purchase shall become null and void only as to the lands therein described, and the register in preparing for the notices of forfeiture provided for in section ten hereof shall deduct therefrom all lands upon which the delinquent interest has been paid as in this section permitted. Should due compliance be made with all other provisions of law governing the issuance of patents, a patent shall issue in the name of the original purchaser of such excepted land, but shall be delivered to the person by whom such payment was made, and the title thereby granted shall inure to the benefit of such person, his heirs or assigns.

§ 6. Lands included. This act shall extend to and include all unlisted lien lands and all unsegregated swamp and overflowed lands sold under the authority of any law of this state; subject to the proviso that instead of the land itself becoming forfeit for nonpayment of delinquent interest, all right, title and interest therein or thereto heretofore acquired or hereafter to be acquired prior to June thirtieth, A. D. one thousand nine hundred eighteen, by the original purchaser, his heirs and assigns, shall become and hereby is declared to be forfeit to the state in the event of such nonpayment; and subject to the further proviso that all purchasers of such unlisted lien lands or of such unsegregated swamp and overflowed lands, their heirs and assigns, who protect themselves against such forfeiture by making the payments required by this act, shall not thereby be deprived of any existing right to receive restitution of all sums paid on account of the purchase price of such lands, whether for principal or interest, upon duly complying with all provisions of law governing such restitution.

§ 7. Payment of interest by December 31, 1917. Penalties. Publication of notice. Upon completing the statements required by section two hereof, the register shall add thereto a demand that all interest shown to be delinquent therein shall be paid on or before December thirty-first, A. D. one thousand nine hundred seventeen, to the treasurer of the proper county, together with the sum of three dollars costs, and a notice that if the same be not so paid a penalty of twenty per cent will be added thereto as provided in section three hereof, and a further notice that unless the whole sum delinquent, together with such costs and penalty, and all additional interest falling due January first, A. D. one thousand

any part of the unpaid portion of the purchase price is delinquent at the time this act shall take effect. Such statements shall also show the name and postoffice address of the purchaser as the same may appear upon the records of the register's office, and the name and postoffice address of the assignee, grantee or successor in interest of such purchaser in all cases wherein notice of any assignment of such certificate of purchase, or of any conveyance or other transfer of title of any part of the lands therein described shall have been filed in said office prior to the date herein first mentioned. Such statement shall also show the number and date of the survey or location and of the certificate of purchase, the amount of interest paid, the amount of interest unpaid, and the amount of interest then due. No lands within any reclamation district must be embraced in any such statement if the certificate of the board of supervisors that works of reclamation have been commenced in such district has been filed in the register's office prior to the taking effect of this act.

§ 3. Demand for payment of delinquent interest. Demand is hereby made upon all persons who are or who may become liable for the payment of any interest which is delinquent upon any part of the unpaid portion of the purchase price of any of the lands embraced within any of such statements for the payment of all such delinquent interest, together with the costs hereby imposed, on or before the thirty-first day of December, A. D. one thousand nine hundred seventeen; and in the event of the nonpayment of any portion of such delinquent interest, as above provided, a penalty of twenty per cent of the aggregate amount then delinquent is hereby imposed, in each case, upon the person or persons liable for the payment thereof. Except as otherwise provided in sections four, five and six of this act, in the event any portion of such delinquent interest, together with such penalty and costs, and all additional interest falling due on the first day of January, A. D. one thousand nine hundred eighteen, be not paid on or before the thirtieth day of June, A. D. one thousand nine hundred eighteen, all lands on account of the purchase price of which such delinquency shall then exist are hereby declared to be forfeited to the state, together with all moneys previously paid on account of the purchase price thereof, whether for principal or interest, and all such certificates of purchase are hereby declared to be ipso facto null and void from and after such date last mentioned.

§ 4. If owner has died without disposing of lands. In the event the owner of any such certificate of purchase shall have died, without disposing of the lands therein described, and no administration of his estate has been had, the time of payment limited by the provisions of the preceding section is hereby extended for a period of six months; provided, however, that appropriate probate proceedings must be commenced in each case not later than December thirty-first, A. D. one thousand nine hundred seventeen, and written notice thereof forwarded by registered mail to the register of the state land office. In such cases the twenty per cent penalty imposed by section three hereof shall not attach until July first, A. D. one thousand nine hundred eighteen, and such forfeiture shall not become operative until December thirty-first of said year.

§ 5. Lands conveyed exempted from forfeiture, when. Any person having a conveyance of the whole or any portion of the lands described in any certificate of purchase included in any such statement, but to whom the certificate has never been surrendered, may protect his lands from forfeiture by paying such proportion of the interest delinquent upon all the lands in such certificate described as the acreage claimed by him bears to the aggregate acreage embraced in such certificate. He shall first, however, file with the register of the state land office satisfactory evidence of his possessory right to such land, and obtain from the latter a certificate, directed to the treasurer of the proper county, permitting such payment and stating the amount to be paid, which shall in all cases include the costs imposed by section nine hereof. Upon such payment being made within the time herein limited such land shall be, and hereby is, excepted from the forfeiture prescribed in this act. Said certificate of purchase shall become null and void only as to the remaining lands therein described, and the register in preparing for record the notices of forfeiture provided for in section ten hereof shall omit therefrom all lands upon which the delinquent interest has been paid as in this section permitted. Should due compliance be made with all other provisions of law governing the issuance of patents, a patent shall issue in the name of the original purchaser of such excepted land, but shall be delivered to the person by whom such payment was made, and the title thereby granted shall inure to the benefit of such person, his heirs or assigns.

§ 6. Lands included. This act shall extend to and include all unlisted lieu lands and all unsegregated swamp and overflowed lands sold under the authority of any law of this state; subject to the proviso that instead of the land itself becoming forfeit for nonpayment of delinquent interest, all right, title and interest therein or thereto heretofore acquired or hereafter to be acquired prior to June thirtieth, A. D. one thousand nine hundred eighteen, by the original purchaser, his heirs and assigns, shall become and hereby is declared to be forfeit to the state in the event of such nonpayment; and subject to the further proviso that all purchasers of such unlisted lieu lands or of such unsegregated swamp and overflowed lands, their heirs and assigns, who protect themselves against such forfeiture by making the payments required by this act, shall not thereby be deprived of any existing right to receive restitution of all sums paid on account of the purchase price of such lands, whether for principal or interest, upon duly complying with all provisions of law governing such restitution.

§ 7. Payment of interest by December 31, 1917. Penalties. Publication of notice. Upon completing the statements required by section two hereof, the register shall add thereto a demand that all interest shown to be delinquent therein shall be paid on or before December thirty-first, A. D. one thousand nine hundred seventeen, to the treasurer of the proper county, together with the sum of three dollars costs, and a notice that if the same be not so paid a penalty of twenty per cent will be added thereto as provided in section three hereof, and a further notice that unless the whole sum delinquent, together with such costs and penalty, and all additional interest falling due January first, A. D. one thousand

nine hundred eighteen, be paid on or before June thirtieth, A. D. one thousand nine hundred eighteen, the lands in said statements described, together with all moneys previously paid on account of the purchase price thereof, whether for principal or interest, will be forfeit to the state in accordance with the provisions hereof, and that all such certificates of purchase will become ipso facto null and void. He shall thereupon cause each such statement, together with such demand and notice, to be published once a week for four weeks successively in some newspaper published in the county wherein the lands described in such statement are situate, or, if there be no newspaper published in such county, such publication shall be made in a newspaper published in an adjoining county.

§ 8. Copies sent to county officers and persons interested in lands. Duty of assessor. In addition to such publication, the register shall, not later than October fifteenth, A. D. one thousand nine hundred seventeen, forward copies of such statements, demands and notice, by registered mail to the treasurer and to the auditor and to the assessor of each county wherein any of said lands may be situate, and shall likewise forward by registered mail to each person shown by the records of his office to have any interest in any of such lands, either as purchaser, or as assignee, grantee, distributee, or other successor in interest of such purchaser, a copy of so much of said statements as pertains to the lands wherein such person may appear to have any interest, together with such demand and notice, directed to such person at his last known place of residence or of business as the same appears upon the records of the register's office.

It shall be the duty of each county assessor to whom a copy of any such statement shall be sent, immediately upon receipt thereof, to cause the same to be carefully compared with the records of assessments in his office of all tracts of land appearing in such list, and in the event it shall appear from such comparison that any person or persons whose names are not included in the register's statement are shown by such assessment records to have any interest in any part of the lands described in such statement, the assessor must forthwith return, by registered mail, to the register of the state land office a statement containing a description of the land affected and the names and addresses, as the same appear upon his records, of all persons appearing to have any interest therein and not included in the register's statement. In every such case the assessor must return his statement to the register within ten days after the receipt by him of the register's statement. Upon receipt of any such return the register shall without delay, forward to each person therein named, in the same manner as above provided, a copy of so much of said statement as pertains to the lands wherein such person is shown by the assessor's return to have any interest, to which shall be appended such demand and notice.

§ 9. Costs. The sum of three dollars to cover the costs of such publication and of such mailing is hereby imposed upon the owner or owners of each such certificate of purchase, as well as upon each person who may have acquired by purchase an interest in all or some portion of the lands in such certificate described, but to whom the certificate

has never been surrendered, and it shall be the duty of the treasurer of each county wherein any part of such land may be situate to require the payment of such costs, in all cases, in addition to the delinquent interest, and penalty, if any, and to account for the same in his settlements with the state controller and treasurer, who are hereby authorized and directed to pay all sums so collected for costs into the general fund of the state treasury.

§ 10. Notice of forfeiture. Immediately following the thirtieth day of June, A. D. one thousand nine hundred eighteen, the register shall note upon the records of his office the forfeiture herein and hereby declared, and shall forward to the recorder of each county wherein any of said lands may be situate a notice of such forfeiture, in which there shall be embodied the same data required by section two hereof, supplemented by a statement of the costs, penalties and additional interest accrued at the date of forfeiture. It shall be the duty of the recorder to receive and file such notice and to record the same in a book of deeds. Such notice from the time it is filed with the recorder for record is constructive notice of the contents thereof to subsequent purchasers and mortgagees and to all other persons who may thereafter attempt to acquire any interest in, or lien upon, any of the lands in such notice described. In the event any additional forfeiture shall occur on the first day of January, A. D. one thousand nine hundred nineteen, as provided in section four hereof, the register and each county recorder shall proceed with respect to such lands as before, and with like force and effect.

§ 11. Action to annul forfeiture. In the event any land shall be forfeited under the provisions hereof upon which all interest, costs, penalties and accruing interest had been actually paid prior to such forfeiture, though for any reason not properly credited, the person or persons having a beneficial interest therein may, within one year following the date of such forfeiture, commence an action in the superior court of the county of Sacramento against the register of the state land office for the purpose of having such forfeiture annulled and set aside. And if it be proven to the satisfaction of the court, at the trial of such action, that such payment was in fact made prior to the date upon which such forfeiture occurred, the court shall render judgment annulling and setting aside such forfeiture, and thereupon the plaintiff or plaintiffs in such action shall be restored to his or their former estate in said land, upon making payment of all interest accruing thereon to the date of restoration.

§ 12. Right of state to enforce payment. This act is cumulative and shall not be construed to deny to the state the right to institute any legal proceedings that may be deemed necessary to enforce the payment of all such delinquent interest, or to procure judgments foreclosing the interests of any and all persons in any of such lands, and annulling any or all of such certificates of purchase. Nor shall anything herein contained ever be deemed, held or construed to give to or confer upon the holder or holders of any of such certificates of purchase, as against the state of California, any other or greater right to any land therein described than is now possessed by the holder or holders of such certificates.

§ 13. Appropriation. The sum of four thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, to be used in accordance with law to defray the costs of the publication and mailing herein provided for.

Judicial determination of forfeiture. See post, Act 2875i.

ACT 2875g.

An act to determine and to declare the effect of state land patents in certain cases.

[Approved May 17, 1917. Stats. 1917, p. 570. In effect July 27, 1917.]

§ 1. Quitclaim deed not in effect if restitution not made. Whenever any person has, in conformity to the provisions of existing law, conveyed any land to the state of California by quitclaim deed, duly executed, delivered, and accepted by the register of the state land office, for the purpose of receiving restitution of the purchase price thereof, as provided by law, and such restitution has not been made, and a patent for such land shall thereafter issue in the name of the original purchaser, the title granted by such patent shall vest in, and inure to the benefit of, such original purchaser, his heirs, assigns, and successors in interest, notwithstanding the execution, delivery and acceptance of such quitclaim deed, as fully and completely as if such quitclaim deed had never been made, executed, delivered, or accepted.

§ 2. Certificate of register of state land office. Upon the issuance of such patent, the register of the state land office shall make and issue to the patentee therein named, his heirs, assigns, and successors in interest, a certificate under the seal of his office, reciting the making, execution, delivery and acceptance of such quitclaim deed, and further reciting the fact that no restitution of the purchase price of such land was made. Upon the presentation of such certificate to the county recorder of the county wherein such land is situate, it shall be the duty of the recorder to record the same in a book of deeds in the records of such county.

ACT 2875h.

An act authorizing the state board of control for and on behalf of the state of California to retransfer a certain tract of land back to original owners. [Approved May 28, 1917. Stats. 1917, p. 1282. In effect July 27, 1917.]

This act authorized the transfer of certain lands in Glenn County to Ella Glenn Leonard, F. B. Glenn and C. H. Glenn.

ACT 2875i.

An act to provide for a judicial determination of whether or not certain lands have been forfeited to the state under the provisions of an act entitled "An act to provide for the forfeiture of certain lands to the state in the event of the nonpayment of delinquent interest upon any part of the unpaid portion of the purchase price thereof, together with penalties and costs as herein provided, as well as for the forfeiture of all moneys previously paid thereon, whether for

principal or interest; prescribing the duties of certain public officers with respect thereto; providing for the giving of notice hereof; prescribing certain remedies; and making an appropriation for the purposes of this act," approved May 24, 1917, and to provide for reinstatement of delinquent purchasers in certain cases.

[Approved May 20, 1919. Stats. 1919, p. 804.]

§ 1. Action to have forfeiture of lands annulled. Reinstatement of purchasers. In the event that any lands shall appear to have been or to be forfeited under any of the provisions of the act entitled "An act to provide for the forfeiture of certain lands to the state in the event of the nonpayment of delinquent interest upon any part of the unpaid portion of the purchase price thereof, together with penalties and costs as herein provided, as well as for the forfeiture of all moneys previously paid thereon, whether for principal or interest; prescribing the duties of certain public officers with respect thereto; providing for the giving of notice hereof; prescribing certain remedies and making an appropriation for the purposes of this act," approved May 24, 1917, when in fact all interest, costs, penalties, and accruing interest due and payable thereon and thereunder had been actually paid or in good faith tendered prior to such forfeiture, though for any reason not properly credited or accepted, the person or persons having a beneficial interest therein may, within one year from the taking effect of this act, commence an action in the superior court of the county of Sacramento against the register of the state land office for the purpose of having such forfeiture annulled and set aside. And if it be proven to the satisfaction of the court, at the trial of such action, that such payment was in fact made or tendered prior to the date upon which such forfeiture occurred, the court shall render judgment annulling and setting aside such forfeiture, and thereupon the plaintiff or plaintiffs in such action shall be restored to his or their former estate in said land, upon making payment of all interest accruing thereon to the date of restoration; provided, nevertheless, that where such tender was made after the commencement of proceedings to foreclose the certificate of purchase under which said interest was delinquent, and was refused upon the ground that the costs of said proceedings and district attorneys' fees had not been paid, then, in that event, the said person or persons having such beneficial interest, shall, upon payment to the county treasurer of the county in which the land is situated, not later than December 31, 1919, of the amount so tendered together with such costs and attorneys fees, accrued to the time of such tender, be forthwith restored to his or their former estate in said land without the necessity of commencing such action.

ACT 2875j.

An act providing for the amendment of the base land offered by the state of California in satisfaction of the state school land grant where the selection has become invalid by reason of the restoration to validity of a certificate of purchase embracing the base land, by the vacating of a judgment of annulment.

[Approved April 15, 1919; Stats. 1919, p. 81.]

§ 1. Relief of lieu land owners. Where, under authority of acts of congress of the United States and of the legislature of the state of California, the state of California has made a selection of United States lands in lieu of losses to the state school land grant and the base offered therefor became invalid by reason of the restoration to validity of a certificate of purchase embracing the base land, by the vacating of a judgment of annulment, the surveyor-general may, in his discretion, and upon application of the record owner of the certificate of purchase, amend the selection by the substitution of valid base; provided, that the party applying for relief shall pay all fees and expenses incident to such amendatory selection.

TITLE 439.

PUBLIC PARKS.

ACT 2884.

An act to provide for the acquisition by municipalities of land for public park or playground purposes by condemnation, and for the establishment of assessment districts and the assessment of property therein to pay the expenses of acquiring such land.

[Approved April 22, 1909. Stats. 1909, p. 1066.]

Amended, Stats. Ex. Sess. 1911, p. 17; 1913, p. 414; 1917, p. 205.

§ 4. Protests. Contents. Protest signed by owners of majority of frontage. Protest not signed by owners of majority of frontage. Any person interested, objecting to said improvement, or to the extent of the assessment district described in said ordinance of intention, may file a written protest with the clerk of the city council, within thirty days after the first publication of the notice required by section three of this act. Every such protest must contain a description of the property in which each signer thereof is interested, sufficient to identify the same, and must set forth the nature of his interest therein, and must be accompanied by the affidavit of one of the signers thereof that each signature thereof is the genuine signature of the person whose name is thereto subscribed; and in case any signature is made by an agent, there must be attached to the protest the affidavit of the agent that he is duly authorized to sign such protest. Any protest not complying with the foregoing requirements, shall not be considered by the city council. In the case of property held by tenancy in common, if any cotenant signs such protest, only the proportionate share of the frontage thereof represented by his interest therein, shall be counted in determining the amount of frontage represented by such protest. The clerk shall indorse on every such protest the date of its reception by him, and at the next regular meeting of the city council, after the expiration of the time for filing protests, shall present to said city council all protests so filed with him. If such protests are against said improvement, and said city council at said meeting or at any other time to which the hearing of said protests may be adjourned, finds that the same are signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district, all further proceedings under said ordinance of intention shall be barred, and no new ordinance of intention for the same improvement shall be passed within six months after the presentation of such protests to the city council, unless the owners

of a majority of the frontage of the property fronting on streets or parts of streets within said assessment district shall, in the meantime, petition therefor. If such protests are against the improvement and the council finds that they are not signed by the owners of a majority of the frontage of the property fronting on streets or parts of streets within the assessment district, or if such protests are only against the extent of the assessment district, the council shall hear said protests at said meeting, or at any time to which the hearing thereof may be adjourned, and pass upon the same, and its decision shall be final and conclusive. If such protests are sustained, no further proceedings shall be had under said ordinance of intention, but a new ordinance of intention for the same improvement may be passed at any time. If such protests are denied, the proceedings shall continue as if such protests had not been made. At the expiration of the time within which protests may be filed, if none are filed, or if protests are filed, and after hearing are denied, as above provided, then upon such denial, the city council shall be deemed to have acquired jurisdiction to order the improvement described in the ordinance of intention.

§ 24. Deed to purchaser. Service of notice by street superintendent. At any time after the expiration of twelve months from the date of sale, the street superintendent must execute to the purchaser, or his assignee on his application, if such purchaser or assignee has complied with the provisions of this section, a deed of the property sold, in which shall be recited substantially the matters contained in the certificate, also any assignment thereof, and the fact that no person has redeemed the property. The street superintendent shall receive from the applicant for a deed, one dollar for making such deed, unless the municipality is the purchaser, in which case no charge shall be made therefor, and at least thirty days before the deed is executed the street superintendent must serve upon the owner of the property, and upon the occupant of such property if the same is occupied, a written notice, setting forth a description of the property that said property has been sold for a delinquent assessment (specifying the improvement for which the same was made), the amount for which it was sold, the amount necessary to redeem at the time of giving notice and the time when the deed will be executed to the purchaser or assignee. If the said owner cannot be found, after due diligence, said notice must be posted by the street superintendent in a conspicuous place upon said property, at least thirty days before the time stated therein, at which the deed will be executed. The street superintendent must file with the city clerk an affidavit or affidavits showing that notice of such application has been given, as herein required, and if the notice was not served on the owner of the property personally, that due diligence was used to find said owner. If redemption of the property is made after such affidavits are filed, and more than eleven months from the date of sale, the person making such redemption must pay, in addition to the other amounts required, three dollars for the service of notice and the making of such affidavits, which amount shall be paid over to the street superintendent and by him paid into the city treasury. No deed for any property sold for delinquent assessment shall be made until all the provisions of this section have been complied with.

ACT 2885a.

An act to authorize municipal corporations with the consent of original dedicators to abandon parks and sell and convey the lands embraced therein and reinvest the proceeds from the sale thereof in the purchase of other public grounds.

[Approved May 27, 1915; Stats. 1915, p. 1250.]

Amended 1919; Stats. 1919, p. 237. In effect July 22, 1919.

The amendment of 1919 follows:

§ 11. Details of sale. The board of trustees may order said land sold en masse or in lots or parcels, for cash or on credit, not exceeding four years, payable in gross or in installments, as the board of trustees may deem to be most advantageous to the city; provided, however, that deferred payments shall bear a rate of interest of seven per cent per annum; they shall determine when and at what price and on what terms said land, or any part thereof shall be sold; and when authorized by a majority vote of the board of said trustees, the president and clerk shall sign, acknowledge and deliver a deed to said land, or any part thereof, in the name and under the seal of said municipal corporation and such deed when so signed, acknowledged and delivered shall convey to the purchaser thereof the title in fee to the land described in said deed. [Amendment approved May 3, 1919; Stats. 1919, p. 237.]

ACT 2885b.

An act to cede to the United States exclusive jurisdiction over Yosemite national park, Sequoia national park, and General Grant national park in the state of California.

[Approved April 15, 1919. In effect July 22, 1919.]

§ 1. Jurisdiction over national parks ceded to United States. Exclusive jurisdiction shall be and the same is hereby ceded to the United States over and within all of the territory which is now or may hereafter be included in those several tracts of land in the state of California set aside and dedicated for park purposes by the United States as "Yosemite national park," "Sequoia national park," and "General Grant national park," respectively; saving, however, to the state of California the right to serve civil or criminal process within the limits of the aforesaid parks in suits or prosecutions for or on account of rights acquired, obligations incurred or crimes committed in said state outside of said parks; and saving further, to the said state the right to tax persons and corporations, their franchises and property on the lands included in said parks, and the right to fix and collect license fees for fishing in said parks; and saving also to the persons residing in any of said parks now or hereafter the right to vote at all elections held within the county or counties in which said parks are situate; provided, however, that jurisdiction shall not vest until the United States through the proper officer notifies the state of California that they assume police jurisdiction over said parks.

TITLE 440.

PUBLIC UTILITIES.

ACT 2886.

An act to provide for the organization of the railroad commission, to define its powers and duties and the rights, remedies, powers and duties of public utilities and their officers, and the rights and remedies of patrons of public utilities, and to provide penalties for offenses by public utilities, their officers, agents and employees and by other persons and corporations, creating the "railroad commission fund" and appropriating the moneys therein to carry out the provisions of this act, and repealing Title XV of Part IV of Division First of the Civil Code and all acts and parts of acts inconsistent with the provisions of this act.

[Approved April 23, 1915. Stats. 1915, p. 115.]

Amended 1917; Stats. 1917, pp. 168, 199, 261, 320, 1329; 1919, p. 438.

The amendments of 1917 and 1919 follow:

§ 2. (a) **Definitions.** "**Commission.**" The term "commission," when used in this act, means the railroad commission of the state of California.

(b) "**Commissioner.**" The term "commissioner," when used in this act, means one of the members of the commission.

(c) "**Corporation.**" The term "corporation," when used in this act includes a corporation, a company, an association and a joint stock association.

(d) "**Person.**" The term "person," when used in this act, includes an individual, a firm and a copartnership.

(e) "**Transportation of persons.**" The term "transportation of persons," when used in this act, includes every service in connection with or incidental to the safety, comfort or convenience of the person transported and the receipt, carriage and delivery of such person and his baggage.

(f) "**Transportation of property.**" The term "transportation of property," when used in this act, includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage and handling, and the transmission of credit by express corporations.

(g) "**Street railroad.**" The term "street railroad," when used in this act, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place within any city and county or city or town, together with all real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property; but the term "street railroad," when used in this act, shall not include a railway constituting or used as a part of a commercial or interurban railway.

(h) **"Street railroad corporation."** The term "street railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any street railroad for compensation within this state.

(i) **"Railroad."** The term "railroad," when used in this act, includes every commercial, interurban and other railway other than a street railroad, and each and every branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities, structures and equipment, and all other real estate, fixtures and personal property of every kind used in connection therewith, owned, controlled, operated or managed for public use in the transportation of persons or property.

(j) **"Railroad corporation."** The term "railroad corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any railroad for compensation within this state.

(k) **"Express corporations."** The term "express corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this state.

(l) **"Common carrier." "Inland waters."** The term "common carrier," when used in this act, includes every railroad corporation; street railroad corporation; express corporation; dispatch, sleeping-car, dining-car, drawing-room car, freight, freight line, refrigerator, oil, stock, fruit, car-loaning, car-renting, car-loading and every other car corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any vessel engaged in the transportation of persons or property for compensation between points upon the inland waters of this state or regularly engaged in the transportation of persons or property for compensation upon the high seas, on regular routes between points within this state. The term "inland waters" as used in this subsection includes all navigable waters within the state of California other than the high seas.

(m) **"Pipe-line."** The term "pipe-line," when used in this act, includes all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the transmission, storage, distribution or delivery of crude oil or other fluid substances except water through pipe-lines.

(n) **"Pipe-line corporation."** The term "pipe-line corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any pipe-line for compensation within this state.

(o) **"Gas plant."** The term "gas plant," when used in this act, includes all real estate, fixtures and personal property, owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of gas (natural or manufactured) for light, heat or power.

(p) **"Gas corporation."** The term "gas corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

(q) **"Electric plant."** The term "electric plant," when used in this act, includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of electricity for light, heat or power, and all conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(r) **"Electrical corporation."** The term "electrical corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

(s) **"Telephone line."** The term "telephone line," when used in this act includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

(t) **"Telephone corporation."** The term "telephone corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telephone line for compensation within this state.

(u) **"Telegraph line."** The term "telegraph line," when used in this act, includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires.

(v) **"Telegraph corporation."** The term "telegraph corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any telegraph line for compensation within this state.

(w) **"Water system."** The term "water system," when used in this act, includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use.

(x) **"Water corporation."** The term "water corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state.

(y) **"Vessel."** The term "vessel," when used in this act, includes every species of water craft, by whatsoever power operated, which is owned, controlled, operated or managed for public use in the transportation of persons or property, except row-boats, sailing boats and barges under twenty tons dead weight carrying capacity, and vessels propelled by steam, gas, fluid naphtha, electricity, or other motive power under the burden of five tons net register.

(z) **"Wharfinger."** The term "wharfinger," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this state.

(aa) **"Warehouseman."** The term "warehouseman," when used in this act includes every corporation or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any building or structure in which property is regularly stored for compensation within this state, in connection with or to facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf or structure, owned, operated, controlled or managed by a wharfinger.

(bb) **"Heating plant."** The term "heating plant," when used in this act, includes all real estate, fixtures and personal property owned, controlled, operated or managed in connection with or to facilitate the production, generation, transmission, delivery or furnishing of heat for domestic, business, industrial or public use.

(cc) **"Heat corporation."** The term "heat corporation," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any heating plant for compensation within this state, except where heat is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

(dd) **"Public utility."** The term "public utility," when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman, and heat corporation, where

the service is performed for or the commodity delivered to the public or any portion thereof. The term "public or any portion thereof" as herein used means the public generally, or any limited portion of the public including a person, private corporation, municipality or other political subdivision of the state, for which the service is performed or to which the commodity is delivered, and whenever any common carrier, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman or heat corporation performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, pipe-line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger, warehouseman or heat corporation is hereby declared to be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this act. Furthermore, when any person or corporation performs any service or delivers any commodity to any person or persons, private corporation or corporations, municipality or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, perform such service or deliver such commodity to or for the public or some portion thereof, such person or persons, private corporation or corporations and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act. [Amendment approved May 11, 1919; Stats. 1919, p. 489.]

This section was also amended in 1917. See Stats. 1917, p. 1329.

§ 17. (a) No transportation until rates are filed. 1. No common carrier subject to the provisions of this act shall engage or participate in the transportation of persons or property, between points within this state, until its schedules of rates, fares, charges and classifications shall have been filed and published in accordance with the provisions of this act.

2. Different rate not to be charged. No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares or charges so specified, except upon order of the commission as hereinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

3. Passes not to be given except to own officers, etc. "Employees" defined. No pass to shipper. Railroad commission. Newspapers. Express matter to company's officers. Exceptions. No common carrier subject to the provisions of this act shall, directly or indirectly, issue, give or tender any free ticket, free pass or free or reduced rate transportation for passengers between points within this state, except to its officers, agents, employees, attorneys, physicians and surgeons, and mem-

bers of their families; to ministers of religions, traveling secretaries of railroad men's religious associations, or executive officers, organizers or agents of railroad employees' mutual benefit associations giving the greater portion of their time to the work of any such association; inmates of hospitals or charitable or eleemosynary institutions, and persons exclusively engaged in charitable or eleemosynary work, and persons and property engaged or employed in educational work or scientific research or in patriotic work when permitted by the commission; to the executive officers of mercantile or promotion boards or bodies within this state when traveling in the performance of duties affecting the advancement of the business of such boards or bodies, or the development of trade or industry within or without this state, when authorized by the commission; to hotel employees of season resort hotels, when authorized by the commission to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers, going and returning, of livestock, poultry, milk, fruit and other freight, under uniform and nondiscriminatory regulations; to employees of sleeping-car corporations, express corporations and telegraph and telephone corporations; to railway mail service employees, United States internal revenue officers, postoffice inspectors, customs officers and inspectors and immigration inspectors when traveling in the course of their official duty; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such persons; provided, that the term "employees," as used in this section, shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such carrier, ex-employees traveling for the purpose of entering the service of any such carrier, and the remains of persons dying while in the employment of any such carrier; and the term "families," as used in this section, shall include the families of those persons heretofore named in this proviso, and the families of persons killed, and the widows during widowhood and minor children during minority of persons who died while in the service of any such carrier; and provided, further, that no free ticket, free pass or free or reduced rate transportation shall be issued, given or tendered to any officer, agent or employee of a common carrier, who is at the same time a shipper or receiver of freight, or an officer, agent or employee of a shipper or receiver of freight, unless such officer, agent or employee devotes substantially his entire time to the service of such carrier; and provided, further, that the members of the railroad commission, their officers and employees, shall be entitled, when in the performance of their official duties, to free transportation over the lines of all common carriers within this state; and provided, further, that passenger transportation may issue to the proprietors and employees of newspapers and magazines and the members of their immediate families, in exchange for advertising space in such newspapers or magazines at full rates, subject however to such reasonable restrictions as the commission may impose.

Nothing in this act contained shall be construed to prohibit the issue by express corporations of free or reduced rate transportation for express matters to their officers, agents, employees, attorneys, physicians and surgeons, and members of the families, or the interchange of free or reduced rate transportation for passengers or express matter between common carriers, their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, where such common carriers are subject in whole or in part to the jurisdiction of the commission or of the interstate commerce commission, or where such common carriers, though not in whole or in part subject to the jurisdiction of this commission or of the interstate commerce commission, but which are engaged in the business of transporting passengers and freight by water between the United States and foreign countries, and are permitted by the interstate commerce act to interchange such free transportation with common carriers which are subject to the jurisdiction of the interstate commerce commission or to the jurisdiction of this commission; provided, that such express matter be for the personal use of the person to or for whom such free or reduced rate transportation is granted, or of his family; nor to prohibit the issue of reduced rate transportation by a common carrier to children attending an institution of learning; nor to prohibit the issue of passes or franks by telegraph or telephone corporations to their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, or the exchange of passes or franks between such telegraph and telephone corporations or between such corporations and such common carriers, for their officers, agents, employees, attorneys, physicians and surgeons, and members of their families; nor to prevent the carrying out of contracts for free or reduced rate passenger transportation heretofore made, founded upon adequate consideration and lawful when made; nor to prevent a common carrier from transporting, storing or handling, free or at reduced rates, the household goods and personal effects of its employees, of persons entering or leaving its service, and of persons killed or dying while in its service.

4. United States, state, etc. property may be carried free in certain cases. Every common carrier subject to the provisions of this act may transport, free or at reduced rates, persons or property for the United States, state, county or municipal governments, or for charitable purposes, or for patriotic purposes, or to provide relief in cases of general epidemic, pestilence or other calamitous visitation, and property to or from fairs or expositions for exhibit thereat; also contractors and their employees, material or supplies for use or engaged in carrying out their contracts with said carriers, for construction, operation or maintenance work or work incidental thereto on the line of the issuing carrier, to the extent only that such free or reduced rate transportation is provided for in the specifications upon which the contract is based and in the contract itself. Common carriers may also enter into contracts with telegraph and telephone corporations for an exchange of service.

(b) Rebates prohibited. Except as in this section otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the

rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any public utility engaged in furnishing or rendering more than one product, commodity or service, charge, demand, collect or receive a greater or less, or different compensation for the collective, combined or contemporaneous furnishing or rendition of two or more of such products, commodities or services, than the aggregate of the rates, tolls, rentals or charges specified in its schedules on file and in effect at the time, applicable to each such product, commodity or service when separately furnished or rendered, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or any rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility. [Amendment approved May 11, 1919. Stats. 1919, p. 493.]

This section was also amended in 1917. See Stats. 1917, p. 199.

§ 43. No grade crossings without permission. (a) No public road, highway or street shall hereafter be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without having first secured the permission of the commission; provided, that this subsection shall not apply to the replacement of lawfully existing tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

(b) **Power to determine crossing point, etc.** Payment of amount apportioned. The commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public road or highway by a railroad or street railroad and of a street by a railroad or vice versa, subject to the provisions of section two thousand six hundred ninety-four of the Political Code so far as applicable, and to alter, relocate or abolish any such crossing, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the construction, alteration, relocation or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected or between such corporations and the state, county, municipality or other political subdivision affected. It shall be the duty of each corporation and political sub

division to which any of the expense is apportioned to pay from the funds available therefor in its treasury the amount apportioned to it at the time and to the parties specified by the order of the commission and if the same is not paid in accordance with the commission's order the corporation or political subdivision entitled thereto under the commission's order shall have the right to sue therefor in any court of competent jurisdiction. If no such funds are available as aforesaid, it shall be the duty of the appropriate boards, officers and employees intrusted with the levy and collection of the taxes or assessments of such political subdivision to do all acts necessary to include in the next succeeding tax or assessment levy the amount due and to collect the same, whereupon the amount due shall be paid over to the corporation or corporations, the state, political subdivision, or political subdivisions entitled thereto under the commission's order. The commission shall have the power by order to designate the state, certain of said corporations, and political subdivisions, affected, to do all or specified portions of the acts required by any order of the commission made under the provisions of this subsection, and to prescribe the manner and the time within which the parties so designated shall be paid or reimbursed by the other corporations, the state and political subdivisions among which the expense of the work has been apportioned by the commission.

(c) 1. **Power to fix just compensation.** The commission shall have power in accordance with the procedure provided in this subsection to fix the just compensation to be paid for property or any interest in or to property to be taken or damaged in the separation or grades at any crossing specified in subsection (b) hereof, or for property or any interest in or to property to be taken or damaged in the construction, alteration or relocation, under the order or with the approval of the commission, of elevated tracks or subways for any railroad or street railroad over or under any public road, street, highway or private right of way, or of any public road, street or highway over or under the tracks of any railroad corporation or street railroad corporation; and upon the payment of the just compensation so fixed to make a final order of condemnation as hereinafter provided.

2. **Manner of commencing proceedings.** Proceedings under subsection (c) hereof may be commenced by order on the commission's own motion or by a petition filed by the state, county, city and county, incorporated city or town, other political subdivision, railroad corporation, or street railroad corporation affected. Any proceeding commenced under this subsection may be made a part of any proceeding commenced under subsection (b) hereof. Said petition shall set forth the name and interest of the petitioner, and said order on the commission's own motion and said petition shall set forth a statement of the purpose of the proceedings and the use for which property or interest in or to property is sought to be taken, a description of each piece of land or other property or interest in or to property sought to be taken, and whether the same includes the whole or only a part of an entire parcel or tract or piece of property or interest in or to property and the names and addresses of all owners and claimants thereof, if known, or a statement that they are unknown, and a statement of each railroad corporation, the state and political subdivision which in the opinion of the commission or the

petitioner has an interest in the proceeding. Said petition shall pray that the commission fix the just compensation to be paid for the acquisition of or damage to the property and interest in or to property specified in the petition, that the commission designate the party or parties to the proceeding who shall pay such compensation and the owners and claimants of the property and interest in or to property condemned to whom such compensation shall be paid and that the commission make its final order of condemnation; provided, that when the proceeding is commenced by order on the commission's own motion said matters shall be included in the statement of the purpose of the proceeding. Said petition shall be duly verified and at the time the same is filed with the commission the petitioner shall also file the additional copies thereof equal in number to three or more than the number of owners and claimants named in the petition.

3. Order to appear. Service. Publication. Notice of hearing. Amendment of petition. Upon the filing of said petition with the commission or the making of said order on the commission's own motion, the commission shall make its order specifying the nature of the proceeding, containing a general description of the property and interest in or to property to be condemned, and directing the owners and claimants and the railroad corporations, street railroad corporations, and governmental authorities in interest named in said petition or order on the commission's own motion, who shall also be named in said order to show cause, to appear before the commission at a time and place specified in said order, to show cause, if any they have, why the commission should not proceed after hearing to fix the just compensation to be paid for the acquisition of or damage to the property and interest in or to property specified in said petition or order on the commission's own motion, to designate the party or parties to the proceeding who shall pay such compensation and the owners and claimants to whom such compensation shall be paid and to make its final order of condemnation. Said order to show cause shall direct the secretary of the commission to serve or cause to be served upon each said owner and claimant, railroad corporation, street railroad corporation and governmental authority in interest a copy of said order certified under the seal of the commission to which shall be attached a true and correct copy of the petition or order on the commission's own motion; provided, that when the proceeding is commenced by order on the commission's own motion said order to show cause may be incorporated in said order on the commission's own motion. Personal service shall be made in accordance with the provisions of the Code of Civil Procedure of the state of California; provided, that service may also be made by depositing a copy of said order to show cause certified under seal of the commission with a true copy of the petition or order on the commission's own motion attached thereto or made a part thereof in the United States mail, inclosed in a sealed envelope, registered, with postage prepaid, addressed to each owner or claimant, railroad corporation, street railroad corporation and governmental authority in interest named in said petition or order on the commission's own motion. If any owner or claimant named in the petition or order on the commission's own motion resides out of the state or has departed from the state or cannot after due diligence be found within the state,

or conceals himself to avoid service, or is a corporation having no managing or business agent, cashier or secretary or other officer upon whom summons may be served, who, after due diligence, cannot be found within the state, and the fact appears by affidavit to the satisfaction of the commission, and it also appears by such affidavit or by the petition or order on the commission's own motion that a cause of action exists against such owner or claimant on whom service is to be made and that he is a necessary or proper party to the proceeding, the commission may make an order that the service be made on such owner or claimant by publication of the commission's said order to show cause. Said order of the commission shall direct that the publication be made in a newspaper to be designated by the commission as likely to give notice to the owner or claimant to be served, and for such time as the commission may find to be reasonable, at least once a week, but publication against an owner or claimant residing out of the state or absent therefrom shall not be less than two months. If the address of any owner or claimant as stated in the petition or order on the commission's own motion is out of the state, the secretary of the commission shall within fifteen days after the making and filing of said order to show cause, deposit or cause to be deposited a copy of said order to show cause certified under the seal of the commission, with a true and correct copy of the petition or order on the commission's own motion attached thereto or made a part thereof, in the United States mail, inclosed in a sealed envelope registered, with postage prepaid, addressed to such owner or claimant at the address specified in the petition or order on the commission's own motion. Personal service of a copy of the order to show cause and of the petition or order on the commission's own motion out of the state is equivalent to publication and deposit in the United States mail. Within ten days prior to the time set for the first hearing on the petition or order on the commission's own motion, which time shall be not less than thirty days after the filing of said petition or the making of said order on the commission's own motion, the secretary shall serve or cause to be served upon the petitioner a written notice of such hearing, specifying the time and place at which such hearing shall be had. In all respects not in this paragraph otherwise provided, service and the proof of service shall be made as provided by the Code of Civil Procedure of the state of California. Upon the completion of service upon the petitioner or upon any owner or claimant, railroad corporation, street railroad corporation or governmental authority in interest named in the petition or order on the commission's own motion, the commission shall have full and complete jurisdiction in so far as such petitioner, owner or claimant, railroad corporation, street railroad corporation, or governmental authority in interest is concerned, to make each finding hereinafter referred to, to fix the just compensation to be paid for the acquisition of or damage to any property or interest in or to property specified in the petition or order on the commission's own motion, to designate the party or parties to the proceeding who shall pay such compensation and the owner or claimant to whom such compensation shall be paid and to make its final order of condemnation. The failure to make such service upon any person alleging that he is an owner or claimant or party in interest but not named in the petition or order on the commission's own motion or to acquire jurisdiction over such person shall in no way

affect the jurisdiction of the commission over owners and claimants and parties in interest on whom service has been made as in this paragraph provided. The commission shall have power at any time subsequent to the filing of the petition, and prior to making and filing its finding of just compensation, to authorize the amendment of the petition, or in case the proceeding is by order on the commission's own motion to amend said order, by altering or modifying the description of said property, or interest in or to property, or by adding to or deducting from said property or interest in or to property, or by bringing in any additional party or parties and in each other respect including each jurisdictional allegation.

4. Hearing. Finding. At the time and place specified in said order to show cause, or at such other time and place as, for good cause, may be otherwise ordered by the commission, the commission shall proceed to a hearing upon the petition or order on the commission's own motion. When the proceeding has been submitted the commission shall make and file its finding upon the question whether the use to which the property or interest in or to property is to be applied is a use authorized by law and whether the taking is necessary to such use, and shall make and file its written finding and fixing the just compensation to be paid for said property or interest in or to property; provided, that if the commission finds that severance damages should be paid, the just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the commission as of the day on which the petition was filed or the order on the commission's own motion was made. The commission shall also make its order designating the party or parties to the proceeding who shall pay the just compensation so fixed, or any portion thereof, the amounts in which it shall be paid, the times at which it shall be paid, the property or interest in or to property for which it shall be paid, and the owners and claimants of such property or interest in or to property to whom it shall be paid. The commission may prescribe any other terms or conditions with reference to the payment of such compensation as to the commission may seem proper, including a provision that the money due be paid to the commission to be distributed to the parties entitled thereto. The party or parties whom the commission may designate to pay such compensation or any part thereof shall thereupon become liable therefor, and may be sued in any court of competent jurisdiction by the party or parties entitled to such compensation as provided in the commission's order; provided, that in cases in which the order of the commission authorizing any work to be done under the provisions of this section is permissive in character and not mandatory, the commission may prescribe the time within which the party receiving such permission must elect to proceed and notify the commission thereof, and only in the event such party elects to proceed and so notifies the commission shall any liability arise in such cases to pay the just compensation or any part thereof under the provisions of this subsection. When any political subdivision of the state is designated by the commission to pay such compensation or any portion thereof the same shall be collectible in the manner provided in subsection (b) hereof for the collection of expenses apportioned by the commission to political subdivisions of the state.

5. Final order of condemnation. When the just compensation has been paid in accordance with the commission's order made under the provisions of this subsection for property or interest in or to property, the commission shall make its final order of condemnation which must describe the property or interest in or to property condemned and the purpose of such condemnation. A copy of said order certified under the seal of the commission shall thereupon be filed in the office of the recorder of the county in which the property or interest in or to property therein described is situated, and thereupon the property or interest in or to property described therein shall vest in the parties and for the purposes specified in said order.

6. Finding final. Petition for rehearing. The finding of the commission on the question of the necessity for the taking and the finding, fixing the just compensation to be paid for any property or interest in or to property under the provisions of this subsection shall be final and shall not be subject to modification, alteration, reversal or review by any court of this state. The provisions of this act with reference to rehearing and review shall be applicable to the findings of the commission made and filed under the provisions of this section. Petitions for rehearing must be filed within twenty days from the date of making and filing the finding as to which a rehearing is desired. If a finding of the commission made and filed under the provisions of this section is set aside by the supreme court of the state of California, the matter shall be referred back to the commission for further action in a proceeding before the commission, and the commission shall have the right, on taking further action, to consider the entire testimony theretofore taken in the proceeding before the commission as well as such further testimony, if any, as may be presented in connection with such further action.

7. Procedure not exclusive. The procedure provided in this section shall be alternative and cumulative and not exclusive to the right to pursue any other procedure now or hereafter established providing for the acquisition under eminent domain proceedings of property or interest in or to property.

8. Germane to jurisdiction. The legislature hereby declares that subsection (c) hereof is enacted as a germane and cognate part of and as an aid to the jurisdiction of the railroad commission in the supervision and regulation of railroad and street railroad corporations.

9. Right to receive damages. Nothing in this section shall be construed to entitle any owner or claimant of property and interest in or to property to receive damages when the right to receive such damages does not exist under the laws of this state apart from the provisions of this section. [Amendment approved May 10, 1917; Stats. 1917, p. 320.]

§ 46. (a) Power to prescribe standards, etc. The commission shall have power, after hearing had upon its own motion or upon complaint, to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed and followed by all electrical, gas, water and heat corporations; to ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other con-

dition pertaining to the supply of the product, commodity or service furnished or rendered by any such public utility; to prescribe reasonable regulations for the examination and testing of such product, commodity or service and for the measurement thereof; to establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements; and to provide for the examination and testing of any and all appliances used for the measurement of any product, commodity or service of any such public utility.

(b) **Entering premises for tests, etc.** The commissioners and their officers and employees shall have power to enter upon any premises occupied by any public utility, for the purpose of making the examinations and tests and exercising any of the other powers provided for in this act, and to set up and use on such premises any apparatus and appliances necessary therefor. The agents and employees of such public utility shall have the right to be present at the making of such examinations and tests.

(c) **Testing measuring appliances.** Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees to be paid for testing such appliances on the request of the consumer or user, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance is found defective or incorrect to the disadvantage of the consumer or user, under such rules and regulations as may be prescribed by the commission. [Amendment approved May 11, 1919; Stats. 1919, p. 497.]

§ 47. Valuation of public utility property. (a) The commission shall have power to ascertain for each purpose specified in this act, the value of the property of every public utility in this state and every fact and element of value which in its judgment may or does have any bearing on such value. The commission shall have power to make revaluations from time to time and to ascertain the value of all additions, betterments, extensions and new construction to the property of every public utility.

(b) **Petition setting forth intention to acquire public utility.** 1. Any county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or any other public corporation, each of which is hereinafter in this section at times referred to as the political subdivision, may, at any time, file with the commission either a petition, hereinafter in this section at times referred to as a petition of the first class, setting forth the intention of the political subdivision to acquire under eminent domain proceedings, or otherwise, the lands, property and rights of any character whatsoever of any public utility, or any part or portion thereof, or a petition, hereinafter in this section at times referred to as a petition of the second class, setting forth the intention of the political subdivision to initiate such proceedings as may be required under the law governing the political subdivision for the purpose of submitting to the voters of

the political subdivision a proposition to acquire under eminent domain proceedings, or otherwise, the lands, property and rights of any character whatsoever of any public utility, or any part or portion thereof.

2. Contents of petition. Commission asked to fix just compensation.

Each such petition shall contain the name of the political subdivision appearing as petitioner therein, a description of the lands, property and rights, or of the part or portion thereof, which the political subdivision intends to acquire, and the names and addresses of all owners and claimants thereof, including each trustee and mortgagee under each deed of trust and mortgage, if known, or a statement that they are unknown. The petition shall pray that the commission fix the just compensation which shall be paid by the political subdivision, under the law, for said lands, property and rights, or said part or portion thereof. The petition shall be signed in the name of the political subdivision and verified by the chairman or other presiding officer or by the secretary or clerk of the legislative or other governing body of the political subdivision. At the time the petition is filed, the petitioner shall also file with the commission additional copies thereof equivalent in number to three more than the number of owners and claimants named in the petition.

3. Order to owners to appear before commission. Service. Publication. Notice of hearing to petitioner. Jurisdiction of commission.

Upon the filing of the petition, the commission shall make its order, specifying the nature of the proceeding, containing a general description of the lands, property and rights, or the part or portion thereof which petitioner desires to acquire by condemnation, or otherwise, and directing the owners and claimants named in the petition, who shall also be named in said order, to appear before the commission at a time and place specified in the order, to show cause, if any they have, why the commission should not proceed to hear the petition and to fix the just compensation to be paid for said lands, property and rights, or said part or portion thereof. The order shall direct the secretary of the commission to serve or cause to be served upon each said owner and claimant a copy of said order, certified under the seal of the commission, to which shall be attached a true and correct copy of the petition. Service shall be made in accordance with the provisions of the Code of Civil Procedure of the state of California; provided, that service may also be made by depositing a copy of said order to show cause, certified under the seal of the commission, with a true and correct copy of the petition attached thereto, in the United States mail, inclosed in a sealed envelope, registered, with postage prepaid, addressed to any owner or claimant at the address specified in the petition. If any owner or claimant named in the petition resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or conceals himself to avoid service, or is a corporation having no managing or business agent, cashier or secretary or other officer upon whom summons may be served, who, after due diligence, cannot be found within the state, and the fact appears by affidavit to the satisfaction of the commission, and it also appears by such affidavit or by the petition that a cause of action exists against the owner or claimant on whom the service is to be made or that he is a necessary or proper party to the proceeding, the commission shall make its order that the service be made on such owner or claimant by publication of the commission's said order to show cause.

Said order of the commission shall direct that the publication be made in a newspaper to be designated by the commission as likely to give notice to the person to be served, and for such time as the commission may find to be reasonable, at least once a week; but publication against an owner or claimant residing out of the state, or absent therefrom shall be not less than two months. If the address of any owner or claimant, as stated in the petition, is out of the state, the secretary of the commission shall, within fifteen days after the making and filing of said order to show cause, deposit or cause to be deposited a copy of said order to show cause, certified under the seal of the commission, with a true and correct copy of the petition attached thereto, in the United States mail, inclosed in a sealed envelope, registered, with postage prepaid, addressed to such owner or claimant at the address specified in the petition. When publication is ordered, personal service of a copy of the order to show cause and of the petition out of the state is equivalent to publication and deposit in the United States mail. Within ten days prior to the time set for the first hearing on the petition, which time shall be not less than thirty days after the filing of the petition, the secretary of the commission shall serve or cause to be served upon the petitioner a written notice of such hearing, specifying the time and place at which such hearing will be held. In all respects not in this paragraph otherwise specified, service and the proof of service shall be made as provided by the Code of Civil Procedure of the state of California. Upon the completion of service upon the petitioner or upon any owner or claimant named in the petition, the commission shall have full and complete jurisdiction over such petitioner, owner or claimant, with full and complete jurisdiction, in so far as such petitioner, owner or claimant, is concerned, to make each finding hereinafter referred to. The failure to make service upon any person alleging that he is an owner or claimant but not named in the petition shall in no way affect the jurisdiction of the commission over owners and claimants on whom service has been made as in this paragraph provided.

4. Hearing on petition. Amendment of petition. Finding fixing compensation. Severance damages. At the time and place specified in said order to show cause, or at such other time and place as, for good cause, may be otherwise ordered by the commission, the commission shall proceed to a hearing on the petition. At such times and in such amounts as may be directed by the commission, the political subdivision must pay to the commission all extra costs as determined by the commission, which extra costs the commission may incur to comply with the requirements of section forty-seven (b) of this act, and if such amounts are not paid by the political subdivision as directed by the commission, the commission may suspend further proceedings on the petition. Evidence may be presented by the political subdivision, by each owner or claimant named in the petition, and by the commission. The commission shall have power, at any time subsequent to the filing of the petition, and prior to making and filing its finding as to just compensation, to authorize the amendment of the petition by altering or modifying the description of said lands, property and rights, or said part or portion thereof, or by adding to or deducting from said lands, property and rights, or said part or portion thereof, and in each other respect including each jurisdictional allegation. When the proceeding has been submitted, the com-

mission shall make and file its written finding fixing, in a single sum, the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof; provided, that if the commission finds that severance damages should be paid, the just compensation for such damages shall be found and stated separately. Said just compensation shall be fixed by the commission as of the day on which the petition was filed with the commission.

5. Acceptance by owner. Execution of deed by owner. Action on failure to execute deed. Within twenty days after the commission has made and filed its finding, the owner of said lands, property and rights, or of said part or portion thereof, may file with the legislative or other governing body of the political subdivision a written stipulation consenting and agreeing to accept the just compensation fixed by the commission. Upon the filing of such written stipulation, the political subdivision must proceed with all due diligence to provide the necessary funds under the law governing the providing of such funds for paying the just compensation fixed by the commission. Whenever the just compensation has been tendered by the political subdivision, a deed of grant, bargain and sale conveying the owner's right, title and interest in and to said lands, property and rights, or said part or portion thereof, to the political subdivision, shall be executed and delivered by the owner, and the other claimants who have any right, title or interest in the property shall execute appropriate instruments of conveyance or release, conveying or releasing to the political subdivision their respective rights, titles and interests therein. If said deed or said instruments of conveyance or release are not executed and delivered within sixty days after said tender has been made, the political subdivision may commence an action in a court of competent jurisdiction or proceed otherwise in the manner and for the purpose or purposes specified in the next paragraph of this section.

6. Action to take lands, etc., under eminent domain proceedings. Proceedings to submit proposition to voters. Action commenced if voters approve. In the case of a petition of the first class, if the owner does not file said stipulation within said twenty days, the political subdivision, within sixty days after the commission has made and filed its said finding, must commence an action in a court of competent jurisdiction in a manner in accordance with the provisions of law, to take under eminent domain proceedings said lands, property and rights, or said part or portion thereof. In the case of a petition of the second class, if the owner does not file said stipulation within said twenty days, the political subdivision, within sixty days after the commission has made and filed its said finding, must initiate proceedings for the purpose of submitting to its voters a proposition to acquire under eminent domain proceedings said lands, property and rights, or said part or portion thereof. The political subdivision shall not be required, in either case, to delay for more than twenty days after the commission has made and filed its finding, before commencing said further proceedings. In the case of a petition of the second class, if the voters of the political subdivision, shall thereafter, as provided by the law governing said political subdivision, vote in favor of any proposition to acquire under eminent domain proceedings, or otherwise, said lands, property and

rights, or said part or portion thereof, the political subdivision shall, within sixty days after its voters have so voted in favor of such acquisition, commence an action in a court of competent jurisdiction in a manner in accordance with the provisions of law, to take under eminent domain proceedings said lands, property and rights, or said part or portion thereof, unless the owner shall have filed with the political subdivision a written stipulation consenting and agreeing to accept the just compensation fixed by the commission.

7. Petition by owner on failure of political subdivision to take action. Notice to political subdivision to appear. Expenses of owner assessed. Against political subdivision. If the political subdivision, in a petition of the first class, fails to file said action in a court of competent jurisdiction within said period of sixty days after the commission has made and filed its said finding, or if the political subdivision in a petition of the second class, fails to proceed diligently to submit said proposition to its voters or fails, if its voters have voted in favor of the acquisition of said lands, property and rights, or of said part or portion thereof, to file said action in a court of competent jurisdiction within sixty days after the voters have voted in favor of said acquisition, the owner of such lands, property and rights, or of said part or portion thereof, may file with the commission a verified petition in writing setting forth said fact, which petition may also set forth in detail the expenditures which the owner has necessarily incurred in the proceeding before the commission. The commission shall thereupon cause written notice of not less than ten days, with a true and correct copy of the owner's said petition attached thereto, to be served upon the political subdivision, to appear before the commission at a time and place specified in the notice, to show cause why an order should not be made by the commission (1) finding that the political subdivision has failed to pursue diligently its rights herein conferred, (2) determining that said finding as to just compensation shall no longer be of any force or effect, and (3) determining the reasonable expenditures necessarily incurred by the owner which, in the opinion of the commission, should be assessed against the political subdivision. If the commission shall determine that the political subdivision, in case of a petition of the first class, has failed to commence said action in a court of competent jurisdiction within said period of sixty days after the commission has made and filed its said finding of just compensation, or that the political subdivision, in case of a petition of the second class, has failed to proceed diligently to submit said proposition to its voters or has failed, after its voters have voted in favor of the acquisition of said lands, property or rights, or said part or portion thereof, to file said action in a court of competent jurisdiction within said sixty days after the voters have voted in favor of said acquisition, the commission shall make and file its order declaring that said finding shall no longer be of any force or effect, and makes its finding as to the reasonable expenditures necessarily incurred by the owner in the proceeding before the commission, which the commission may find should be assessed against the political subdivision. The political subdivision shall thereupon be liable to the owner in the amount thus found by the commission and the owner may thereupon maintain an action against the political subdivision for said amount in any court of competent jurisdiction.

8. Finding of commission final. Judgment of court. The finding of the commission fixing the just compensation to be paid by the political subdivision for said lands, property and rights, or said part or portion thereof, shall be final and shall not be subject to modification, alteration, reversal or review by any court of this state. The court in which the political subdivision shall have commenced its action, subsequent to the making and filing by the commission of its finding as to just compensation, as hereinbefore specified, if said court shall first decide that the political subdivision has the right and power under the law to take said lands, property and rights, or said part or portion thereof, shall enter a judgment in favor of the complainant in said action, as provided by law, fixing as the just compensation which shall be paid for the taking of said lands, property and rights, or said part or portion thereof, the just compensation fixed by the commission. The judgment may include therein the allowance of such costs between the parties as is provided for in the law of eminent domain of this state. The judgment of said court in so far as it refers to the just compensation to be paid for said lands, property and rights, or said part or portion thereof, shall be final and shall not be subject to modification, alteration, reversal or review by any court except as hereinafter in section forty-seven (b) of this act specified. The judgment of said court shall include a provision, in substance, that said judgment is subject to modification by reason of such increase or decrease in the just compensation to be paid as may thereafter be certified to said court by the commission, as hereinafter in section forty-seven (b) of this act provided.

9. Petition by owner asking increase in compensation. Petition by political subdivision asking decrease in compensation. Hearing. Order increasing or decreasing compensation. Judgment of court modified. At any time within thirty days subsequent to the entry of said judgment of said court, the owner of said lands, property and rights, or said part or portion thereof, may file with the commission a verified petition in writing, alleging that by reason of expenditures made by the owner subsequent to the date of the filing of the original petition with the commission, for the purpose of preserving or improving said lands, property and rights, or said part or portion thereof, or by reason of other acts and occurrences subsequent to said date, the just compensation theretofore fixed by the commission should be increased and praying that the commission make its finding increasing said just compensation. At any time within thirty days subsequent to the entry of said judgment of said court, the political subdivision may file with the commission a verified petition in writing, alleging that by reason of loss or destruction of said lands, property and rights, or said part or portion thereof, or a part thereof, or by reason of depreciation or deterioration thereof or by reason of other acts and occurrences, subsequent to the date of the filing of the original petition with the commission, the just compensation theretofore fixed by the commission should be decreased and praying that the commission make its finding decreasing said just compensation. The commission shall, in each instance, cause a copy of said petition or petitions to be served upon each party, other than the petitioner, who was named as the political subdivision, owner or claimant in the original proceeding before the commission, together with a written notice specifying the time and place of hearing on said petition

or petitions, which time shall be within forty-five days after the entry of said judgment by said court, and shall cause written notice of the time and place of said hearing to be served upon each petitioner in said petition or petitions. If both such petitions are filed, the commission shall have the power to consolidate said petitions for hearing and decision. After a hearing, the commission shall make and file its finding fixing, as of the date on which such finding is made and filed, the extent to which the just compensation theretofore fixed should be increased or decreased by reason of the matters alleged in said petition or petitions. If the claim is made that the just compensation theretofore fixed by the commission should be increased by reason of expenditures made by the owner subsequent to the date of the filing of the original petition with the commission for the purpose of preserving or improving said lands, property and rights, or said part or portion thereof, the commission may increase said just compensation, by reason of such expenditures, only to the extent to which the commission shall determine that such expenditures were beneficial to said lands, property and rights, or said part or portion thereof, and reasonably and prudently made. The finding of the commission fixing the extent to which the just compensation theretofore fixed should be thus increased or decreased shall be final and shall not be subject to modification, alteration, reversal or review by any court of this state. The commission shall thereupon transmit to said court its finding, certified under the seal of the commission, fixing the extent to which the just compensation theretofore fixed by the commission shall be increased or decreased. Said court shall thereupon modify its judgment so as to conform with said finding of the commission. The judgment of said court, as thus modified, in so far as it refers to the just compensation to be paid for said lands, property and rights, or said part or portion thereof, shall be final and shall not be subject to modification, alteration, reversal or review by any court. The filing of either or both the petitions in this paragraph specified shall not act as a stay of the judgment in condemnation, but upon the payment of the just compensation fixed in the original judgment of condemnation the plaintiff in the action in said court shall be entitled to immediate possession of said lands, property and rights, or of said part or portion thereof.

10. Finding set aside by supreme court. Writ of review. Extension of time. The provisions of this act with reference to rehearing and review shall be applicable to the findings of the commission made and filed under the provisions of section forty-seven (b) of this act. Petitions for rehearing must be filed within twenty days from the date of making and filing the finding as to which a rehearing is desired. If a finding of the commission made and filed under the provisions of section forty-seven (b) of this act is set aside by the supreme court of the state of California, the matter shall be referred back to the commission for further action in the proceeding before the commission, and the commission shall have the right, in taking further action, to consider the entire testimony theretofore taken in the proceeding before the commission as well as such further testimony, if any, as may be presented in connection with such further action. Should a writ of review be obtained from the supreme court of the state of California, the time within which the political subdivision must file an action in a court of compe-

tent jurisdiction or submit said proposition to its voters shall be extended to not more than sixty days beyond the final decision of the supreme court upon said writ of review.

11. Procedure not exclusive. The procedure provided in section forty-seven (b) of this act shall be considered as alternative and cumulative and not exclusive and the political subdivision shall continue to have the right to pursue any other procedure now or hereafter established providing for the acquisition under eminent domain proceedings of the lands, property and rights, or any part or portion thereof, of any public utility, and section forty-seven (b) of this act shall not be construed as repealing any law of this state providing for such eminent domain proceedings. Section forty-seven (b) of this act shall not affect pending actions or proceedings, but the same may be prosecuted and defended with the same effect as though section forty-seven (b) had not been amended. [Amendment approved May 5, 1917; Stats. 1917, p. 261.]

§ 50. New construction only after commission's certificate. (a) No railroad corporation whose railroad is operated primarily by electric energy, street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation or water corporation shall henceforth begin the construction of a street railroad, or of a line, plant, or system, or of any extension of such street railroad, or line, plant, or system, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction; provided, that this section shall not be construed to require any such corporation to secure such certificate for an extension within any city and county, or city or town within which it shall have theretofore lawfully commenced operations, or for an extension into territory either within or without a city and county, or city or town, contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business; and provided, further, that if any public utility, in constructing or extending its line, plant, or system, shall interfere or be about to interfere with the operation of the line, plant, or system of any other public utility, already constructed, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable.

(b) **Exercise of rights under franchise only when necessity requires.** No public utility of a class specified in subsection (a) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, or under any franchise or permit heretofore granted but not heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege; provided, that when the commission shall find, after hearing, that a public utility has heretofore begun actual construction work and is prosecuting such work, in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or

permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege; and provided, further, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state.

(c) **Articles of incorporation must be filed. Certificate authorizing construction.** Before any certificate may issue, under this section, a certified copy of its articles of incorporation or charter, if the applicant be a corporation, shall be filed in the office of the commission. Every applicant for a certificate shall file in the office of the commission such evidence as shall be required by the commission to show that such applicant has received the required consent, franchise or permit of the proper county, city and county, municipal or other public authority. When a complaint has been filed with the commission alleging that a public utility of the class specified in subsection (a) of this section is engaged or is about to engage in construction work without having secured from the commission a certificate of public convenience and necessity as required by the provisions of this section, the commission shall have power, with or without notice, to make its order requiring the public utility complained of to cease and desist from such construction until the commission makes and files its decision on said complaint or until the further order of the commission. The commission shall have power, after hearing, to issue said certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated street railroad, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by said certificate such terms and conditions, including provisions for the acquisition by the public of such franchise or permit and all rights acquired thereunder and all works constructed or maintained by authority thereof, as in its judgment the public convenience and necessity may require. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter, upon application, under such rules and regulations as it may prescribe, issue the desired certificate, upon such terms and conditions as it may designate, after the public utility has obtained the contemplated franchise or permit. Upon the presentation to the commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility, the commission shall thereupon issue such certificate.

(d) **State's reserved power over utilities.** The legislature hereby declares that the provisions of this section are being enacted under the state's reserved power over public utilities or corporations, or both, as the case may be, for the purpose of acting on the right of the grantee of a public utility franchise granted by a county, city and county or incorporated city or town, to exercise right thereunder, and not for the purpose of acting on the right of any city and county or incorporated city or town to grant any such franchise. The legislature hereby

declares that the provisions of this section shall be and remain in full force and effect concurrently with the right of any city and county or incorporated city or town to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. [Amendment approved April 20, 1917; Stats. 1917, p. 168.]

§ 70. **Hearing on value of property. Notice. Filing of findings of fact. Hearings for making revaluations.** For the purpose of ascertaining the matters and things specified in section forty-seven (a) of this act concerning the value of the property of public utilities, the commission may cause a hearing or hearings to be held at such time or times and place or places as the commission may designate. Before any hearing is had, the commission shall give the public utility affected thereby at least thirty days' written notice, specifying the time and place of such hearing, and such notice shall be sufficient to authorize the commission to inquire into the matters designated in this section and in said section forty-seven (a) of this act, but this provision shall not prevent the commission from making any preliminary examination or investigation into the matters herein referred to. All public utilities affected shall be entitled to be heard and to introduce evidence at such hearing or hearings. The evidence introduced at such hearing shall be reduced to writing and certified under the seal of the commission. The commission may make and file its findings of fact in writing upon such matters concerning which evidence shall have been introduced before it as, in its judgment, have bearing on the value of the property of the public utility affected. Such findings shall be subject to review by the supreme court of this state in the same manner and within the same time as other orders and decisions of the commission. The findings of the commission so made and filed, when properly certified under the seal of the commission, shall be admissible in evidence in any action, proceeding or hearing before the commission or any court, in which the commission, the state or any officer, department or institution thereof, or any county, city and county, municipality or other body politic and the public utility affected may be interested whether arising under the provisions of this act or otherwise, and such findings, when so introduced, shall be conclusive evidence of the facts therein stated as of the date therein stated under conditions then existing, and such facts can only be controverted by showing a subsequent change in conditions bearing upon the facts therein determined. The commission may, from time to time, cause further hearings and investigations to be had for the purpose of making revaluations or ascertaining the value of any additions, betterments, extensions and new construction made by any public utility subsequent to any prior hearing or investigation, and may examine into all matters which may change, modify or affect any finding of fact previously made, and may at such time make findings of fact supplementary to those theretofore made. Such hearings shall be had upon the same notice and be conducted in the same manner and the findings so made shall have the same force and effect as is provided herein for such original notice, hearing and findings; provided, that such findings made at such supplemental hearings or investigations shall be considered in connection with and as a part of the original findings, except in so far as such supplemental findings shall change or modify

the findings made at the original hearing or investigation. [Amendment approved May 5, 1917; Stats. 1917, p. 269.]

ACT 2895.

An act to secure the payment of the claims of materialmen, mechanics or laborers employed by contractors upon state, municipal or other public work. [Approved March 27, 1897; Stats. 1897, p. 201.]

Amended 1911, p. 1422; 1915, p. 926. Repealed 1919; Stats. 1919, p. 487, see post, Act 2895a.

While this act was repealed by section 3 of the act of May 10, 1919 [Stats. 1919, p. 487], there was no mention of the repeal in the title of the repealing act.

ACT 2895a.

An act to secure the payment of the claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto.

[Approved May 10, 1919. Stats. 1919, p. 487.]

§ 1. **Bond of contractor on public work. Sureties.** Every contractor, person, company, or corporation, to whom is awarded a contract for the improvement, erection or construction of any building, road, excavating, or other mechanical work for this state, or for any political subdivision or agency of the state shall, before entering upon the performance of such work, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officers or board, in a sum not less than one-half of the total amount payable by the terms of the contract; such bond shall be executed by the contractor, and either at least two sureties or by corporate surety as provided by law, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company, or corporation, or his or its subcontractor, fails to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the surety or sureties will pay the same in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon such bond, a reasonable attorney's fee, to be fixed by the court. Unless such bond is filed as herein provided, no claim in favor of the contractor arising under such contract shall be audited, allowed, or paid by any public officer of this state, or of any political subdivision or state agency, but persons who have in good faith performed work upon such contract, or supplied materials for the execution thereof, shall, upon giving the notice prescribed in section two hereof, be entitled to receive payment of their respective claims in the manner provided by sections one thousand one hundred eighty-four, one thousand one hundred eighty-four a, one thousand one hundred eighty-four b and one thousand one hundred eighty-four c of the Code of Civil Procedure.

§ 2. Claims of materialmen, etc. Any materialman, person, company or corporation furnishing materials, provisions, provender or other supplies used in, upon, for or about the performance of the work contracted to be executed or performed, or any person, company or corporation renting or hiring teams or implements or machinery for or contributing to said work to be done, or any person who performed work or labor upon the same, or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company, or corporation, to whom the contract has been awarded, or by the subcontractor of said contractor, company, or corporation, may at any time prior to the expiration of the period within which claims of lien must be filed for record, as prescribed by the provisions of section one thousand one hundred eighty-seven of the Code of Civil Procedure, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a verified statement of such claims, together with a statement that the same have not been paid. At any time within ninety days following the expiration of the period last mentioned, the person, company or corporation filing the same may commence an action against the surety or sureties on the bond, specified and required in section one hereof. And upon the trial of any such action, the court shall award to the prevailing party a reasonable attorney's fee, to be taxed as costs, and to be included in the judgment therein rendered.

§ 3. Act, Stats. 1897, p. 201, repealed. The act entitled "An act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon state, municipal, or other public work," approved March 27, 1897, and all acts amendatory thereof are hereby repealed; saving to all persons, however, all rights which have accrued under the provisions of said statutes, or any thereof.

TITLE 445.

RAILROADS.

ACT 2936e.

An act to provide for the equipment of steam locomotives with automatic bell-ringing devices.

[Approved June 1, 1917. Stats. 1917, p. 1645.]

§ 1. Automatic bell-ringing devices on locomotives. Every railroad corporation, or receiver or lessee thereof, operating any line of railroad in this state by steam locomotives, shall within one year after the passage of this act or within such additional time as may be prescribed by order of the railroad commission of California after such railroad or receiver or lessee thereof has made a proper showing of its inability to comply therewith, equip all steam locomotives used or to be used in the hauling or propelling of trains over said railroad with a bell-ringer apparatus or device which apparatus or device when set in operation will ring and continue to ring the locomotive bell automatically, such apparatus or device being so constructed that it may be set in operation from either or both sides of the locomotive cab.

§ 2. Penalty. Any railroad company, receiver or lessee thereof, operating any line of railroad within this state by steam locomotives, violating the provisions of this act shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each offense.

TITLE 448.

RECLAMATION DISTRICTS.

ACT 2956d.

An act defining henceforth the exterior boundaries of Reclamation District No. 108, situate partly in the counties of Colusa and Yolo, and providing for the liquidation of the affairs of Reclamation District No. 108, as it now exists, its exterior boundaries being described in that certain act of the legislature, approved May 18, 1915 and approving the acts and proceedings of the said district, as defined in the said act of May 18, 1915, and the board of trustees thereof, and providing for the continuation in office of the present trustees of said district, and for the election and qualification of their successors, and providing that in the management and control of the affairs of said Reclamation District No. 108, as defined in this act, that it is subject to the provisions of the Political Code of the state of California, and to all other laws of the state, except as provided in the said act, in connection with the issuance and payment of warrants and the payment of assessments, providing that all moneys of the said district shall be paid and deposited with the county treasurer of Colusa county, and conferring jurisdiction upon the board of supervisors of the county of Colusa as to all matters concerning said district, and providing also for the management and control and administration of the affairs of said district. [Approved May 26, 1917. Stats. 1917, p. 1219. In effect July 27, 1917.]
The nature of the act appears from the title.

ACT 2956e.

An act defining henceforth the exterior boundaries of Reclamation District No. 108, situated partly in the counties of Colusa and Yolo, and providing for the continuation in office of the present trustees of said district and for the election and qualification of their successors, and providing that the management and control of the affairs of said Reclamation District No. 108, as defined in this act, are subject to the provisions of the Political Code of the state of California and to all other laws of the state, except as provided in said act, in connection with the issuance and payment of warrants and the payment of assessments, providing that all moneys of the said district shall be paid and deposited with the county treasurer of Colusa county, and conferring jurisdiction upon the board of supervisors of the county of Colusa as to all matters concerning said district; providing also for the management, control and administration of the affairs of said district; also ratifying the incorporation of certain lands in said Reclamation District No. 108, as described in certain notices filed and recorded in the office of the county recorder of the county of Colusa, state of California, and also authorizing the trustees of said Reclamation District No. 108 to make an equitable settlement with the owner of such land as

incorporated as to the cost of any work heretofore done by Reclamation District No. 108, or its predecessors in interest, or that may be hereafter done before the going into effect of this act, and also declaring Reclamation District No. 108, as defined in this act, to be the successors in interest of Reclamation District No. 108, defined in that certain act approved May 26, 1917, also that certain Reclamation District No. 108, defined in that certain act approved May 18, 1915, and also that certain Reclamation District, No. 108, defined in that certain act approved April 23, 1913, and also directing the commissioners of assessment, heretofore appointed by the board of supervisors of Colusa county, to include the lands in said assessment, as described in this act, in the event that said assessment is not levied before this act shall take effect. [Approved May 7, 1919. Stats. 1919, p. 357. In effect July 22, 1919.]

ACT 2966e.

An act to create a reclamation district to be called Reclamation District No. 1001, and providing for the management and control thereof, and dissolving certain levee districts, swamp-land, districts and reclamation districts within the boundaries of said Reclamation District No. 1001, and providing for the liquidation and winding up of said dissolved districts.

[Approved April 8, 1911. Stats. 1911, p. 831.]

Amended 1917; Stats. 1917, p. 969.

The amendment of 1917 follows:

§ 2. Management vested in trustees. Funds. Rights and powers. What laws apply. The management and control of the said district is hereby made subject to the provisions of the Political Code of the state of California, and other laws of the state, relative to reclamation districts formed under the provisions of the said Political Code, or such as may be hereafter enacted, and is hereby vested in three trustees, who shall be elected in the manner prescribed by law, and who shall have and exercise all the powers and duties conferred or imposed upon trustees of reclamation districts by law; provided, however, that the trustees now in office shall continue to hold office for the remainder of the terms for which they were respectively elected. In case of any vacancy in the office of trustee of the said district, the board of supervisors of the said county of Sutter shall appoint a qualified person as trustee, who shall hold the said office for the unexpired term. The office of the said district shall be in Nicolaus, county of Sutter. The board of supervisors of the county of Sutter shall have jurisdiction of all matters concerning said district. All funds of the said district shall be deposited in the county treasury of the said county of Sutter, and shall be disbursed by the treasurer of the said county of Sutter in payment of the warrants of the said district. The said district shall have power to make by-laws in conformity with the provisions of law, and shall have all the rights and powers which are now or may hereafter be conferred by the provisions of the Political Code, or by other laws of the state, upon reclamation or swamp-land districts, and shall also have the right and power of purchasing real and personal property and rights of way, within the boundaries of said district, or outside thereof, that may be

necessary or desirable to carry out the purposes of the said district, or to acquire the same by condemnation proceedings, in the manner provided by law, and shall have the right and power to join in with other reclamation districts, levee districts, or swamp land districts, or other persons, in the construction and maintenance of levee and reclamation works, and to contract as to the same, and also to do all other acts and things that may be lawfully done by any reclamation district. All laws and parts of laws, now existing, or that may hereafter be enacted, relative to the qualification of electors for trustees, election of trustees, levy and collection of assessments, disbursements of funds, and the management and control of reclamation districts, and in and to all other matters pertaining to the management, control, or administration of reclamation districts are, so far as the same may be applicable, made a part of this act, and shall be deemed to be incorporated herein. [Amendment approved May 26, 1917; Stats. 1917, p. 969.]

ACT 2966k.

An act creating a reclamation district to be called and known as "Reclamation District No. 1600"; providing for the management and control thereof and dissolving all reclamation districts lying wholly within the boundaries of said Reclamation District No. 1600, and providing for the liquidation and winding up of said dissolved districts, and excluding from any reclamation district any land lying within the boundaries of said Reclamation District No. 1600. [Approved May 26, 1913. Stats. 1913, p. 338.]

Amended 1919; Stats. 1919, p. 514.

ACT 2966m.

An act to create a reclamation district to be called "Reclamation District Number Two Thousand Twenty," and providing for the control and management thereof, and repealing all acts and parts of acts inconsistent with this act.

[Approved May 26, 1917. Stats. 1917, p. 956. In effect July 27, 1917.]

§ 1. Reclamation District No. 2020 created. A reclamation district is hereby created to be called Reclamation District Number Two Thousand Twenty and the boundaries of such reclamation district shall be as follows:

Commencing at the southwest corner of section thirty-six, township five north, range seven east, Mount Diablo base and meridian, in the county of San Joaquin, state of California, thence east one-half mile to south quarter corner of said section thirty-six, thence north one-quarter mile, thence east one-quarter mile, thence north three-quarters of a mile, thence east one-quarter of a mile to the southeast corner of section twenty-five, township five north, range seven east, Mount Diablo base and meridian, thence north one-half of a mile to the quarter section corner between section twenty-five, township five north, range seven east, Mount Diablo base and meridian, and section thirty, township five north, range eight east, Mount Diablo base and meridian, thence east along quarter section line seven hundred fifty feet, thence north parallel with the range line between ranges seven and eight east, Mount Diablo base and meridian, one thousand four hundred thirty-five feet,

thence west parallel with said quarter section line seven hundred fifty feet to said range line between said ranges seven and eight, thence north along said range line to the boundary line between Sacramento and San Joaquin counties, thence westerly along said boundary line between said Sacramento and San Joaquin counties to the section line between sections twenty-six and twenty-seven, township five north, range seven east, Mount Diablo base and meridian, thence south along section line to a point one-quarter mile north of the southeast corner of section thirty-five, township five north, range seven east, Mount Diablo base and meridian, thence east one-half mile to quarter section line running north and south through center of said section thirty-five, thence south one-quarter mile to south quarter corner of said section thirty-five, thence east one-half mile along section line to point of beginning containing one thousand seven hundred twenty-eight and two-tenths acres.

§ 2. Management and control. The management and control of said reclamation district is hereby made subject to the provisions of the Political Code of the state of California and other laws of this state relative to reclamation districts formed under the provisions of said Political Code.

§ 3. Repealed. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

ACT 2966o.

An act to change and modify the exterior boundaries of Reclamation District No. 900 as set forth and defined by an act of the legislature entitled "An act to create a reclamation district to be called 'reclamation district number nine hundred,' and providing for the control and management thereof," approved March 2, 1911. [Approved April 9, 1919. Stats. 1919, p. 62.]

ACT 2966p.

An act to change and modify the exterior boundaries of Reclamation District No. 999, as set forth and defined by an act entitled "An act to create a reclamation district to be called 'reclamation district number nine hundred ninety-nine' and providing for the control and management thereof," approved May 22, 1913. [Approved April 9, 1919. Stats. 1919, p. 66.]

ACT 2966q.

An act creating a reclamation district to be known as Reclamation District No. 2031, prescribing its boundaries and providing for the management and control thereof; dissolving Reclamation District No. 663 of Stanislaus county, California, and providing for the disposition of the indebtedness, rights, rights of way, levees and other works of reclamation of said Reclamation District No. 663.

[Approved May 16, 1919. Stats. 119, p. 658.]

ACT 2981b.

An act creating a reclamation district to be called and known as "Reclamation District No. 1500"; providing for the management and

control thereof and dissolving all levee districts, swamp-land districts, and reclamation districts, lying wholly within the boundaries of said Reclamation District No. 1500, providing for the liquidation and winding up of said dissolved districts, and excluding from any levee district, swamp-land district and reclamation district any land lying within the boundaries of said Reclamation District No. 1500.

[Approved April 30, 1913. Stats. 1913, p. 130.]

Amended 1915, p. 1027; 1917, p. 966.

The amendment of 1917 follows:

§ 2. Management vested in trustees. Elections. Term of office. Funds. Rights and powers. The management and control of said Reclamation District No. 1500 is hereby made subject to the provisions of article one of chapter one of title eight of part three of the Political Code of the state of California, relating to swamp and overflowed lands and reclamation districts, or any amendments or additions thereto, except as otherwise provided in this act, and the management and control of said Reclamation District No. 1500 shall be vested in five trustees, who shall hold office until their successors are elected or appointed and qualified. F. W. Kiesel, Edward H. Gerber, Charles F. Silva, P. J. Hiatt and Frank G. Snook are hereby appointed trustees for the said reclamation district to act until their successors are elected or appointed and qualified. An election of five trustees shall be held in said district on the third Tuesday in October, one thousand nine hundred twenty-one, and on the third Tuesday in October every four years thereafter, and shall hold office until their successors are elected or appointed and qualified. In case of any vacancy in the office of trustee of said district the governor of this state shall appoint a qualified person as trustee, who shall hold said office until the next election. All the trustees, whether appointed by the governor of this state, or named herein, or elected as herein provided, shall hold office at the pleasure of the governor of this state. The office and principal place of business of said district shall be in the city of Sacramento and in such place as the board of trustees thereof may from time to time fix. The board of supervisors of the county of Sutter shall have jurisdiction of all matters concerning said district to the same extent as if the said district was formed under the provisions of said Political Code of the state of California, except as otherwise provided in this act. All funds of said district shall be deposited in the county treasury of said county of Sutter and shall be disbursed by the treasurer of said county in payment of the warrants of said district. Said district shall have the power to make by-laws in conformity with the provisions of law, and shall have all rights and powers, which are now, or may hereafter be, conferred by the provisions of the Political Code or by other laws of the state of California upon reclamation or swamp land districts, and shall also have the right and power of purchasing real and personal property and rights of way within the boundaries of said district, or outside thereof as may be necessary or desirable to carry out the purposes of said district or to acquire the same by condemnation proceedings in the manner provided by law, and shall also have the right and power to join with other reclamation districts, levee districts or swamp-land districts or other persons in the construction and maintenance of levees and reclamation works, and to contract

for the same, and also to do all other acts and things that may be incident to or necessary to the reclamation of the lands of said district, as the board of trustees thereof may determine. All of the provisions of the Political Code of the state of California, unless inconsistent with the provisions of this act, are made a part of this act, and shall be deemed to be incorporated herein. The said reclamation district hereby created shall have the power, in addition to the power hereby conferred; to do all other acts or things that any reclamation district or swamp-land district within the state of California has power to do under any existing law or any law hereafter enacted. The said district may at any time petition in writing by its board of trustees the reclamation board to change the line of location or construction of any levee in this act, or in the act of which this is amendatory, described, or any other levee, or to build any additional or supplemental levee or levees, and the reclamation board may, by an order, allow such petition in whole or in part, and allow such change or the building of any additional or supplemental levee. [Amendment approved May 26, 1917; Stats. 1917, p. 966.]

The amendatory act of 1917 contained the following provision:

§ 3. All acts and parts of acts in conflict with or inconsistent with the provisions of this act are hereby repealed.

ACT 2984.

An act to promote the reclamation of arid land and to provide that certain land belonging to the state of California, within the boundaries of an irrigation district shall be subject to the assessments levied in said district.

[Approved May 25, 1917. Stats. 1917, p. 936. In effect July 27, 1917.]

§ 1. **State lands within irrigation districts subject to assessment.** Whenever there shall be included in any irrigation district organized and existing under the laws of this state, public lands belonging to the state subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of the law relating to the organization, government and regulation of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; provided, however, that nothing herein contained shall be construed as creating any obligation against the state of California to pay any of said charges, assessment or debt.

§ 2. **Notices served on surveyor-general.** All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the surveyor-general of the state of California by mailing to his office a copy thereof inclosed in a sealed envelope with postage prepaid.

§ 3. **Assessment lien.** No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until

control thereof and dissolving all levee districts, swamp-land districts, and reclamation districts, lying wholly within the boundaries of said Reclamation District No. 1500, providing for the liquidation and winding up of said dissolved districts, and excluding from any levee district, swamp-land district and reclamation district any land lying within the boundaries of said Reclamation District No. 1500.

[Approved April 30, 1913. Stats. 1913, p. 130.]

Amended 1915, p. 1027; 1917, p. 966.

The amendment of 1917 follows:

§ 2. Management vested in trustees. Elections. Term of office. Funds. Rights and powers. The management and control of said Reclamation District No. 1500 is hereby made subject to the provisions of article one of chapter one of title eight of part three of the Political Code of the state of California, relating to swamp and overflowed lands and reclamation districts, or any amendments or additions thereto, except as otherwise provided in this act, and the management and control of said Reclamation District No. 1500 shall be vested in five trustees, who shall hold office until their successors are elected or appointed and qualified. F. W. Kiesel, Edward H. Gerber, Charles F. Silva, P. J. Hiatt and Frank G. Snook are hereby appointed trustees for the said reclamation district to act until their successors are elected or appointed and qualified. An election of five trustees shall be held in said district on the third Tuesday in October, one thousand nine hundred twenty-one, and on the third Tuesday in October every four years thereafter, and shall hold office until their successors are elected or appointed and qualified. In case of any vacancy in the office of trustee of said district the governor of this state shall appoint a qualified person as trustee, who shall hold said office until the next election. All the trustees, whether appointed by the governor of this state, or named herein, or elected as herein provided, shall hold office at the pleasure of the governor of this state. The office and principal place of business of said district shall be in the city of Sacramento and in such place as the board of trustees thereof may from time to time fix. The board of supervisors of the county of Sutter shall have jurisdiction of all matters concerning said district to the same extent as if the said district was formed under the provisions of said Political Code of the state of California, except as otherwise provided in this act. All funds of said district shall be deposited in the county treasury of said county of Sutter and shall be disbursed by the treasurer of said county in payment of the warrants of said district. Said district shall have the power to make by-laws in conformity with the provisions of law, and shall have all rights and powers, which are now, or may hereafter be, conferred by the provisions of the Political Code or by other laws of the state of California upon reclamation or swamp land districts, and shall also have the right and power of purchasing real and personal property and rights of way within the boundaries of said district, or outside thereof as may be necessary or desirable to carry out the purposes of said district or to acquire the same by condemnation proceedings in the manner provided by law, and shall also have the right and power to join with other reclamation districts, levee districts or swamp-land districts or other persons in the construction and maintenance of levees and reclamation works, and to contract

for the same, and also to do all other acts and things that may be incident to or necessary to the reclamation of the lands of said district, as the board of trustees thereof may determine. All of the provisions of the Political Code of the state of California, unless inconsistent with the provisions of this act, are made a part of this act, and shall be deemed to be incorporated herein. The said reclamation district hereby created shall have the power, in addition to the power hereby conferred, to do all other acts or things that any reclamation district or swamp-land district within the state of California has power to do under any existing law or any law hereafter enacted. The said district may at any time petition in writing by its board of trustees the reclamation board to change the line of location or construction of any levee in this act, or in the act of which this is amendatory, described, or any other levee, or to build any additional or supplemental levee or levees, and the reclamation board may, by an order, allow such petition in whole or in part, and allow such change or the building of any additional or supplemental levee. [Amendment approved May 26, 1917; Stats. 1917, p. 966.]

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[Approved May 25, 1917. Stats. 1917, p. 936. In effect July 27, 1917.]

§ 1. State lands within irrigation districts subject to assessment. Whenever there shall be included in any irrigation district organized and existing under the laws of this state, public lands belonging to the state subject to entry, or which have been entered, and for which no certificates of purchase have been issued, such lands are hereby made and declared to be subject to all of the provisions of the law relating to the organization, government and regulation of irrigation districts to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to such law; provided, however, that nothing herein contained shall be construed as creating any obligation against the state of California to pay any of said charges, assessment or debt.

§ 2. Notices served on surveyor-general. All notices required by the act under which such district is organized shall, as soon as such notices are issued, be served upon the surveyor-general of the state of California by mailing to his office a copy thereof inclosed in a sealed envelope with postage prepaid.

§ 3. Assessment lien. No public lands which were unentered at the time any assessment was levied against the same by such irrigation district shall be sold for such assessment, but such assessment shall be and continue a lien upon such land, and no patent shall issue therefor until

the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

TITLE 457.

RICHMOND.

ACT 3020a.

An act authorizing the city of Richmond to lease certain tide and submerged lands heretofore granted by the state of California to said city in trust.

[Approved April 21, 1919. Stats. 1919, p. 133.]

§ 1. Lease of tide-lands by city of Richmond authorized. The city of Richmond, a municipal corporation of the state of California, is hereby authorized and empowered to lease and let unto the Atchison, Topeka and Santa Fe Railway Company, its successors and assigns, for the term of ninety-nine years from and after the first day of January, 1919, the following described premises:

Beginning at the intersection of the official bulkhead line with the southwestern line of tide-land lot number thirty-one in section twenty-two, township one north, range five west, Mount Diablo meridian, in the county of Contra Costa, state of California, said intersection being near the southwest corner of said tide-land lot number thirty-one; thence south sixty-one degrees forty-five minutes east, eight hundred ninety-four and fifty-two hundredths feet, more or less, along the southwestern line of said tide-land lot number thirty-one and tide-land lot number thirty-two in said section to an angle point in the boundary line of said tide-land lot number thirty-two; thence south fourteen degrees west, along the western boundary of said tide-land lot number thirty-two a distance of three hundred fifty-six and four-tenths feet to station three hundred thirty-six of the exterior boundary of Rancho San Pablo; thence southerly and easterly, along said exterior boundary line, to station three hundred forty-four of said rancho boundary line, said last station being at the most western corner of tide-land lot number twenty-five and one-half in section twenty-three, said township and range; thence southeasterly one hundred sixty-six and fifty-three hundredths feet, more or less, along the southwestern line of said tide-land lot number twenty-five and one-half and of tide-land lot number eight in section twenty-six, said township and range, to a point one hundred thirty feet westerly measured at right angles, from the western line of the sixty foot municipal highway known as Garrard boulevard; thence southerly, parallel with said western line of Garrard boulevard and its prolongation, three hundred nineteen and sixteen hundredths feet, more or less, to said official bulkhead line; thence westerly and northerly, along said bulkhead line, to the place of beginning, in accordance with and upon the considerations, terms, and conditions of that certain contract made and entered into between the said city and the said railway company dated May 1, 1918, and on file in the office of the clerk of said city, and the covenants, conditions and terms of such lease shall bind the parties thereto, their successors and assigns, and the state of California.

TITLE 462.**SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT.****ACT 3035.**

An act approving the report of the California debris commission transmitted to the speaker of the house of representatives by the secretary of war on June 27, 1911, directing the approval of plans of reclamation along the Sacramento river or its tributaries or upon the swamp-lands adjacent to said river, directing the state engineer to procure data and make surveys and examinations for the purpose of perfecting the plans contained in said report of the California debris commission and to make report thereof, making an appropriation to pay the expenses of such examination and surveys, and creating a reclamation board, and defining its powers.

[Approved December 24, 1911. Stats. 1911 (extra session) p. 117.]

Amended 1913; Stats. 1913, p. 252; 1915; Stats. 1915, p. 1338; 1919; Stats. 1919, p. 1122.

The amendment of 1919 follows:

§ 12. Powers of board to acquire lands, etc. Acquisition of lands required by United States. The reclamation board shall have power to acquire either within or without the boundaries of the district, by purchase, condemnation or by other lawful means, in the name of the Sacramento and San Joaquin drainage district, from private persons, corporations, reclamation, swamp-land, levee, protection or drainage districts, or other organizations or associations, all lands, rights of way, easements, property or material necessary or requisite for the purpose of by-passes, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes; to construct, clear and maintain by-passes, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works; to construct and maintain ditches, canals, pumping-plants, and other drainage works and to operate the same; to make contracts in the name of said district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of any property for any of such purposes; to maintain actions in the name of the people of the state of California to restrain the doing of any act or thing that may be injurious to any of the works necessary to said plan of flood control or that may interfere with the successful execution of said plan or for damages for injury thereto, and any damages so recovered shall be deposited with the state treasurer to the credit of said district and shall be applicable to the payment of warrants against any assessment for the particular portion or project affected by such injury; to establish a standard of levee construction; to do any and all things necessary or incident to the powers hereby granted or to carry out the objects specified herein; to maintain actions in the name of the people of the state of California to compel by injunction the owner or owners of any bridge, trestle, wire line, viaduct, or embankment or other structure which shall be intersected, traversed or crossed by any by-pass, drainage canal, or overflow channel, so to construct or alter the same as to

the applicant shall present a certificate from the proper district officer showing that no unpaid assessments or charges are due and delinquent against said land.

TITLE 457.**RICHMOND.****ACT 3020a.**

An act authorizing the city of Richmond to lease certain tide and submerged lands heretofore granted by the state of California to said city in trust.

[Approved April 21, 1919. Stats. 1919, p. 133.]

§ 1. Lease of tide-lands by city of Richmond authorized. The city of Richmond, a municipal corporation of the state of California, is hereby authorized and empowered to lease and let unto the Atchison, Topeka and Santa Fe Railway Company, its successors and assigns, for the term of ninety-nine years from and after the first day of January, 1919, the following described premises:

Beginning at the intersection of the official bulkhead line with the southwestern line of tide-land lot number thirty-one in section twenty-two, township one north, range five west, Mount Diablo meridian, in the county of Contra Costa, state of California, said intersection being near the southwest corner of said tide-land lot number thirty-one; thence south sixty-one degrees forty-five minutes east, eight hundred ninety-four and fifty-two hundredths feet, more or less, along the southwestern line of said tide-land lot number thirty-one and tide-land lot number thirty-two in said section to an angle point in the boundary line of said tide-land lot number thirty-two; thence south fourteen degrees west, along the western boundary of said tide-land lot number thirty-two a distance of three hundred fifty-six and four-tenths feet to station three hundred thirty-six of the exterior boundary of Rancho San Pablo; thence southerly and easterly, along said exterior boundary line, to station three hundred forty-four of said rancho boundary line, said last station being at the most western corner of tide-land lot number twenty-five and one-half in section twenty-three, said township and range; thence southeasterly one hundred sixty-six and fifty-three hundredths feet, more or less, along the southwestern line of said tide-land lot number twenty-five and one-half and of tide-land lot number eight in section twenty-six, said township and range, to a point one hundred thirty feet westerly measured at right angles, from the western line of the sixty foot municipal highway known as Garrard boulevard; thence southerly, parallel with said western line of Garrard boulevard and its prolongation, three hundred nineteen and sixteen hundredths feet, more or less, to said official bulkhead line; thence westerly and northerly, along said bulkhead line, to the place of beginning, in accordance with and upon the considerations, terms, and conditions of that certain contract made and entered into between the said city and the said railway company dated May 1, 1918, and on file in the office of the clerk of said city, and the covenants, conditions and terms of such lease shall bind the parties thereto, their successors and assigns, and the state of California.

TITLE 462.**SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT.****ACT 3035.**

An act approving the report of the California debris commission transmitted to the speaker of the house of representatives by the secretary of war on June 27, 1911, directing the approval of plans of reclamation along the Sacramento river or its tributaries or upon the swamp-lands adjacent to said river, directing the state engineer to procure data and make surveys and examinations for the purpose of perfecting the plans contained in said report of the California debris commission and to make report thereof, making an appropriation to pay the expenses of such examination and surveys, and creating a reclamation board, and defining its powers.

[Approved December 24, 1911. Stats. 1911 (extra session) p. 117.]

Amended 1913; Stats. 1913, p. 252; 1915; Stats. 1915, p. 1338; 1919; Stats. 1919, p. 1122.

The amendment of 1919 follows:

§ 12. Powers of board to acquire lands, etc. Acquisition of lands required by United States. The reclamation board shall have power to acquire either within or without the boundaries of the district, by purchase, condemnation or by other lawful means, in the name of the Sacramento and San Joaquin drainage district, from private persons, corporations, reclamation, swamp-land, levee, protection or drainage districts, or other organizations or associations, all lands, rights of way, easements, property or material necessary or requisite for the purpose of by-passes, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes; to construct, clear and maintain by-passes, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works; to construct and maintain ditches, canals, pumping-plants, and other drainage works and to operate the same; to make contracts in the name of said district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of any property for any of such purposes; to maintain actions in the name of the people of the state of California to restrain the doing of any act or thing that may be injurious to any of the works necessary to said plan of flood control or that may interfere with the successful execution of said plan or for damages for injury thereto, and any damages so recovered shall be deposited with the state treasurer to the credit of said district and shall be applicable to the payment of warrants against any assessment for the particular portion or project affected by such injury; to establish a standard of levee construction; to do any and all things necessary or incident to the powers hereby granted or to carry out the objects specified herein; to maintain actions in the name of the people of the state of California to compel by injunction the owner or owners of any bridge, trestle, wire line, viaduct, or embankment or other structure which shall be intersected, traversed or crossed by any by-pass, drainage canal, or overflow channel, so to construct or alter the same as to

offer a minimum of obstruction to the free flow of water through any such by-pass, drainage canal, or overflow channel, and wherever necessary in the case of existing works, to compel the removal or alteration of any such embankment or other structure; to maintain actions in the name of the people of the state of California to restrain the diversion of the waters of any stream that will increase the flow of water in said Sacramento or San Joaquin rivers or their tributaries, and such diversion of the waters of any stream into said rivers or either of them or any of their tributaries, is hereby declared to be a public nuisance which may be prevented or abated by the reclamation board. In case any land, right of way or easement is or shall be needed for any work of channel excavation, enlargement, rectification or control, or for the construction of any weir, which is a part of the plans to be carried out as contemplated by this act, and which is to be done or constructed in whole or in part by the United States or by the state of California and it is or shall be necessary or be required by the United States or by the state of California before doing such work or constructing such weir, that such land, right of way or easement be conveyed to or provided for the use of the United States or the state of California free of cost, the reclamation board shall have power to acquire such land, right of way or easement and cause the same to be conveyed to the United States or to the state of California free of cost, or to be condemned for the use and in the name of the United States or the state of California in the manner provided by the laws of this state or of the United States, and to pay the cost and expense of acquiring such land, right of way or easement out of the funds of any assessment by said board applicable thereto; or if such land, right of way or easement is or shall have been already acquired by said reclamation board in the name of the Sacramento and San Joaquin drainage district, the said board shall be and is authorized to cause the same to be conveyed by said district to the United States or to the state of California free of cost.

Whenever any work to be done by the reclamation board or the Sacramento and San Joaquin drainage district under any of the provisions of this act is such that it can be so done in connection with work of public improvement of rivers and harbors authorized by the United States government as to bring it within the provisions of section four of the United States river and harbor act approved March 4, 1915, authorizing the receipt by the United States government agencies of funds to be contributed for expenditures in connection with funds appropriated by the United States for such work, then the funds under the control of the reclamation board and available for such work, or so much as may be necessary, may be contributed by the reclamation board to the United States government under the provisions of said section of said river and harbor act in order that the work may be done in the manner thereby contemplated. [Amendment approved May 27, 1919; Stats. 1919, p. 1122.]

§ 13. Levy of assessments. Assessors. To hear objections. To exclude lands not benefited. Assessment list. Maps. Notice of reapportionment. Whenever, in the opinion of the reclamation board it shall be necessary to levy an assessment upon any lands within said drainage district for any of the purposes herein specified, including the expense of bonding such assessment if authorized by law, said board shall cause

an assessment to be levied upon such lands within said drainage district for such purposes. The plans to be carried out shall be divided by said board into separate portions or projects in such manner as will in its judgment best facilitate the levying of assessments for each particular portion or project in a just and equitable manner according to benefits upon the lands in said district affected by such portion or project; provided, however, that each separate and particular project or unit shall include all by-passes, cuts, canals, sumps, levees, pumping-plants and other works of flood control and drainage as shall be necessary by reason of the carrying out and construction of the particular project, to properly conduct the water of any stream, natural or otherwise, the outlet of which has been intercepted by the construction of any levee or embankment included in such project or unit into such by-pass.

Said board shall enter in the minutes of the board a resolution to the effect that the execution of each such separate portion or project which they may determine upon is a public necessity. Each such particular portion or project shall be designated by the board in such resolution by name and number. All assessments, plans and funds intended for or connected with the execution of each particular portion or project shall be designated by such name and number and shall be kept separate and shall be used only for the purpose of carrying out such particular portion or project. For the purpose of making any such assessment the board shall appoint three assessors who shall be disinterested persons, and shall have no interest in any real estate within said drainage district, and each of whom, before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within said district, directly or indirectly, and that he will perform the duties of an assessor to the best of his ability. Said assessors shall be exempt from the provisions of the civil service laws of this state. Said assessors must assess upon the lands within said drainage district proposed to be assessed for the plans adopted by the reclamation board the said sums included in the estimates of said board, and shall apportion the same according to the benefits that will accrue to each tract of land in said district, respectively, affected by any particular portion or project by reason of the expenditure of said sums of money. After said assessors have examined the plan or plans of the works contemplated and the estimates of the cost, they shall make a preliminary report to the reclamation board indicating the exterior boundaries of the lands that in their opinion will be benefited by the expenditures. The assessors shall then appoint a time and place in each county in which any of said lands proposed to be assessed are situated, when and where they will hear objections to the said report and also evidence concerning the manner in which said assessment should be apportioned. They shall give notice of such hearing in each of such counties by publication in a newspaper published in such county once a week for three weeks, the first publication to be not later than the twenty-first day before the day of hearing, which notice shall contain a general designation of the lands which will in their opinion be so benefited, as aforesaid, and shall refer to said preliminary report on file in the office of the reclamation board for such exterior boundaries. They shall exclude any land that will not be benefited by the expenditure of said sums and shall assess all lands that will be benefited thereby.

In determining the benefits that will or may accrue to each particular tract of land by the construction or maintenance of the works contemplated by any particular project or unit, the works of such project or unit shall be considered as a whole and lands shall be assessed for the works embraced in such project or unit only in the proportion that will or may be benefited by the construction of the entire works embraced in the said project or unit, and no lands shall be considered as benefited by the construction or maintenance of the works embraced in such project or unit, or any part or portion thereof, nor shall any lands be assessed for the expense of the construction or maintenance of such project or unit or any part or portion thereof, because such lands have been or may be first endangered or flooded, or the natural drainage thereof obstructed by the construction or maintenance of any part or portion of the works embraced in such project or unit in advance of or prior to the completion of the construction of the entire works embraced in such project or unit.

Said assessors shall make a separate list of the lands so assessed in each county, which list shall contain a description of the tracts of land assessed by swamp-land surveys, legal subdivisions, or other boundaries or references sufficient to identify the same, the name of the owner, if known, or if unknown, that fact, and the amount of the charge assessed against each tract. The name of the owner of land which is or is supposed to be the property of the estate of a deceased person in course of administration may be stated as estate of (such person; naming him), deceased. When there are two or more owners or supposed owners of any tract of land, partly known and partly unknown, the assessment may be to such known owner or owners by name and to other owners unknown. No mistake in the name of the owner, or supposed owner, of any real estate shall invalidate the assessment. In the assessment list for any county the assessors may make use of any abbreviation in common use in that county, without explanation thereof. The assessors may also in the assessment list for any county make use of other abbreviations, provided a schedule and explanation thereof with reasonable certainty shall, unless printed on each page of such assessment list, be prefixed to said assessment list and a reference thereto written, printed or stamped on each page of said assessment list whereon any such abbreviation is used. In case any land shall in the assessment list for any county be described in whole or in part by reference to a map, plat or survey, which map, plat or survey shall be on file or of record in any public office, it shall be sufficient in such description to designate such map, plat or survey by name, number or other designation sufficient to identify the same in a schedule of such maps, plats and surveys, which schedule shall be prefixed to said assessment list and shall set forth with reasonable certainty where each such map, plat or survey may be found, and shall be referred to by a reference written, printed or stamped on each page of said assessment list whereon such method of description is relied upon. The assessors appointed for any assessment may also prepare or cause to be prepared a map or maps of the whole or any part or parts of the lands to be assessed with sufficient detail to indicate thereon and identify the several tracts of lands to be separately assessed or any of them, each of which such separate tracts shall be designated on such map or maps by a distinctive number. Each of such maps shall be inscribed and designated as "recla-

mation board assessment map No. —," giving each map a distinctive number. Any such map may consist of any number of sheets attached together and designated as one map. Such map or maps when approved by the reclamation board, shall be certified by the secretary of said board as having been so approved, and shall be filed for record in the office of the county recorder of the county wherein the land indicated on such map or maps is situated. Thereupon and thereafter, for the purpose of said assessment, or of any future assessment levied by said reclamation board, the assessment list for any county may, for the description of any tract of land so indicated on any such map, refer to such map and to the number by which such tract is designated on such map, and such reference, if used for that purpose, shall be a sufficient description of such tract for the purposes of such assessment list, and for the purposes of the notice of delinquent sale, certificate of sale and deed in pursuance of such sale, and all other proceedings under this act based upon such assessment. No provision of any other statute of this state relative to the filing or recording of maps in the office of the county recorder shall apply to the maps in this section referred to; provided, however, that the maps herein referred to shall have no legal effect for any purpose except for the convenient reference to and description of the tract of land indicated thereon for the purposes of description of such tracts of land by reference thereto in the matter of assessments levied by the reclamation board and acts and proceedings based thereon as herein provided. No fee shall be charged by any such county recorder for the filing for record of such map as in this section provided. Said lists when completed shall be filed with the secretary of the board and said secretary shall forward to the county treasurer of each county in which any lands so assessed are situated, the assessment list for such county, and the same shall be open for inspection by the public for at least thirty days. The compensation of said assessors shall be fixed and allowed by the board. The reclamation board shall appoint a time and place not less than thirty days after said list has been filed with the county treasurer when and where it will meet in each county wherein any of the lands so assessed are situated for the purpose of hearing objections to said assessments, and notice of such hearing in each county shall be filed with the county treasurer and published once a week for two weeks in some newspaper published in such county. At any time before the date of such hearing any person interested in any land upon which any charge has been assessed, may file in the office of the reclamation board written objections to such assessment, stating the grounds of such objections, which said statement shall be verified by the affidavit of such person or some other person who is familiar with the facts. At such hearing, the board shall hear such evidence as may be offered touching the correctness of such assessment or the manner of its apportionment, and may modify or amend the same, and may reapportion all or any part of the entire assessment. Unless the aggregate amount of the whole of such assessment shall be modified or amended by the reclamation board so as to cause a difference of more than two and one-half per cent greater or less than the original total amount of said assessment, it shall be deemed that the assessment has not been substantially modified and no necessity shall exist for a reapportionment thereof.

If said assessment shall be reapportioned, the board shall give two weeks notice as before and proceed to hear objections in each county affected, as before, and shall then reconsider said assessment and make an order approving said assessment as finally fixed; and the decision of said board shall be final, and thereafter said assessment list shall be conclusive evidence, except in the suit hereinafter provided, that the said assessment has been levied and apportioned according to law. Any person interested, as aforesaid, in any land upon which any charge has been so assessed, aggrieved by the decision of the board approving said assessment, may commence an action against the district in the superior court of the county in which said land or the greater part thereof is situated, to have said assessment upon such land modified or annulled. Such action must be commenced within thirty days after the reclamation board has approved such assessment and the assessment list for such county has been deposited in the office of the county treasurer as provided in the next section, and shall have preference over all civil actions in fixing the time of trial. No objection to said assessment shall be considered by the court unless such objection shall have been made in writing to the reclamation board as hereinbefore prescribed, and, excepting in the action above mentioned, no action or defense shall ever be maintained attacking the said assessment in any respect. Whenever an assessment has been levied by the reclamation board upon lands in said district for general administrative expenses and other expenses not pertaining to any particular project, and the boundaries of said district have been or shall be extended so as to include lands other than the lands included within said district at the time such assessment was levied, the reclamation board shall make an estimate of the fair and equitable amount which should be contributed by the lands so included in the district by such change of boundaries for the purposes of such assessment previously levied by said board for general administrative expenses and other expenses not pertaining to any particular project, and shall levy and cause to be assessed, equalized and collected in the manner in this act provided, an assessment to the amount of such estimate upon lands so included in the district by such change of boundaries, according to benefits in the manner in this act provided. [Amendment approved May 27, 1919; Stats. 1919, p. 1124.]

§ 32. Assessment of benefit from flood control features of works. The assessors appointed by the reclamation board pursuant to section thirteen of this act, in apportioning the assessment on each tract of land which may be assessed shall, as information for the said reclamation board or the state of California, state, opposite each sum assessed for each particular tract of land, in separate columns respectively, the amount that they shall determine that each tract is so assessed by reason of benefit from the flood control features of said works involved in said plans, and also the amount that they deem each tract of land is so assessed by reason of all other benefit from the said works. The amounts so stated and placed opposite each assessment charged shall be no part of said assessment and shall in no way affect the assessment charged against each tract of land as the same may be fixed, but shall be subject to review and readjustment in the same manner as the assessment itself. [New section added May 27, 1919; Stats. 1919, p. 1129.]

§ 33. Application of compensation. Any compensation that may be made to any reclamation district, levee district, drainage district, municipal corporation, association, private corporation, or person, in accordance with section eighteen of this act, shall be applied toward the payment of any assessment upon any tract of land assessed for any particular portion or project owned by any such municipal corporation, association, private corporation or person, but in case of any reclamation district, levee district or drainage district, such compensation shall be applied and credited pro rata toward the payment of the balance remaining unpaid upon the assessments levied by the reclamation board against the lands respectively situated within such reclamation district, levee district or drainage district, as part of the assessment out of which such compensation is to be made based upon the total amount of the assessment charges against the lands in such reclamation district, levee district or drainage district respectively, and if such compensation, when so applied, shall exceed the total amount of such credits upon the assessments upon the lands in any such district, the excess shall be paid to the district itself. [New section added May 27, 1919; Stats. 1919, p. 1129.]

§ 34. Application of moneys to flood control benefits. Amounts credited on assessment accounts. Disposition of moneys received from state. Purchase of bonds by board. Payment of bonds. All moneys which may be hereafter paid to the said reclamation board by the state of California under and by virtue of the provisions of an act entitled "An act to appropriate money to be expended under the direction of and by the reclamation board to aid in carrying out the project adopted by the reclamation board for the Sutter-Butte by-pass assessment number six with such modifications and amendments as may hereafter be adopted by the reclamation board, and to aid in carrying out any work described in the plans of said Sutter-Butte by-pass assessment number six, in conformity with the report of the California debris commission, transmitted to the speaker of the house of representatives of the United States by the secretary of war on the twenty-seventh day of June, 1911, and such modifications and amendments as have been, or may be hereafter adopted by the reclamation board, or by the war department, or the congress of the United States, and providing for the future completion of the entire project," or by any law of similar import which has been or may be hereafter adopted by the legislature of the state of California, shall be applied on said Sutter-Butte by-pass assessment number six, by said reclamation board, to the pro rata payment of such portions of said assessment as are based upon flood control benefits as set opposite each assessment, in the manner hereinbefore provided; provided, however, that if no flood control benefit amount is set opposite any tract of land, the assessment upon such tract of land shall not be entitled to any credit for any of the moneys so received by said reclamation board from said state. In case the amount remaining unpaid, including interest, upon the total of said assessment on any tract of land entitled to such pro rata payment or credit out of the money so received from the state shall be less than such pro rata payment or credit to which such tract is so entitled then the surplus of such pro rata payment or credit shall be by the reclamation board paid to the owner of such tract in cash out of said money so received from the

state and deducted from the amount to be paid over by the reclamation board to the state treasurer as hereinafter directed.

The reclamation board shall prepare and furnish to the several county treasurers a statement of the several amounts so applied to the pro rata payment of such portions of the assessments as are by reason of flood control benefit, and the several county treasurers shall enter such amounts on the original assessment lists as payments or credits on account of the several assessments. In making its calls or orders for the collection of installments on said assessment the percentage to be called and paid shall be calculated upon the original total amount assessed against each tract, but no such call or installment need be paid upon the assessment on any such tract except for the excess of the total of such calls over the total of payments so credited to such tract from application of such money received from the state as aforesaid, or otherwise paid thereon.

The money so received by the reclamation board from the state shall, unless bonds based upon said assessment shall have been authorized by law, be by the reclamation board paid over forthwith to the state treasurer and by him credited to the funds of said assessment, to be used and expended in the same manner as funds collected from land owners upon said assessment. But if at the time of the receipt of any such money by the reclamation board from the state, bonds based upon said assessment shall have been authorized by law, the money so received from the state shall be deposited by the reclamation board with the state treasurer to be held as a special fund for the redemption of such bonds and shall, under the direction and as required by the reclamation board, be applied to the payment and cancellation of such bonds in the manner following, to wit:

Upon receipt of any sum of money under said act or acts of similar import, the said reclamation board shall proceed to advertise, at least once a week for four consecutive weeks, in at least one daily newspaper published in the city and county of San Francisco, and one daily newspaper published in the city of Los Angeles, calling for bids or offers for the sale to said state reclamation board of sufficient of the issued and outstanding bonds to cover the amount represented by said money so received from said state; provided, however, that said reclamation board shall not purchase any bonds at a sum in excess of par plus accrued interest. And if the said reclamation board shall receive bids or offers at par plus accrued interest, or less than par plus accrued interest, then the said reclamation board shall purchase a sufficient amount of said bonds to make up the sum of money so received by them from the state, and shall proceed forthwith to cancel said bonds so purchased, together with all interest coupons attached thereto.

But, if the said reclamation board shall not receive bids or offers of a sufficient amount to cover the money so received from the state, then as to the balance thereof, the said reclamation board shall pay bonds in the order of their numbers, beginning as to the first payment, at bond number one, and continuing in numerical order, in a sufficient amount to cover said first payment, and upon such subsequent payments, shall pay the said bonds according to the next succeeding numbers. [New section added May 27, 1919; Stats. 1919, p. 1130.]

§ 35. Payment of interest on warrants. Whenever any warrant drawn by the state controller upon the state treasurer as provided is

section fifteen of this act has been presented to the state treasurer and not paid for want of funds and has been registered by the state treasurer and bears interest as provided in said section fifteen, the state controller shall at any time, on presentation of such warrant to him for that purpose, certify on the back of the warrant, over his signature, the amount of interest accrued thereon to that date, specifying the date, and when the state treasurer pays such warrant he shall, in addition to the amount for which the warrant was drawn, pay the interest accrued thereon as so certified to by the controller. [New section added May 27, 1919; Stats. 1919, p. 1132.]

ACT 3036.

An act authorizing the state board of control to purchase warrants of the Sacramento and San Joaquin drainage district issued in payment for the expense of continuing construction of the east levee of the Sutter by-pass; appropriating money therefor, and providing for reimbursement to the state of such appropriation.

[Approved January 30, 1919. Stats. 1919, p. 5. In effect immediately.]

§ 1. Purchase by state of drainage district warrants. The state board of control is hereby authorized to purchase at their face value, to the extent of not exceeding the total amount hereinafter appropriated, any or all warrants of the Sacramento and San Joaquin drainage district drawn by the state controller as provided in the reclamation board act and payable out of the assessment of the reclamation board known and designated as Sutter-Butte by-pass assessment number six and issued in payment for the expense of continuing construction of the east levee of the Sutter by-pass, or in payment for rights of way or other necessary expenses incident to the prosecution of said work.

§ 2. Auditing of claims. The board of control shall, in the matter of the purchase of such warrants, adopt such measures and impose such conditions as may to said board appear necessary or proper to ensure the proper auditing or preauditing of the claims upon which such warrants are issued, to the end that the work mentioned in section one of this act may be prosecuted economically.

§ 3. Contracts for purchase of warrants. Exchange and sale of warrants. The board of control is hereby authorized to enter into contracts, upon such terms and conditions as said board may impose, for the purchase of all or any of the warrants which it is hereby authorized to purchase. And the said board of control is hereby further empowered to exchange any warrants so purchased by it for other warrants drawn against the same assessment, and to sell all or any part of such warrants so purchased or taken in exchange by it; provided, all such exchanges or sales of warrants shall be effected without loss to the state.

§ 4. Register of warrants. All warrants so purchased or acquired by exchange by the board of control under the provisions of this act against said assessment, shall be registered by the state treasurer, unless already registered, and shall be payable with interest in their proper order of registration, as provided in the reclamation board act, and shall be held by the board of control for the state until paid,

whereupon the proceeds thereof shall be returned into the general fund of the state.

§ 5. Appropriation. The sum of three hundred thousand dollars is hereby appropriated, out of any money in the state treasury not otherwise appropriated, to be expended by the board of control in carrying out the provisions of this act. The state controller shall draw warrants upon the state treasurer, payable out of said appropriation, in such amounts and at such times and in favor of such persons as the board of control may request, and the state treasurer shall pay the same.

§ 6. Urgency measure. The legislature hereby declares that it deems it necessary for the immediate preservation of the public health and safety that this act shall go into immediate effect, by reason of the following facts, to wit: That unless a sufficient levee along the east side of the Sutter by-pass is constructed without delay, the effect of the levees and other works already constructed under public authority along the west side of the Sutter by-pass and the south side of the Tisdale by-pass will be to cause the spring floods of the year 1919 to overflow and greatly damage a large area of valuable land east of the Sutter by-pass, and to imperil the health and safety of the inhabitants thereof; that the plans of the state for flood control in the Sutter basin contemplate the construction of the east levee of the Sutter by-pass, and that the construction of this levee has been commenced, and in large part completed, by the reclamation board and paid for with warrants against said assessment, but the reclamation board is unable to obtain further prosecution of said work by the issuance of warrants in payment thereof; that without the passage of this act said work can not be further prosecuted until said assessment has been completed and approved and in part collected, which will be not earlier than six months from this time. That the provisions of this act will enable the reclamation board to complete said levee in time to protect said lands to the east of said by-pass, and the inhabitants thereof, against the damage and injury which would otherwise result from the spring floods of the year 1919; that the portions of said east levee already constructed at large expense will also suffer great damage and injury unless the work is prosecuted diligently to completion. And it is hereby declared that this act constitutes an urgency measure which under the provisions of section one of article four of the constitution of the state of California, shall go into immediate effect.

ACT 3036a.

An act to authorize the issuance and sale of bonds of the Sacramento and San Joaquin drainage district based upon assessments levied by the reclamation board upon lands in said district.

[Approved May 27, 1919. Stats. 1919, p. 1092. In effect July 27, 1919.]

§ 1. "Reclamation board act." The words "reclamation board act" when used herein are intended to refer to and mean that certain act of the legislature of the state of California entitled "An act approving the report of the California debris commission transmitted to the speaker of the house of representatives by the secretary of war on June 27, 1911, directing the approval of plans of reclamation along the

Sacramento river or its tributaries, or upon the swamp-lands adjacent to said river, directing the state engineer to procure data and make surveys and examinations for the purpose of perfecting the plans contained in said report of the California debris commission and to make a report thereof, making an appropriation to pay the expenses of such examinations and surveys, and creating a reclamation board and defining its powers," approved December 24, 1911, as amended by those two certain acts of the legislature of the state of California approved May 27, 1913, and June 9, 1915, respectively, in which act as so amended it is provided in section thirty-one thereof that said act shall be known and may be cited and referred to as the "reclamation board act."

§ 2. Provisions of reclamation board act regarding bond proceedings superseded. Whenever any assessment levied by the reclamation board upon lands within the Sacramento and San Joaquin drainage district has been completed and all of the hearings before the reclamation board in regard thereto have been heard and the reclamation board is ready to make its order approving such assessment as finally fixed, as directed by section thirteen of said reclamation board act, the reclamation board may at the time of making said order finally approving the assessment, and in and by such order and as a part thereof, also determine that in its judgment it would be for the best interests of the owners of land in the Sacramento and San Joaquin drainage district affected by said assessment to issue bonds for the purpose of obtaining money to pay the cost of the works or other expenses for which such assessment was levied; and if the reclamation board shall so determine in and by its said order, then the subsequent proceedings in and about the matter of such assessment and the collection thereof and all other proceedings for the raising of money to be used for the purposes for which said assessment was levied, shall be as in this act provided, notwithstanding any provision or provisions in regard thereto in said reclamation board act contained.

§ 3. Assessment lists retained. If the reclamation board shall so determine that in its judgment it would be best to issue bonds as aforesaid, then the original assessment lists shall not be deposited in the offices of the respective county treasurers as directed by section fourteen of the reclamation board act, but shall be retained in the office of the reclamation board until after final determination of the judicial proceeding provided for in section four of this act.

§ 4. Judicial proceeding to validate assessment. If the reclamation board shall in its order approving such assessment as finally fixed determine that in its judgment bonds should be issued as aforesaid, said board shall thereupon and within ten days after the passage of its said order commence a judicial proceeding for the validation of said assessment, which judicial proceeding shall be commenced, prosecuted and determined as hereinafter in sections five to thirteen, inclusive, of this act provided. During said period of ten days no action or proceeding shall in such case be commenced by any party other than said reclamation board to contest or in any manner question or interfere with the validity of said assessment, nor shall any action be commenced to have the assessment upon any land modified or annulled as provided in section thirteen of the said reclamation board act; nor shall any such action •

or proceeding of any kind be commenced by any party other than the reclamation board at any time thereafter; provided, the reclamation board shall itself within said period of ten days have commenced said judicial proceeding to validate said assessment as herein provided.

§ 5. Action in county with largest acreage of land affected. Appointment of judges. Notice of hearing. Within said period of ten days after the passage by the reclamation board of its order approving said assessment as finally fixed by said board, the reclamation board shall commence in the superior court of the state of California in and for the county within which the largest acreage of land affected by said assessment is situate, a proceeding to validate said assessment, which proceeding shall be commenced by filing a copy of the assessment lists for said assessment, together with a copy of said order of the reclamation board approving said assessment as finally fixed by said board, both duly attested by the certificate of the secretary or assistant secretary of the reclamation board, in the office of the county clerk and ex-officio clerk of the superior court in and for the county in which said proceeding is commenced. Thereupon the reclamation board shall notify the governor of the commencement of such proceeding and thereupon it shall be the duty of the governor to designate three judges of the superior court in the state of California, from counties or cities and counties wholly outside the said Sacramento and San Joaquin drainage district, and it shall be the duty of said three judges to sit in bank in said proceeding so commenced. Upon the filing of said assessment lists it shall be the duty of said county clerk to fix a time not less than thirty nor more than forty days from the date of such filing when objections will be heard to the said assessment lists, and thereupon it shall be the duty of said clerk to give notice of the time and place of such hearing by publishing a notice for once a week for four weeks in a newspaper of general circulation published in each county in said drainage district wherein any lands affected by said assessment are situated, and if in the case of any such county no newspaper be published in the county, or if for any reason such notice cannot be published therein, then such notice shall be published in a newspaper of general circulation published in an adjoining county. Affidavits showing such publications shall, prior to such hearing, be filed with said county clerk.

§ 6. Place of sessions. Said court may for the convenience of witnesses and shall upon written demand of ten interested parties filed in the proceeding, by order duly given and made, conduct sessions and take evidence in said proceeding in any county in said drainage district in which lands affected by said assessment are situated.

§ 7. Filing of written objections. At any time before the day for such hearing fixed in the notice published by said county clerk, any person interested in any land upon which any charge has been assessed in and by said assessment, may file in said proceeding written objections to said assessment, stating in detail the grounds therefor, which said statement shall be verified by the affidavit of such person or of some other person who is familiar with the facts.

§ 8. Hearing. At said hearing or any adjournment thereof, the said court shall hear such evidence as may be offered touching the correct-

ness or validity of such assessment or the manner of its apportionment and as expeditiously as possible shall determine and pass upon all such written objections filed in said proceeding, and shall make and enter its judgment approving said assessment or annulling, modifying or amending the same or any part thereof. Such judgment shall refer to the assessment apportioned to each county separately and it shall be sufficient to refer to the portions of said assessment which are affected thereby. The decision of a majority of said court shall be final and conclusive, and no motion for a new trial of said proceeding shall be allowed, and no appeal from the judgment given and made by said court shall be had.

§ 9. No reapportionment when. Unless the aggregate amount of the whole of such assessment shall be modified or amended by the judgment in said judicial proceeding so as to cause a difference of more than two and one-half per cent greater or less than the original total amount of said assessment, it shall be deemed that the assessment has not been substantially modified and no necessity shall exist for a reapportionment thereof.

§ 10. Assessment lists conclusive evidence. Thereupon and thereafter said assessment lists, unless annulled by the judgment in said judicial proceeding, embracing any modifications made by said judgment shall be conclusive evidence that said assessment has been apportioned according to the benefits that will accrue to each tract of land in such drainage district by reason of the expenditure of the sums of money to be raised thereby.

§ 11. Certified copies of judgment filed. A certified copy of said judgment referring to said assessment lists shall be filed in the office of the reclamation board; and a certified copy of so much of said judgment as relates to the lands in each of said counties affected thereby shall be affixed to the original assessment list for such county; and the reclamation board shall thereupon cause such amendments or modifications to be made and entered upon the original assessment lists as may be necessary to make them conform to the provisions and directions of said judgment. Thereupon the said assessment lists shall be certified to by the secretary or assistant secretary of the reclamation board as being in conformity with the requirements of said judgment.

§ 12. Objections must be in writing. No objection to said assessment shall be considered by such court unless such objection shall have been made in writing to the reclamation board as provided in section thirteen of the reclamation board act; and excepting in the said judicial proceeding herein provided for no action or defense shall ever be maintained attacking the said assessment in any respect.

§ 13. New assessment in case of annulment. In the event that said assessment shall by the judgment in said judicial proceeding be annulled as a whole, it shall be the duty of the reclamation board to cause a new assessment to be made as provided in the reclamation board act, and thereafter the same proceedings shall be had in regard thereto as herein provided.

§ 14. Assessment becomes lien on land on filing of list. Said assessment lists when the same have been so modified and amended if neces-

sary to conform to the requirements of said judgment and have been certified to as provided in section eleven of this act, shall thereupon be by the reclamation board filed in the offices of the county treasurers, respectively, of the several counties in which are situated any of the lands assessed thereby. Each such county treasurer shall indorse thereon the time to the hour and minute when the same was so filed in his office; and from that time such assessment shall constitute a lien upon the lands in such county so assessed, and shall impart notice to all subsequent purchasers or encumbrancers or any person acquiring any interest in or lien upon said lands.

§ 15. Payment of assessments. At any time within thirty days after said assessment list has been so filed in the office of the county treasurer as provided in section fourteen hereof, the whole amount of such assessment upon any tract of land therein separately assessed may be paid in cash to the county treasurer and thereupon the county treasurer shall issue his receipt therefor and shall indorse the fact and date of such payment upon the assessment list, and thereupon the lien of such assessment upon such tract of land shall cease. The report of such payment shall be made by the county treasurer at once to the secretary of the reclamation board, and the amount so received by the county treasurer shall, within thirty days after the receipt thereof by him, be deposited by him with the state treasurer and shall be by said state treasurer safely kept and credited to the construction fund of said assessment.

§ 16. Interest on unpaid assessments. All assessments not paid in full within said period of thirty days as provided in section fifteen hereof shall bear interest at the rate of seven per cent per annum from and after the expiration of said period of thirty days.

§ 17. Election to determine method of paying cost of works. Upon the expiration of said period of thirty days mentioned in section fifteen or this act, an election shall be called and held by the reclamation board in that part of said Sacramento and San Joaquin drainage district affected by said assessment or the issuance of said bonds, to determine whether the money necessary to pay the cost of the works and other expenses to be paid out of such assessment shall be raised by calls to be made upon such assessment in such installments as may from time to time be determined by said board, or whether bonds of the Sacramento and San Joaquin drainage district shall be issued in an amount equal to the amount of such assessment then remaining unpaid, which amount shall be entered by the board in its records and stated by said board in its order for said election, which order shall be entered upon the minutes of said board.

§ 18. Polling places. The reclamation board shall in its order providing for said election specify the day on which said election shall be held and shall specify and designate one or more polling places as it may determine to be necessary in each supervisor district wherein are situated any of the lands affected by said assessment for the holding of such election. In case the board shall consider it necessary or proper to provide more than one polling place in any supervisor district for the holding of such election, the board shall in said order divide the lands in such supervisor district and within said Sacramento and San Joaquin drainage district, into separate voting districts, and shall designate and

provide one polling place for and within each such voting district at which shall be cast the votes of the owners of land within such voting district. The board may, however, combine contiguous portions of different supervisor districts into one voting district in cases where the lands in such voting district shall not be assessed to more than one hundred different owners, counting one owner for each tract assessed to unknown owners and counting the estate of a deceased person as one owner.

§ 19. Board of election. The reclamation board shall also in said order providing such election appoint a board of election for each such polling place, which board of election shall consist of three owners of land assessed in and by said assessment and situated within such voting district where such polling place is located. Each member of such board of election, whether so appointed by the reclamation board or whether acting as a substitute as hereinafter provided, shall be entitled to the sum of five dollars for his services as such, to be paid by said board out of any funds of the Sacramento and San Joaquin drainage district or of said board applicable thereto.

§ 20. Notice of election. Notice of such election must be given by the reclamation board by posting notices thereof in at least three public places in each voting district at least twenty-one days prior thereto, and also by publication for the same length of time in some newspaper of general circulation published in each county in which any portion of the lands assessed in and by said assessment may be situated. Such notice must specify the time and place of holding such election, the aggregate face value of bonds proposed to be issued, and the names of the persons appointed to act as the board of election. Affidavits of publication and posting of such notices must be filed with the county clerk of the county in which the same have been posted or published, together with a copy of said order calling such election certified to by the secretary or assistant secretary of the reclamation board. Duplicate original affidavits of publication and posting of such notice shall also be filed in the office of the reclamation board.

§ 21. One vote for each one cent of assessment. At such election the owner or owners of each tract of land assessed in and by such assessment, upon which tract of land the assessment has not been paid as provided in section fifteen of this act, shall have the right in person or by proxy to cast one vote for each one cent of the amount for which said tract of land is assessed by said assessment. In case there shall be more than one owner of any tract of land separately assessed in and by said assessment, all of such owners shall unite in the ballot to be cast at such election for and on behalf of such tract of land, or shall authorize one or more of their number or some other person to cast such vote for them by proxy.

§ 22. Vote of guardians, corporations, etc. Vote by proxy. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote at said election without obtaining special authority therefor. The vote of any public or private corporation or of any reclamation district, levee district, drainage district or other public agency entitled to vote at such election, may be cast by any person authorized by the board of directors or trustees or other

sary to conform to the requirements of said judgment and have been certified to as provided in section eleven of this act, shall thereupon be by the reclamation board filed in the offices of the county treasurers, respectively, of the several counties in which are situated any of the lands assessed thereby. Each such county treasurer shall indorse thereon the time to the hour and minute when the same was so filed in his office; and from that time such assessment shall constitute a lien upon the lands in such county so assessed, and shall impart notice to all subsequent purchasers or encumbrancers or any person acquiring any interest in or lien upon said lands.

§ 15. Payment of assessments. At any time within thirty days after said assessment list has been so filed in the office of the county treasurer as provided in section fourteen hereof, the whole amount of such assessment upon any tract of land therein separately assessed may be paid in cash to the county treasurer and thereupon the county treasurer shall issue his receipt therefor and shall indorse the fact and date of such payment upon the assessment list, and thereupon the lien of such assessment upon such tract of land shall cease. The report of such payment shall be made by the county treasurer at once to the secretary of the reclamation board, and the amount so received by the county treasurer shall, within thirty days after the receipt thereof by him, be deposited by him with the state treasurer and shall be by said state treasurer safely kept and credited to the construction fund of said assessment.

§ 16. Interest on unpaid assessments. All assessments not paid in full within said period of thirty days as provided in section fifteen hereof shall bear interest at the rate of seven per cent per annum from and after the expiration of said period of thirty days.

§ 17. Election to determine method of paying cost of works. Upon the expiration of said period of thirty days mentioned in section fifteen or this act, an election shall be called and held by the reclamation board in that part of said Sacramento and San Joaquin drainage district affected by said assessment or the issuance of said bonds, to determine whether the money necessary to pay the cost of the works and other expenses to be paid out of such assessment shall be raised by calls to be made upon such assessment in such installments as may from time to time be determined by said board, or whether bonds of the Sacramento and San Joaquin drainage district shall be issued in an amount equal to the amount of such assessment then remaining unpaid, which amount shall be entered by the board in its records and stated by said board in its order for said election, which order shall be entered upon the minutes of said board.

§ 18. Polling places. The reclamation board shall in its order providing for said election specify the day on which said election shall be held and shall specify and designate one or more polling places as it may determine to be necessary in each supervisor district wherein are situated any of the lands affected by said assessment for the holding of such election. In case the board shall consider it necessary or proper to provide more than one polling place in any supervisor district for the holding of such election, the board shall in said order divide the lands in such supervisor district and within said Sacramento and San Joaquin drainage district, into separate voting districts, and shall designate and

provide one polling place for and within each such voting district at which shall be cast the votes of the owners of land within such voting district. The board may, however, combine contiguous portions of different supervisor districts into one voting district in cases where the lands in such voting district shall not be assessed to more than one hundred different owners, counting one owner for each tract assessed to unknown owners and counting the estate of a deceased person as one owner.

§ 19. Board of election. The reclamation board shall also in said order providing such election appoint a board of election for each such polling place, which board of election shall consist of three owners of land assessed in and by said assessment and situated within such voting district where such polling place is located. Each member of such board of election, whether so appointed by the reclamation board or whether acting as a substitute as hereinafter provided, shall be entitled to the sum of five dollars for his services as such, to be paid by said board out of any funds of the Sacramento and San Joaquin drainage district or of said board applicable thereto.

§ 20. Notice of election. Notice of such election must be given by the reclamation board by posting notices thereof in at least three public places in each voting district at least twenty-one days prior thereto, and also by publication for the same length of time in some newspaper of general circulation published in each county in which any portion of the lands assessed in and by said assessment may be situated. Such notice must specify the time and place of holding such election, the aggregate face value of bonds proposed to be issued, and the names of the persons appointed to act as the board of election. Affidavits of publication and posting of such notices must be filed with the county clerk of the county in which the same have been posted or published, together with a copy of said order calling such election certified to by the secretary or assistant secretary of the reclamation board. Duplicate original affidavits of publication and posting of such notice shall also be filed in the office of the reclamation board.

§ 21. One vote for each one cent of assessment. At such election the owner or owners of each tract of land assessed in and by such assessment, upon which tract of land the assessment has not been paid as provided in section fifteen of this act, shall have the right in person or by proxy to cast one vote for each one cent of the amount for which said tract of land is assessed by said assessment. In case there shall be more than one owner of any tract of land separately assessed in and by said assessment, all of such owners shall unite in the ballot to be cast at such election for and on behalf of such tract of land, or shall authorize one or more of their number or some other person to cast such vote for them by proxy.

§ 22. Vote of guardians, corporations, etc. Vote by proxy. Guardians, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote at said election without obtaining special authority therefor. The vote of any public or private corporation or of any reclamation district, levee district, drainage district or other public agency entitled to vote at such election, may be cast by any person authorized by the board of directors or trustees or other

managing body thereof, which authorization shall be in writing and certified to by the secretary or clerk thereof and attested by its seal duly acknowledged and filed with the board of election. No person shall vote by proxy at such election unless authority to cast such vote shall be evidenced by an instrument in writing duly executed, acknowledged and certified in the same manner as grants of real property and filed with the board of election. In case of the change of ownership of any tract of land, or in case the name of the owner of any tract of land be not correctly stated in the voting list, or in case it be assessed to unknown owners, the right to vote shall belong to the owner of such land at the time of the holding of such election; and if the right of any person to vote as the owner of any such tract of land be disputed or challenged, the question of his right to vote shall be determined by the board of election after examining him under oath, which oath any member of such board of election is hereby authorized to administer, and any person testifying falsely upon such examination shall be guilty of perjury. Any person voting or attempting to vote at such election who is not entitled to vote at such election, as herein provided, shall be subject to the same penalties and punishments as provided by the general election laws of this state, for voting or attempting to vote illegally.

§ 23. Voting lists. The reclamation board shall, prior to such election, cause to be prepared and certified by its secretary or assistant secretary, and furnished to the board of election in each such voting district, a true and correct voting list containing the reference number of each tract separately assessed upon the assessment list, to whom assessed, and the amount of the assessment thereon with reference to which the election is to be held, which voting list shall be used by the board of election in determining the right to vote and the number of votes to be cast by each voter, and shall be sufficient evidence thereof.

§ 24. Reference number of each tract. For the purpose of determining the so-called "reference number" of each tract separately assessed upon the assessment lists, the reclamation board shall, before preparing such voting lists, cause each tract of land separately assessed upon the assessment lists, unless already done, to be given a separate number to be designated as the "reference number" of such tract, which reference numbers shall be entered upon the assessment lists opposite the several tracts separately assessed, respectively.

§ 25. Ballots. The ballot cast at such election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the signature of the person or persons casting the ballot, with the number of votes cast by such voter. If a ballot is cast by proxy, it shall also contain the name of the land owner for whom the ballot is cast and the signature of the person casting the said vote as such proxy. A list of the ballots cast shall be made by the board of election, containing the name of each voter, and if the ballot be cast by proxy, the name of the person casting it and the number of votes cast by each and whether the same be cast for or against the issuing of the bonds.

§ 26. Failure to attend. Oath of members of board of election. If any person appointed as a member of the board of election shall fail to attend at the opening of the polls, the voters then present may appoint in his place any land owner of the district then present and entitled to

vote at such election at such polling place, to fill the position of any such absent member thereof. Each member of such board of election must before entering upon the discharge of his duties as such, take and subscribe an official oath, which oath may be administered by any officer authorized by law to administer oaths, or by any land owner in said drainage district. Such oaths shall be to the effect that he will support the constitution of the United States and the constitution of the state of California, and that he will faithfully perform the duties of member of such election board to the best of his ability.

§ 27. Canvass of votes. Canvass by reclamation board. The polls at each such polling place for said election shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon of the day appointed for such election. At the close of the polls the board of election shall at once proceed to canvass the votes and declare the result, and shall forward a certificate showing such result and the number of votes cast for and against the issuing of bonds, to the reclamation board, and shall deliver a duplicate thereof to the county clerk of the county wherein such voting district is located, and shall also deliver to said reclamation board all ballots, voting lists and lists of ballots cast at such election, and all documents and papers used thereat. Thereupon the reclamation board shall examine and canvass said certificates received from such boards of election, and shall determine therefrom and declare, and enter in its minutes as the managing body of said Sacramento and San Joaquin drainage district, the total result of such election. Any person interested may within ten days after the result thereof has been so determined and declared by the reclamation board, contest such election so far and to such extent as the same depends upon the votes or proceedings had in the matter of such election in any county, by bringing suit in the superior court of such county, and if no contest shall be so commenced within said time, the declaration of the result by the reclamation board shall be final and conclusive.

§ 28. Bonds issued if majority vote favors. If a majority of the votes cast at such election are in favor of the issuance of bonds, the reclamation board shall cause bonds of the Sacramento and San Joaquin drainage district, in the amount stated in said order calling such election, to be prepared and executed and delivered to the state treasurer. Said bonds shall be of the denomination of not less than one hundred dollars nor more than one thousand dollars each. They shall be signed by the president of the reclamation board and attested by the secretary of said board with the seal of said board affixed thereto, and shall be numbered consecutively in the order of their maturity and shall bear date either January first or July first and shall bear interest at a rate to be fixed by the order of the board for issuance of the bonds not to exceed six per cent per annum payable semi-annually on the first day of January and the first day of July in each year, at the office of the state treasurer upon presentation of the proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds and shall bear the facsimile signature of the state controller.

§ 29. Payment of principal. Redemption of bonds. The principal of said bonds shall by an order of said board entered in its minutes, be
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made payable on the first day of July or the first day of January and in such years as the board may prescribe, but such bonds shall be payable serially within twenty years from their date in the manner following, to wit: Not less than ten per cent of their aggregate face value of such bonds issued shall be payable within ten years from their date, and not less than nine per cent of the aggregate face value of such bonds issued shall be payable each year beginning with the eleventh year from their date until the whole amount of said bonds have been paid; provided, however, that the reclamation board may call and redeem such an amount of said bonds as in its judgment it may see fit on any interest date subsequent to the first day of July, 1921, at their face value, with accrued interest to date of redemption. Whenever, at any time not less than four weeks before any semi-annual interest date, the amount of money in the hands of the reclamation board, and applicable to the payment of said bonds, shall amount to a sum of not less than twenty-five thousand dollars, in excess of the amount, if any, falling due on the next two semi-annual interest dates for payments of principal and interest, then and in such case, the said reclamation board shall call and redeem at par, before maturity, so many of the outstanding bonds as such excess will suffice to pay; such bonds to be paid in the regular consecutive order of the serial number of said bonds, beginning with the lowest outstanding number. To effect any such redemption, the reclamation board shall cause to be published once each week for four successive weeks, in a newspaper published in the city and county of San Francisco, in a newspaper published in the city of Sacramento, and in a newspaper published in the city of Los Angeles, a notice stating that at such next semi-annual interest date, the bonds specified in such notice will be redeemed and that there will be due and payable on such bonds at the places specified therein for payment, the amount of the principal thereof with accrued interest.

§ 30. Payment of bonds or coupons. Out of the bond fund of such assessment the state treasurer shall, on presentation at or after its maturity, pay to the holder thereof each such bond or interest coupon which shall have been sold or which shall have been issued and delivered upon an order of the reclamation board payable in bonds as herein-after provided. If any bond or interest coupon shall not be presented to the state treasurer for payment when the same becomes due, it shall cease to bear interest, but if presented at or after such time and not paid for want of funds, the state treasurer shall so indorse such bond or coupon, together with the date of presentation, and thereafter such bond or coupon shall bear interest at the rate expressed in the bond until paid or until funds have been provided in the state treasury applicable to its payment.

§ 31. Form of bond. Said bonds may be substantially in the following form:

UNITED STATES OF AMERICA,

No. —

State of California.

—

Sacramento and San Joaquin Drainage District.

Sacramento and San Joaquin drainage district, in the state of California, for value received, hereby acknowledges itself indebted to and

promises to pay to the holder hereof at the office of the state treasurer of the state of California, on the first day of —, 19—, the sum of — dollars in gold coin of the United States of America, with interest thereon in like gold coin from date hereof until paid at the rate of — per cent per annum, payable at the office of said state treasurer semi-annually on the first day of January and the first day of July in each year on presentation and surrender of the interest coupons hereto attached. This bond is one of a series of — bonds of like tenor and effect, except as to denomination and maturity, numbered from — to —, inclusive, amounting in the aggregate to \$—, issued in accordance with an act of the legislature of the state of California approved —, 1919, authorizing the same, and is based upon and secured by an assessment levied on lands in said drainage district known and designated as (name and number of assessment), validated by a judgment of the superior court of the state of California, in and for the county of —, on the — day of —, 19—, and filed in the respective offices of the county treasurers of the counties wherein are situated the lands assessed thereby. And the said Sacramento and San Joaquin drainage district does hereby certify and declare that the issuance of said bonds was duly authorized by an election duly called and held upon due notice, and the result thereof was duly canvassed and ascertained in pursuance of and in strict conformity with the laws of the state of California applicable thereto, and that all the acts and conditions and things required by law to be done precedent to and in the issuance of the said bonds have been done and performed in regular and due form and in strict accordance with the provisions of law authorizing the issuance of the bonds of said Sacramento and San Joaquin drainage district.

In Witness Whereof, The said Sacramento and San Joaquin drainage district, acting through the reclamation board of said state, has caused this bond to be signed by the president of said board and attested by the secretary of said board with the seal of said board affixed, this — day of —, 19—.

_____,
President of said Reclamation Board.

Attest: _____,
Secretary of said Reclamation Board.

And the interest coupons may be substantially in the following form:

No. _____ \$_____

The treasurer of the state of California will pay to the holder hereof on the — day of —, 19—, at his office in the city of Sacramento, state of California, the sum of \$— in gold coin of the United States, out of the funds of the Sacramento and San Joaquin drainage district applicable thereto, for interest on bond of said district numbered —.

Attest: _____,
State Controller.

§ 32. Action to determine validity of bonds. The reclamation board shall deliver the bonds prepared pursuant to this act duly signed and attested, to the state treasurer. Within ten days after said bonds have been delivered to the state treasurer, an action may be commenced by the reclamation board in the superior court of the state of California,

in and for the county within which the largest acreage of land affected by the assessment for which bonds are proposed to be issued is situate, against the lands and all persons owning the same or interested therein, in that portion of the Sacramento and San Joaquin drainage district affected by said assessment or the issuance of said bonds, to have it determined that said bonds are a legal obligation of said drainage district. Such action shall be in the nature of a proceeding in rem and the defendants in such action shall be designated as "All persons owning or claiming any interest in or lien upon any lands within the Sacramento and San Joaquin drainage district affected by that certain assessment levied by the reclamation board known and designated as (giving the name and number of the assessment)." It shall be sufficient to describe said lands as all lands affected by such assessment, without a more specific description. A summons shall be issued in such action which summons, besides the matters required by section four hundred seven of the Code of Civil Procedure, shall contain a statement that the action is brought to determine the validity of bonds of the Sacramento and San Joaquin drainage district to the amount stated therein executed by the reclamation board and delivered to the state treasurer and based upon and to be paid out of an assessment levied by said reclamation board upon lands within the Sacramento and San Joaquin drainage district assessed in and by that certain assessment known and designated as (giving name and number of the assessment). Jurisdiction by the court over all parties interested in said action shall be obtained by publication of a copy of the summons at least once a week for three successive weeks in a newspaper of general circulation published in each county wherein are situated any lands within said Sacramento and San Joaquin drainage district and assessed in and by said assessment, which newspaper, in each county, shall be designated by the court wherein the action is pending or by the judge thereof. If there be no newspaper within any such county, or if said summons is refused publication in the newspaper so designated for any county, then such summons may be published in a newspaper of general circulation published in an adjoining county. Within thirty days after completion of the publication of such summons in each of such counties any owner of land assessed by said assessment or any one interested in any such land may appear and answer the complaint in such action which answer shall be verified and shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions or proceedings in such court, and judgment shall be rendered therein declaring such bonds either valid or invalid. Any party not in default shall have the right within thirty days after the entry of such judgment to appeal therefrom to the supreme court of this state, which appeal shall be advanced upon the calendar of the court in which the appeal may be pending and shall be determined as early as possible. Judgment for the plaintiff in such action declaring such bonds to be valid shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons. Costs may be awarded to or against any party appearing in such action as the court may in its discretion determine. Any action or proceeding commenced by any party other than the reclamation board to contest or in any manner interfere with

the validity or disposition of said bonds must be tried in the superior court of the state of California, in and for the county within which the largest acreage of land affected by said assessment or the issuance of said bonds is situated, and no such action or proceeding shall be commenced by any party other than the reclamation board until the expiration of ten days after such bonds have been so executed and delivered to the state treasurer, nor unless the action in this section provided for shall not have been commenced by the reclamation board within said period of ten days.

§ 33. Sale of bonds. Payment for works in bonds. The state treasurer shall receive and place the said bonds to the credit of said Sacramento and San Joaquin drainage district, and shall when and as directed by the reclamation board sell any of said bonds for the best price obtainable therefor, but in no event for less than ninety-five per cent of the face value of such bonds and the accrued interest thereon. Before making a sale of any of said bonds, notice shall be given by the state treasurer that he will sell a specified amount of said bonds, stating the day, hour and place of said sale. Such notice shall state that sealed proposals will be received by him for the purchase of said bonds or any part thereof at the day and hour named in the notice. Such notice shall be given by publication once a week for three successive weeks in a newspaper of general circulation published in the city of Sacramento. At the time and place appointed in said notice the state treasurer shall open the bids and shall award the purchase of the bonds or any part thereof to the highest responsible bidder, or if the highest bid is not equal to par and accrued interest he shall notify the reclamation board of the amounts of the highest bids received, and reject any or all bids if so required by said board. At any time before all such bonds held by the state treasurer shall have been sold by him, said reclamation board may draw upon the state treasurer for, and issue and deliver any such unsold bonds at not less than the face value thereof in payment for any of the works or other expenses for which said assessment has been levied and for which such bonds have been authorized, and may make contracts for any of the said works or expenses, payable in whole or in part in such bonds; and in making such payments in bonds, said board shall draw orders upon the state treasurer payable in such bonds to the amount therein named, which orders shall be countersigned by the state controller and shall be paid with such bonds by the state treasurer upon presentation of the amount therein provided for, if there be sufficient bonds on hand to pay the same. In drawing any such order upon the state treasurer payable in such bonds as aforesaid, the reclamation board may specify the maturity of the bonds which are to be delivered in compliance with such order and such specifications shall be complied with by the state treasurer as far as possible.

§ 34. Money placed in construction fund. The money derived from the sale of any of said bonds shall be received by the state treasurer and shall be by him safely kept and placed to the credit of the Sacramento and San Joaquin drainage district in a fund to be designated as the "construction fund of (giving name and number of the assessment upon which the bonds are based)," and may be drawn and expended upon warrants drawn by the state controller at the request of the reclamation board upon and payable out of said construction fund,

in and for the county within which the largest acreage of land affected by the assessment for which bonds are proposed to be issued is situate, against the lands and all persons owning the same or interested therein, in that portion of the Sacramento and San Joaquin drainage district affected by said assessment or the issuance of said bonds, to have it determined that said bonds are a legal obligation of said drainage district. Such action shall be in the nature of a proceeding in rem and the defendants in such action shall be designated as "All persons owning or claiming any interest in or lien upon any lands within the Sacramento and San Joaquin drainage district affected by that certain assessment levied by the reclamation board known and designated as (giving the name and number of the assessment)." It shall be sufficient to describe said lands as all lands affected by such assessment, without a more specific description. A summons shall be issued in such action which summons, besides the matters required by section four hundred seven of the Code of Civil Procedure, shall contain a statement that the action is brought to determine the validity of bonds of the Sacramento and San Joaquin drainage district to the amount stated therein executed by the reclamation board and delivered to the state treasurer and based upon and to be paid out of an assessment levied by said reclamation board upon lands within the Sacramento and San Joaquin drainage district assessed in and by that certain assessment known and designated as (giving name and number of the assessment). Jurisdiction by the court over all parties interested in said action shall be obtained by publication of a copy of the summons at least once a week for three successive weeks in a newspaper of general circulation published in each county wherein are situated any lands within said Sacramento and San Joaquin drainage district and assessed in and by said assessment, which newspaper, in each county, shall be designated by the court wherein the action is pending or by the judge thereof. If there be no newspaper within any such county, or if said summons is refused publication in the newspaper so designated for any county, then such summons may be published in a newspaper of general circulation published in an adjoining county. Within thirty days after completion of the publication of such summons in each of such counties any owner of land assessed by said assessment or any one interested in any such land may appear and answer the complaint in such action which answer shall be verified and shall set forth the facts relied upon to show the invalidity of said bonds. The default of all defendants not so appearing may be entered. Such action shall be given precedence in hearing and trial over all other civil actions or proceedings in such court, and judgment shall be rendered therein declaring such bonds either valid or invalid. Any party not in default shall have the right within thirty days after the entry of such judgment to appeal therefrom to the supreme court of this state, which appeal shall be advanced upon the calendar of the court in which the appeal may be pending and shall be determined as early as possible. Judgment for the plaintiff in such action declaring such bonds to be valid shall be considered as a judgment in rem and shall be conclusive against said district and against all lands therein and all owners thereof and all other interested persons. Costs may be awarded to or against any party appearing in such action as the court may in its discretion determine. Any action or proceeding commenced by any party other than the reclamation board to contest or in any manner interfere with

the validity or disposition of said bonds must be tried in the superior court of the state of California, in and for the county within which the largest acreage of land affected by said assessment or the issuance of said bonds is situated, and no such action or proceeding shall be commenced by any party other than the reclamation board until the expiration of ten days after such bonds have been so executed and delivered to the state treasurer, nor unless the action in this section provided for shall not have been commenced by the reclamation board within said period of ten days.

§ 33. Sale of bonds. Payment for works in bonds. The state treasurer shall receive and place the said bonds to the credit of said Sacramento and San Joaquin drainage district, and shall when and as directed by the reclamation board sell any of said bonds for the best price obtainable therefor, but in no event for less than ninety-five per cent of the face value of such bonds and the accrued interest thereon. Before making a sale of any of said bonds, notice shall be given by the state treasurer that he will sell a specified amount of said bonds, stating the day, hour and place of said sale. Such notice shall state that sealed proposals will be received by him for the purchase of said bonds or any part thereof at the day and hour named in the notice. Such notice shall be given by publication once a week for three successive weeks in a newspaper of general circulation published in the city of Sacramento. At the time and place appointed in said notice the state treasurer shall open the bids and shall award the purchase of the bonds or any part thereof to the highest responsible bidder, or if the highest bid is not equal to par and accrued interest he shall notify the reclamation board of the amounts of the highest bids received, and reject any or all bids if so required by said board. At any time before all such bonds held by the state treasurer shall have been sold by him, said reclamation board may draw upon the state treasurer for, and issue and deliver any such unsold bonds at not less than the face value thereof in payment for any of the works or other expenses for which said assessment has been levied and for which such bonds have been authorized, and may make contracts for any of the said works or expenses, payable in whole or in part in such bonds; and in making such payments in bonds, said board shall draw orders upon the state treasurer payable in such bonds to the amount therein named, which orders shall be countersigned by the state controller and shall be paid with such bonds by the state treasurer upon presentation of the amount therein provided for, if there be sufficient bonds on hand to pay the same. In drawing any such order upon the state treasurer payable in such bonds as aforesaid, the reclamation board may specify the maturity of the bonds which are to be delivered in compliance with such order and such specifications shall be complied with by the state treasurer as far as possible.

§ 34. Money placed in construction fund. The money derived from the sale of any of said bonds shall be received by the state treasurer and shall be by him safely kept and placed to the credit of the Sacramento and San Joaquin drainage district in a fund to be designated as the "construction fund of (giving name and number of the assessment upon which the bonds are based)," and may be drawn and expended upon warrants drawn by the state controller at the request of the reclamation board upon and payable out of said construction fund,

in the same manner as provided by section fifteen of the said reclamation board act with reference to the expenditure of moneys collected upon assessments as in said reclamation board act provided.

§ 35. Bonds legal investments. The bonds of the Sacramento and San Joaquin drainage district issued pursuant to this act which are investigated and approved by any commission or officer now or hereafter authorized by any law of this state to conduct such investigation and give such approval and by authority of which approval said bonds are declared to be legal investments for savings banks, may be lawfully purchased or received in pledge for loans by banks, trust companies, insurance companies, guardians, executors, administrators and special administrators, or by any public officer or officers of this state or of any county, city, or city and county, or other municipality or corporate body within this state having or holding funds which they are allowed by law to invest or loan.

§ 36. Payment of interest. From the first money received from the sale of any of such bonds the state treasurer shall retain an amount which with the other funds in his hands applicable to the payment of such interest will be sufficient to pay the interest which will fall due during the period of one year thereafter upon all such bonds which have been so sold, or which have been issued and delivered on orders of the reclamation board payable in bonds, and which are still outstanding; and the state treasurer shall at all times retain in his hands sufficient money from the sale of such bonds which, with other funds applicable thereto in his hands, will be sufficient to pay all interest to accrue within the period of one year next succeeding upon all such bonds so sold or leased and delivered and still outstanding; and the money so withheld by the state treasurer shall be applied on said bonds and interest thereon and shall not be used for any other purpose.

§ 37. Statement by state treasurer to reclamation board. Whenever any of such bonds are sold or delivered by the state treasurer either to a purchaser thereof or upon an order from said reclamation board payable in such bonds, the state treasurer shall first detach therefrom and cancel all past due interest coupons and deliver such canceled coupons to the reclamation board or its secretary, and shall also at once certify and deliver to said board or its secretary a list of such bonds so sold or delivered, showing the serial numbers, denominations and date of maturity of the bonds so sold or delivered, the price received for each bond sold, and the date of maturity of the earliest maturing interest coupon left attached to each bond so sold or delivered. The state treasurer shall also certify and deliver to the said reclamation board or its secretary whenever requested, a statement of all such bonds and coupons for interest thereon paid by him and of all bonds or coupons presented for payment and not paid for want of funds, with the date of presentation.

§ 38. Bond record. The reclamation board shall maintain in its office and open to public inspection at all reasonable times during office hours, a book or books to be known as the bond record of the Sacramento and San Joaquin drainage district, containing a complete record of the existing condition of the whole of each such bond issued as compiled from

time to time from such reports from the state treasurer, from which can be ascertained the amount of bonds outstanding and the interest accumulated and unpaid thereon.

§ 39. Separate records for each bond issue. In case there shall be several bond issues under this act based upon several different assessments, respectively, all of the proceedings, records and transactions of every kind herein provided for shall be had and kept separately with reference to each such bond issue.

§ 40. Construction of works. Warrants. With the money received from the sale of bonds, or with the said bonds as hereinbefore provided, the reclamation board as the managing body of said Sacramento and San Joaquin drainage district shall proceed with the construction and completion or carrying into execution of the works or project for the purpose of which the assessment upon which such bonds are based was levied, in order that the same may be carried out and completed according to the best judgment of said board and without unnecessary delay. For the purpose of paying the cost and expenses of such works or project, and the expenses of making, bonding and collecting the assessment therefor the reclamation board shall from time to time as may be necessary present its written requests to the state controller for the issuance of warrants; specifying the amount of the warrant and the name of the payee thereof, and upon receipt of such written request the state controller shall draw his warrants upon the state treasurer payable out of the said construction fund of the assessment upon which such bonds have been issued, and the state treasurer shall pay the same or make delivery of such bonds as provided herein. Warrants issued by the controller and payable out of such assessment as provided by section fifteen of the reclamation board act shall be paid by the state treasurer out of and only out of the construction fund of such assessment, and in their proper order of registration as in said section fifteen provided.

§ 41. Warrants. No warrant issued pursuant to any of the provisions of this act or of the said reclamation board act shall be accepted or received by the county treasurer in payment of all or any part of any assessment upon which bonds have been authorized.

§ 42. Annual installment for bonds. When the bonds of the Sacramento and San Joaquin drainage district have been authorized and issued as herein provided, based upon any assessment levied by the reclamation board, the reclamation board shall annually thereafter before the first day of July of each year, by an order entered in its minutes, ascertain and determine the total amount necessary to be collected upon such assessment for the payment of principal and interest of all such bonds which will or may become due on the first day of January and the first day of July of the succeeding year, and thereafter and before the first day of September of each year said board shall prepare in duplicate, retaining one original thereof, and causing the other original thereof to be certified by its secretary and delivered to the county treasurer of each county wherein are situated any of the lands covered by such assessment, a statement of the installment of such assessment necessary to be collected for such year, to which there

shall be added and collected an additional amount of fifteen per cent of the installment so due to cover possible delinquencies, which said additional sum, together with such installment, shall constitute the amount to be collected and paid into the bond fund and shall be known as the installment for bonds. Such installment for bonds shall, unless otherwise determined by the reclamation board by an order entered in its minutes, a copy of which duly certified shall be transmitted to the county treasurer of each of said counties, be payable in two equal portions, the first of which shall be due and payable to such county treasurer, respectively, on the third Monday in October and shall be delinquent on the first Monday in December next thereafter at six o'clock P. M., and the remaining portion may be paid at any time before the last Monday in April next thereafter at six o'clock P. M., at which time the same shall become delinquent.

§ 43. Annual collection list. For convenience in entering payments of such installment for bonds, the reclamation board shall furnish to the county treasurer of each county affected, an annual collection list in which shall be set forth the reference number of each tract of land assessed and the name of the owner to whom assessed, as stated in the original assessment list, and the total amount assessed upon each tract and the amount to be collected thereon for that year, together with appropriate columns for the entry of payments, sales and redemptions; and the county treasurer shall enter thereon in the proper column all payments, with date of payment, the word "sold" with date of sale, in case of sales for delinquency, and the words "sold to the district" with date of sale, in the case of sales to the district; and shall also enter the word "redeemed," with date of payment, in case such redemption be made. Said county treasurer shall also make a report to the reclamation board as often as requested of all entries so made by him on such collection list.

§ 44. Penalty for delinquent installment. When either portion of any such installment for bonds shall become delinquent, a penalty of one dollar together with twenty per cent of the amount of such installment on each tract so delinquent, shall be added thereto and collected for the use of the bond fund of said assessment. All money so collected by the several county treasurers upon such installment for bonds or for the penalty thereon in case of delinquency shall be by them, respectively, and within thirty days after such collection, paid over to the state treasurer and by him credited to the bond fund of such assessment.

§ 45. Sale of land for delinquent installments. If both portions of said installment are not paid before the last Monday in April at six o'clock P. M., the reclamation board shall publish in each county where such delinquencies exist, in one notice, a list of all said delinquencies in such county at least once a week for two weeks in some newspaper of general circulation published in the said county, which notice shall contain a description of each parcel of land assessed within the said county whereon such installment or installments are delinquent, as such description appears on the assessment list, the name of the owner to whom it is assessed or a statement that it is assessed to unknown owners if such be the fact, the amount of the installment or install-

ments delinquent on such parcel, the amount of the penalty thereon, and a notice that each of said parcels will be sold at public auction by said county treasurer in front of the courthouse of said county at a specified day and hour, which shall not be less than thirty nor more than ninety days from the date of delinquency, to pay such delinquent installment or installments and penalty. At the time and place stated in said notice the county treasurer shall sell each parcel of land described in said notice to the highest bidder unless prior thereto he shall have received payment in full of said delinquent installment or installments together with such penalty. No bid for any parcel shall be accepted less than the aggregate sum then due for said installment or installments thereon, together with such penalty, except that the treasurer may receive from any purchaser at their face value, in lieu of cash, bonds of said drainage district issued upon such assessment, or their interest coupons, which bonds or coupons shall be then matured or will mature within one year after such sale. Any said bonds or coupons so received in payment shall be by the treasurer forthwith cancelled and transmitted to the state treasurer. If the entire amount of any such bond or coupon tendered in payment shall not be required to complete payment of the purchase money, the county treasurer shall indorse thereon as paid the amount of such purchase money credited thereon. There shall be credited to the bond fund of such assessment the amount of purchase money so paid in bonds or coupons on such delinquent sales, and of all sums indorsed as paid upon account of purchase money on any such bonds or coupons, specifying the same, a statement of which shall be furnished by the county treasurer to the state treasurer.

§ 46. Sale of land to district. If no bid is made for any parcel at such delinquent sale equal to the amount of installment or installments delinquent thereon including such penalty, the county treasurer shall bid in and sell said parcel to the said Sacramento and San Joaquin drainage district for the amount of said installment or installments and penalty.

§ 47. Certificate of sale. The county treasurer shall execute to each purchaser at such delinquent sale including said drainage district, a certificate of such sale, which certificate of sale shall be recorded by said purchaser in the county recorder's office of said county.

§ 48. Disposition of proceeds. Out of the proceeds of said sales the county treasurer shall transmit to the state treasurer the amount due on the property so sold as shown in said notice, together with the penalty thereon, and the state treasurer shall place the same to the credit of the bond fund of said Sacramento and San Joaquin drainage district for the particular bond issue based upon said assessment. The county treasurer shall pay to the owner of said property any surplus remaining after such payment to the state treasurer.

§ 49. Postponement of sale. The county treasurer may if directed by the reclamation board postpone the said delinquent sale from time to time for not less than ten nor more than thirty days by a written notice posted at the place of sale.

§ 50. Redemption of property sold. Deed of conveyance if no redemption. Any person interested in any tract of land sold at such delinquent sale may redeem the same at any time within one year after the date of sale by paying to the county treasurer for such purchaser a sum equal to the purchase price stated in the certificate of sale with interest thereon at the rate of twelve per cent per annum from the date of sale to such redemption, together with the amount remaining due and unpaid of any installment upon any assessment on said land under the reclamation board act or this act, with the penalty herein or in said reclamation board act prescribed for delinquency, if any. If no redemption shall be made within one year the reclamation board upon demand and the surrender of such certificate of purchase and the delivery of a certificate of the county treasurer that no redemption has been made within such year from date of sale, shall execute to the purchaser, his heirs or assigns, a deed of conveyance of the parcel of land described in such certificate, which deed shall convey to the grantee therein named the said land free and clear of all encumbrances except state, county and municipal taxes, assessments levied or assessed by statutory authority, and the unpaid balance of the said or any assessment made by said drainage district, each installment whereof may be called and collected as by law provided, except that no parcel sold and conveyed to the Sacramento and San Joaquin drainage district shall thereafter, until redeemed or until sold and disposed of by the reclamation board, be subject to sale by the treasurer for delinquent installments of any assessment as in this act provided. Every deed by the reclamation board purporting to be executed under this act shall be prima facie evidence of the truth of the matters therein recited and of ownership by the grantee of the lands therein described. All deeds herein required to be executed by the reclamation board may be executed by the president and secretary thereof on behalf of said board.

§ 51. Sale of land purchased by district. Any parcel of land bid in and purchased by the Sacramento and San Joaquin drainage district at such delinquent sale shall be held in trust for the bond fund of the assessment upon which the same was sold and may be sold and conveyed by said reclamation board or their successors in office at any time after the expiration of said redemption period of one year at public or private sale and with or without notice to any person paying not less than the amount for which said parcel was bid in by said county treasurer at such delinquent sale for said drainage district, with interest thereon at the rate of twelve per cent per annum compounded yearly from the date of such delinquent sale, and also the amount of all subsequent installments then delinquent, with accrued interest and penalties thereon. Payment for the land so purchased may be made by the purchaser either in cash or matured bonds and coupons issued upon said assessment taken at their face value, and the reclamation board shall execute a deed to such purchaser at such sale conveying said property, free of encumbrances except state, county and other municipal taxes, assessments levied or assessed by statutory authority, and the unpaid balance of the said or any assessment thereon levied by the reclamation board on lands in said drainage district. The purchase

price so received in cash shall be by the reclamation board forthwith paid over to the state treasurer; and any bonds or coupons so received in payment by the reclamation board shall be by said board canceled and delivered to the state treasurer; and all such money so paid over and such canceled bonds or coupons so delivered to the state treasurer shall be by him credited to the bond fund of such assessment. If any land so held by the Sacramento and San Joaquin drainage district shall remain unsold after the final installment of the assessment shall have been collected by payment or sale, then the reclamation board shall sell all such lands so held by said drainage district at public auction to the highest bidder for cash, upon two weeks' published notice substantially in the manner provided for notice upon such delinquent sales, and shall execute to the purchaser a conveyance thereof free of encumbrances except state, county and municipal taxes, and assessments levied or assessed by statutory authority, and shall deposit the proceeds of such sale with the state treasurer to the credit of the bond fund of such assessment.

§ 52. Use of surplus in bond fund. Any surplus remaining in the bond fund of such assessment greater than is necessary to pay all of the amounts due or to become due during the ensuing year may, in the discretion of the reclamation board, be devoted to the purchase in the open market and at the fair market price thereof of any bonds other than bonds of said drainage district available for purchase by savings banks in this state, which shall thereupon be delivered to the state treasurer to be held by him for the benefit of said bond fund until the reclamation board shall direct it to sell the same, whereupon the state treasurer shall sell the same and credit the proceeds to the said bond fund; and said reclamation board shall direct such sale to be made whenever necessary for payment of such bonds of the district or interest thereon.

§ 53. Bond fund held by state treasurer. The said bond fund of each such assessment shall be held and safely kept by the state treasurer and shall be applied by him toward the payment of the bonds and coupons thereon based upon such assessment, as such bonds and coupons fall due; and if any balance shall remain in the bond fund of such assessment after payment in full of the principal and interest of all outstanding bonds issued upon such assessment, such balance shall be held for the benefit of the lands upon which said assessment was made and in proportion to the amounts assessed thereon, and may be distributed to the owners or other persons interested in such lands by the reclamation board.

§ 54. Cancellation of proceedings. If within one year from the time said bonds have been authorized to be issued as in this act provided, the same shall not have been sold or disposed of, the reclamation board may at its discretion by an order duly made and entered in its minutes and a copy duly certified sent to the county treasurer of each county wherein lands affected by said assessment are situated, cancel all proceedings taken in connection with such bond issue; and may thereafter call for the payment of such assessment in such installments from time

to time as they shall determine and as provided in the said reclamation board act.

§ 55. Expenses of officers. No officer shall charge or receive any fee for any services required to be performed by him under the provisions of this act; but any reasonable and necessary expense actually incurred by any officer in carrying out any of the provisions of this act relating in any manner to the collection or enforcement of any assessment, shall be paid out of the funds of said drainage district applicable thereto.

§ 56. Supplementary annual assessment. If the amounts raised by means of and upon such assessment as herein provided shall in the end prove insufficient to pay in full all of said bonds and the interest thereon, the reclamation board shall levy and cause to be collected in the same manner as in said reclamation board act and herein provided, a supplementary annual assessment or assessments from time to time as may be necessary upon the same lands previously assessed in the original assessment, which supplemental assessment or assessments shall be levied by resolution of the reclamation board entered in its minutes. It shall not be necessary to appoint assessors therefor nor to prepare new or additional assessment lists for any such supplemental assessment or assessments, but the same shall be levied and apportioned according to benefits and in the same proportion as specified in the original assessment lists for such assessment; and for the purpose of collecting the same said board shall prepare and cause to be certified to the county treasurers of the several counties annual assessment collection lists in the same manner and at the same times as hereinbefore provided for the annual assessment collection lists upon such original assessment; and the same shall be collected by the county treasurers, and the same percentages, penalties and costs added for delinquency and the same proceedings had for sale of property and for redemption thereof and for disposition of the proceeds of sale, and in all other particulars as hereinbefore provided in the case of such annual assessment collection lists upon the original assessment; and all money collected for or on account of any such supplemental assessment or assessments shall be paid over to the state treasurer in the same manner as hereinbefore provided, and credited by the state treasurer to the said bond redemption fund of said assessment.

§ 57. Duty of attorney general and governor. If the reclamation board or any member thereof or any officer or appointee or employee thereof or any public officer in this act mentioned or referred to shall fail to perform any duties imposed by this act, at the time and in the manner in this act provided, the attorney general of the state shall have the power and it shall be his duty to compel the performance of such act by mandamus proceedings or by any other appropriate remedy, legal or equitable; and in case the attorney general shall fail, neglect or refuse so to do, it shall be the duty of the governor to compel the performance of such act by mandamus proceedings or other appropriate legal or equitable remedy and to employ special counsel therefor at the expense of said Sacramento and San Joaquin drainage district.

§ 58. If election is against issuance of bonds. If the result of such election provided for in section seventeen of this act be against the issuance of bonds, then such assessment, or that portion thereof involved in and affected by such election, shall be ordered paid and collected in such installments and as often as may in the judgment of the reclamation board be necessary for the purpose for which such assessment was originally levied as provided in said reclamation board act; and all subsequent proceedings in regard thereto shall be had and conducted as provided in said reclamation board act and without any further reference to the provisions in this act contained.

ACT 3036b.

An act to authorize the conveyance by the state to the Sacramento and San Joaquin drainage district, or to the United States, upon repayment to the state of the cost thereof, of all or any part of any land, right of way, easement or weir site acquired by the state for any work of river channel excavation, enlargement, rectification or control or for the construction of any weir, forming part of the plans approved by the state for flood control in the Sacramento or San Joaquin valleys, and reappropriating the amount so repaid to reimburse the appropriation out of which the same was paid by the state.

[Approved May 27, 1919. Stats. 1919, p. 1091. In effect July 27, 1919.]

§ 1. Conveyance of lands, etc., to Sacramento and San Joaquin drainage district authorized. All or any part of any land, right of way or easement required for any work of channel excavation, enlargement, rectification or control or for any site for the construction of any weir, forming part of or incidental to any plan approved by the state for flood control in the Sacramento or San Joaquin valleys, which land, right of way or easement or weir site has been or may hereafter be acquired by the state of California, may, at the request of the reclamation board and with the approval of the state board of control, be sold to the Sacramento and San Joaquin drainage district at a purchase price equal to the cost thereof to the state, to be determined by said board of control, and upon payment to the state of such purchase price, so determined, may be conveyed to the Sacramento and San Joaquin drainage district, or to the United States, as may be requested by the reclamation board.

§ 2. Conveyance. The chairman of the state board of control is hereby empowered, when so authorized by said board of control, to execute and deliver any such conveyance in the name and on behalf of the state of California, upon payment to the state treasurer of the purchase price.

§ 3. Purchase price. Such purchase price, when so paid to the state treasurer, shall be credited back to the appropriation out of which the cost of acquiring such land, right of way, easement or weir site was paid by the state, and is hereby reappropriated and shall be available for the same purposes for which such appropriation was made.

ACT 3036c.

An act to appropriate money for the purpose of co-operation in the construction of the public works included in and provided for by that certain project heretofore adopted by the reclamation board, known as Sutter Butte By-pass Project No. 6 of the Sacramento and San Joaquin drainage district, with such modifications and amendments thereof as may be hereafter made, in accordance with law, the said work described in the plans of said Sutter Butte By-pass Project No. 6, as heretofore duly modified and amended, being in conformity with the report of the California debris commission transmitted to the speaker of the house of representatives of the United States by the secretary of war on the twenty-seventh day of June, 1911, and the said report of the California debris commission, together with such amendments and modifications thereof as may be made by the reclamation board, having been heretofore duly adopted by the state of California, and directing the said reclamation board to apply the said moneys so appropriated as it is now, or may hereafter be, provided by law, for the benefit of the said Sacramento and San Joaquin drainage district, in connection with said Sutter Butte By-pass Project No. 6, or any modifications or amendments thereof, that may hereafter be made in accordance with law.

[Approved May 27, 1919. Stats. 1919, p. 1209. In effect July 27, 1919.]

§ 1. Appropriation for Sutter Butte By-pass Project No. 6. For the purpose of co-operation in the construction of the public works included in and provided for by that certain project heretofore adopted by the reclamation board, known as Sutter Butte By-pass Project No. 6 of the Sacramento and San Joaquin drainage district, with such modifications and amendments thereof as may hereafter be made, in accordance with law, the said work described in the plans of said Sutter Butte By-pass Project No. 6, as heretofore duly modified and amended, being in conformity with the report of the California debris commission transmitted to the speaker of the house of representatives of the United States by the secretary of war on the twenty-seventh day of June, 1911, and the said report of the California debris commission, together with such amendments and modifications thereof as may be made by the reclamation board, having been heretofore duly adopted by the state of California, there is hereby appropriated the sum hereinafter set forth out of any moneys in the state treasury, not otherwise appropriated, to be paid to the said reclamation board, for the benefit of the said Sacramento and San Joaquin drainage district, in connection with the said Sutter Butte By-pass Project No. 6, or any modifications or amendments thereof that may hereafter be made, in accordance with law, the same to be applied as it is now or may hereafter be provided by law by the said reclamation board, in connection with said Sutter Butte By-pass Project No. 6 of the said Sacramento and San Joaquin drainage district.

§ 2. Amount of appropriation. It is the intent and purpose of the state of California to provide a total of three million dollars for the purpose as expressed in section one of this act and there is hereby, for

the said purpose, continuously appropriated therefor, out of any moneys in the state treasury not otherwise appropriated, the said sum of three million dollars to be paid as hereinafter specified.

§ 3. Time and amount of warrants to be drawn. Immediately upon this act becoming a law, the controller of the state of California shall draw his warrant in favor of the reclamation board for the sum of ten thousand dollars, and the treasurer of the state of California is hereby directed to pay the same out of any moneys in the state treasury, not otherwise appropriated.

§ 4. Warrants in favor of reclamation board. The controller of the state of California shall, during the seventy-second fiscal year, namely during the fiscal year commencing on the first day of July, 1921, draw his warrant in favor of the reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-third fiscal year, namely during the fiscal year commencing on the first day of July, 1922, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-fourth fiscal year, namely during the fiscal year commencing on the first day of July, 1923, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-fifth fiscal year, namely during the fiscal year commencing on the first day of July, 1924, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-sixth fiscal year, namely during the fiscal year commencing on the first day of July, 1925, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-seventh fiscal year, namely during the fiscal year commencing on the first day of July, 1926, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-eighth fiscal year, namely during the fiscal year commencing on the first day of July, 1927, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the seventy-ninth fiscal year, namely during the fiscal year commencing on the first day of July, 1928, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the eightieth fiscal year, namely during the fiscal year commencing on the first day of July, 1929, draw his warrant in favor of said reclamation board for the sum of three hundred thousand dollars; and shall, during the eighty-first fiscal year, namely during the fiscal year commencing on the first day of July, 1930, draw his warrant in favor of said reclamation board for the sum of two hundred ninety thousand dollars. And the treasurer of the state of California is hereby directed to pay each of said warrants out of any moneys in the state treasury not otherwise appropriated. All of said sums shall be applied by the reclamation board in the manner as provided by section one of this act.

§ 5. Collection of fund. There shall be collected annually in each of the fiscal years commencing on the first day of July, 1921, and ending on the thirtieth day of June, 1931, at the same time as other state

revenue is collected, such a sum as may be necessary to provide the amount hereby appropriated, and all officers charged by law with any duty in regard to the collection of said revenue are hereby required and obligated to do and perform each and every act and thing which shall be necessary to collect such sum.

TITLE 463.

SACRAMENTO CITY.

ACT 3039a.

Charter of. [Stats. 1911 (Ex. Sess.), p. 305.]

Amended 1919, p. 1427.

TITLE 466.

SALINAS CITY.

ACT 3068.

Charter of. [Stats. 1903, p. 599.]

Amended 1911, p. 1739. A new charter was adopted in 1919. See next act.

ACT 3088a.

Charter of. [Stats. 1919, p. 1398.]

TITLE 470.

SAN BERNARDINO CITY.

ACT 3110.

Charter of. [Stats. 1905, p. 940.]

Amended 1909, p. 1166; 1913, p. 1716; 1919, p. 1485.

TITLE 471.

SAN BERNARDINO COUNTY.

ACT 3112.

Charter of. [Stats. 1913, p. 1652.]

Amended 1915, p. 1726; 1919, p. 1454.

TITLE 473.

SAN DIEGO CITY.

ACT 3145.

Charter of. [Stats. 1889, p. 643.]

Amended 1901, p. 879; 1905, p. 901; 1909, p. 1137; 1911, p. 1356; 1913, p. 1663; 1915, p. 1817; 1919, p. 1524.

ACT 3158a.

An act conveying certain tide-lands and lands lying under inland navigable waters situated in the bay of San Diego to the city of San

Diego in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof.

[Approved May 1, 1911. Stats. 1911, p. 1357.]

Amended 1913, p. 78; 1915, p. 1323; 1917, p. 916.

The amendment of 1917 follows:

§ 5. Restrictions on land leases. The city of San Diego may lease lands granted and conveyed to it by this act under the following restrictions and conditions:

(a) **Term of fifty years. Rentals. Revaluation. Right to sublet. Improvement by lessee.** All that portion of the said lands lying on the shores of the bay of San Diego, between a prolongation into the bay of San Diego of the south line of Laurel street and the prolongation into the bay of San Diego of the northerly line of the United States military reservation on Point Loma, and also that portion of said lands lying between a prolongation into the bay of San Diego of the easterly line of Twenty-eighth street, and a prolongation into the bay of San Diego, of the boundary line between the city of San Diego and the city of National City, which shall not have been developed or improved by the city of San Diego at the date of such leasing may be leased by the said city in such areas as, in the judgment of the common council of the said city of San Diego, may seem proper, and for a term not to exceed fifty years; provided, however, that said city may have the right to renew such lease or leases for a further term not exceeding twenty-five years or to terminate the same on such terms, reservations and conditions as may be stipulated in such lease or leases. Every such lease shall provide for the payment of rentals to the city of San Diego, which said rentals shall be either an agreed per cent of the gross earnings derived from the leased lands, or shall be fixed upon a basis of the valuation of such lands. In the event that the rental is an agreed per cent of the gross earnings, the lease shall provide a method for ascertaining and determining from time to time during the term, such gross earnings. In the event that the rentals shall, by any such lease, be provided to be fixed upon the basis of the valuation of the leased lands, then in such event the lease shall provide a method for ascertaining at stated periods during the term, the reasonable value of the leased lands, and in all cases in which the rental is provided to be fixed upon the basis of the valuation of the leased lands, then in such event the lease shall provide a method for ascertaining at stated periods during the term, the reasonable value of the leased lands, and in all cases in which the rental is provided to be fixed upon the basis of the value of the leased lands, the lease shall provide for the payment of a certain per cent of such value ascertained in the manner provided by the lease, and such per cent shall be the rental to be paid until a different valuation is fixed; provided, however, that there shall be no revaluation of any leased lands for the purpose of fixing the rentals oftener than once every ten years. Said leases shall also provide that at no time during their terms shall the said city of San Diego be required to make any improvements on or for the benefit of the leased lands. The lessees named in such leases shall have the right to sublet the said lands, or

any part thereof, which subleases shall be subject to the same conditions and restrictions as the original and each lease executed by the city shall contain provisions to this effect. The said city of San Diego may grant wharf franchises for wharves adjoining and extending into the bay from the above-mentioned territory for terms, not to exceed in duration the terms of the leases on the adjacent lands, and the right to regulate and control the waters of the harbor adjacent to said leased land and to fix reasonable rates and tolls for the use of such wharves and docks abutting or adjoining such leased lands, shall be reserved to the city of San Diego and the state of California. Said lease or leases shall provide that a sum of money be expended upon the improvement of said lands by the said lessee or lessees within a reasonable time and said lease or leases shall contain provisions fixing the amount of money to be so expended and the time within which it shall be spent. The city may place such further restrictions or conditions in such leases and franchises when granted as do not conflict with the terms of this act and all grants of leases or franchises shall be authorized by ordinance.

(b) **Remainder for fifty years.** All the remaining portions of said lands may be leased for a term not to exceed fifty years, and no such lease shall be for a larger area than for forty acres, and such lease shall not be assignable or transferable nor shall any lessee have the right to sublet the leased premises or any part thereof without the consent of the common council by ordinance duly adopted; provided, however, that every lease so executed shall reserve to the common council and to the people of San Diego the right and privilege by ordinance duly adopted to terminate, change or modify such lease or leases on such terms, reservations and conditions as may be stipulated in such lease or leases.

(c) **Right of way reserved.** The city of San Diego shall reserve over the lands mentioned in subsections (a) and (b) a continuous right of way for a municipal belt line of railway tracks, which right of way shall be not less than one hundred feet in width and shall be so located as to practically parallel the United States bulkhead line, and no lease, franchise or privilege, shall be granted upon any of the lands mentioned in said subsections (a) and (b) that will in any way interfere with said right of way unless there be reserved in said lease, franchise or privilege to the city a right of way for said railroad of not less than one hundred feet in width. [Amendment approved May 24, 1917; Stats. 1917, p. 916.]

ACT 3158c.

An act granting certain lands in the city of San Diego to San Diego Lodge No. 153, of the Independent Order of Odd Fellows of California; and ratifying and declaring valid a conveyance of said lands heretofore made by said city to said lodge. [Approved May 24, 1917. Stats. 1917, p. 932. In effect July 27, 1917.]

TITLE 475.**SAN FRANCISCO.****ACT 3177.**

Charter of San Francisco. [Stats. 1899, p. 241.]

Amended 1903, p. 583; 1907, pp. 10, 29; 1911, pp. 1469, 1661; 1913, pp. 1473, 1602; 1915, p. 1807; 1917, p. 1708; 1919, p. 1377.

ACT 3335.

Concerning waterfront of. [Stats. 1877-78, p. 263.]

Amended 1880, p. 10; 1889, p. 379; 1891, p. 233; 1895, p. 194; 1901, p. 627; 1905, p. 109; 1909, p. 434; 1917, p. 583; 1919, p. 252. See Political Code, § 2524, as amended 1901, p. 619; also the case of *People ex rel. State Harbor Commissioners v. Pacific Imp. Co.*, 130 Cal. 442.

The amendments of 1917 and 1919 follow:

§ 6. Commissioners to have control of certain blocks. Lease of seawall lots. The said commissioners shall have the possession, jurisdiction and control over the blocks and parts of blocks formed by the change of the waterfront and the extensions of the streets to the thoroughfare aforesaid, and remove any obstructions placed thereon in the same manner as provided for the removal of obstructions from the piers, wharves and thoroughfares. The commissioners are authorized to keep and maintain said blocks and parts of blocks as open spaces for the use of the public, or they may, in their discretion, inclose them. The commissioners are also authorized to assign the use of such portion thereof as they may deem expedient for such purposes solely as will be most advantageous to the commerce of the port, and upon such terms and conditions as they may determine. All such assignments shall terminate at the pleasure of the commissioners.

The commissioners are also authorized to lease such portions or portion of seawall lots, numbered one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, "a," "b," and "c," and such portions of that certain land described as follows, to wit: Commencing at a point formed by the intersection of the southerly line of Islais street and the easterly line of Third (formerly Kentucky) street, and running thence easterly and along said southerly line of Islais street eighteen hundred eighty feet; thence at a right angle southerly to the northeasterly line of Arthur avenue; thence northwesterly along the northeasterly line of Arthur avenue to a point on the easterly line of Third (formerly Kentucky) street two hundred nineteen feet and five inches southerly from the southerly line of Islais street; thence northerly along said line of Third street two hundred nineteen feet and five inches to the southerly line of Islais street and the point of beginning; as they may deem expedient for such purposes solely as will be most advantageous to the commerce of the port, save and excepting, however, such portions of the last-described piece of property as may be within two hundred feet of the southerly line of Islais street, and save and excepting such portions thereof as may be within two hundred feet of any

portion of any pier, wharf or slip which may now exist fronting on Islais street or hereafter be constructed on any portion of said land; provided, that before the execution of any lease notice of the letting or leasing of any of the lots or property hereinabove mentioned, or parts thereof, shall be given by publication in three of the daily papers published in the city of San Francisco for at least ten days; such notice shall state the property or lot or portion thereof to be leased and that bids will be received by the commissioners at a place and time designated in such notice; and that said lots and property shall be let to the highest and best bidder; provided, further, that all bids for lease of property or lots or portions thereof, herein mentioned, shall set forth the purposes for which said property, or lots or portions thereof shall be used, and that the statement of such bid shall be embodied in the lease given by the board of state harbor commissioners with the condition that the property or lot shall be used for such purposes only; provided, further, that said board shall have the power to reject any and all bids; and provided, further, that in no event shall any such lease or leases be made for a term exceeding twenty-five years; provided, however, that all leases made and executed within two years preceding February 15, 1901, and on file in the office of the secretary of state, of land belonging to the state less than fifty acres in area, and which lease has been made to any corporation incorporated in this state, or to any person or persons, for terminal facilities, is hereby recognized, approved and ratified, and the conditions, covenants and agreements of the parties thereto are made binding on the said parties and on their successors and assigns and on the state of California; provided, further, that all such leases shall contain a provision providing that in the event of the establishment by the United States of a free zone in the port of San Francisco, and in the event that said leased land is necessary to said free zone that then the state board of harbor commissioners for that purpose, shall have the right to declare such leases canceled and terminated upon payment to the lessees of the actual physical value of all improvements erected by said lessees on said leased land. [Amendment approved April 30, 1919, p. 252.]

This section was also amended in 1917. See Stats. 1917, p. 553.

ACT 3335a.

An act empowering and authorizing the board of state harbor commissioners to insure against loss or damage by fire or other disaster the property of the state of California located on the waterfront of San Francisco, California.

[Approved April 30, 1919. Stats. 1919, p. 254. In effect July 22, 1919.]

§ 1. Insurance of state waterfront property. The board of state harbor commissioners is hereby empowered and authorized to insure against loss or damage by fire or other disaster the wharves, docks, piers, slips, bulkheads and structures contained thereon, and improvements located on the inside and outside of the waterfront line, and all property of the state of California under the control and supervision of said board of state harbor commissioners.

§ 2. Amount and cost. This insurance is to be effected and distributed at the discretion and under the direction of said board of state harbor commissioners; the aggregate amount of such insurance not to exceed the sum of two million dollars, plus twenty-five per cent, of the actual cost value of improvements made or property acquired by the state through said board or coming under the jurisdiction of said board after this act goes into effect. The cost of said insurance shall not exceed two per cent per hundred in premiums for policies to be written for a three-years' term. Said cost to be defrayed and paid out of the San Francisco harbor improvement fund.

§ 3. Repealed. All acts and parts of acts in conflict herewith are hereby repealed.

ACT 3335b.

An act concerning the waterfront of the city and county of San Francisco.

[Approved April 30, 1919. Stats. 1919, p. 254. In effect July 22, 1919.]

§ 1. Operation of warehouses, grain elevators, etc., by harbor commissioners. The board of state harbor commissioners is hereby authorized and empowered to construct, maintain and operate warehouses, grain elevators, oil-tanks and such other facilities as it may from time to time deem expedient and to the advantage of the commerce of the port of San Francisco, and to fix such charges and make such rules and regulations as it may deem expedient for the operation thereof, and said board is further authorized and empowered to construct, maintain and operate conveyors on, above and under the ground from and to and between the docks and wharves and other property of the state of California and to and from the docks and wharves and other property of the state of California and under the jurisdiction of the board and to and from property owned by the state and fronting on the Embarcadero from any property of the state of California under the jurisdiction of said board, as it may from time to time deem expedient and to the advantage of the commerce of the port of San Francisco, and to fix all charges and make such rules and regulations as it may deem expedient in the operation thereof.

ACT 3348b.

An act to carry into effect the provisions of subdivisions six and seven of section eight and one-half of article eleven of the constitution of the state of California; and also to provide for the alteration of the boundaries of and for the annexation of territory located in the county of San Mateo to the city and county of San Francisco, for the incorporation of such annexed territory in and as a part thereof, and for the government of such annexed territory as an integral part of such city and county of San Francisco.

[Approved April 24, 1917. Stats. 1917, p. 175. In effect, see section 31.]

§ 1. City and county of San Francisco may annex territory in San Mateo county. It shall be competent for the city and county of San

Francisco a municipal corporation organized and incorporated under a freeholders' charter under and by virtue of the constitution and laws of the state of California, to annex territory contiguous to such consolidated city and county, unincorporated or otherwise, situate wholly in the county of San Mateo, state of California, said annexed territory to be an integral part of such city and county.

§ 2. Election in incorporated cities on proposal for annexation. If additional territory, including more than one incorporated city or town, is proposed to be annexed to said city and county of San Francisco, the board of supervisors of said city and county will be empowered to give notice by a resolution of said board of supervisors, to the legislative bodies of any such incorporated cities or towns proposed to be so annexed of the said annexation proposal. Upon a petition requesting such notice to be so given, filed with said board of supervisors of said city and county and signed by not less than fifteen per centum of the qualified electors of said city and county, it shall be the duty of said board of supervisors of said city and county to thereupon by resolution of said board of supervisors, to give notice to the legislative bodies of such incorporated cities or towns proposed to be so annexed. Each of said last described legislative bodies of said incorporated cities or towns may, upon such notice, given by said board of supervisors of the city and county of San Francisco either by its own initiative or upon the initiative of such a petition so filed with said board of supervisors, and in any such incorporated city or town, upon a petition requesting such action filed with such a legislative body thereof and signed by not less than fifteen per centum of the qualified electors of such incorporated city or town, proposed to be so annexed, must, thereupon cause notice to be given of an election to be held in such incorporated city, or town, proposed to be so annexed, at which shall be submitted to the qualified electors of such city, or town, a proposal for the annexation thereof to said city and county of San Francisco. Said notice shall be given by publication for at least five successive publications in a newspaper of general circulation printed and published in such incorporated city or town so proposed to be annexed, the last publication to be not less than twenty days prior to any such election. This notice shall include a particular description of any such incorporated cities or towns so proposed to be annexed by naming such incorporated cities or towns, together with a particular description of any debts to be assumed by the district as hereinafter set forth, unless such particular description is contained in the said election proposal so submitted. If there be no such newspaper so printed and published in any such incorporated city or town then such publication may be made in any newspaper of general circulation printed and published in the nearest incorporated city or town where such a newspaper may be so printed and published. The electors of said incorporated city or town shall be directed by such notice to vote upon such question in the manner hereinafter set forth. Such legislative body of said incorporated city or town proposed to be so annexed is hereby empowered and it shall be its duty to establish, and in such notice of election, to designate the voting precinct or precincts and the place or places at which the polls will be open for such election in such incorporated city or town so proposed to be annexed, which said place or places shall be that or those usually used as voting places within

such incorporated city or town, if any such there be. The legislative body of said incorporated city or town proposed to be so annexed, is hereby empowered to, and it shall appoint the officers of such election, who shall be, for each voting place in such incorporated city or town, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election.

§ 3. Question for forming district to vote on consolidation. Country ballots. Upon the ballots to be used at any such election there shall be printed the words "Shall (herein insert name of the city or town to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of San Francisco which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with the city and county of San Francisco in a consolidated city and county government, and that such district shall become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of San Francisco to wit: (herein insert in general terms, reference to any debt to be assumed and if none insert 'None'), 'Yes,' and "Shall (herein insert name of the city or town, to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of San Francisco, which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with the city and county of San Francisco in a consolidated city and county government, and that such district shall become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of San Francisco to wit: (herein insert in general terms reference to any debt to be assumed, and if none insert 'None'), 'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal, and if an elector shall stamp a cross (X) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal. The judges and inspector of such election for each polling place shall immediately, upon the closing of the polls, count the ballots, make up, certify and seal the ballots and tally sheets of the ballots cast at their respective polling places, doing so as nearly as practicable, in the manner provided in the laws of this state relating to general elections, and they shall thereupon deliver the ballots, tally sheets and returns to and deposit the same with the clerk of the legislative body of such incorporated city or town proposed to be so annexed.

§ 4. Canvass of returns. Returns sent to board of supervisors of San Francisco. Returns sent to secretary of state. Such legislative body of said incorporated city or town proposed to be so annexed shall, at the time provided for its regular meeting next after the expiration of five

days from and after the date of said election meet and proceed to canvass said returns, and said canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments until said canvass is completed. Immediately upon the completion of such canvass such canvassing body shall cause a record thereof to be made and entered upon its minutes stating the proposal submitted and showing the whole number of votes cast on the proposal submitted to such incorporated city or town, the number of votes cast therein in favor of the said proposal, and the number of votes cast therein against the said proposal. The clerk or other officer performing the duties of clerk of such canvassing body shall promptly, and within ten days of the completion of such canvass by said body make and certify under the seal thereof, and transmit to the board of supervisors of the city and county of San Francisco a copy of the records of the canvass of the returns of the election so canvassed by said canvassing body, together with a statement showing the date of such election, and the time and the result of the canvass of the returns of such election, and containing a description of such incorporated city or town, by naming the said incorporated city or town. And if it shall appear, from a canvass of the returns of the election held in the said incorporated city or town that a majority of the qualified electors voting on such proposal voted in favor thereof the said clerk or other officer performing the duties of clerk of such body so canvassing such returns shall also, promptly, and within said ten days, make and certify, under the seal thereof, and transmit to the secretary of state of the state of California, a like copy of the record of the canvass of said returns, together with a like statement showing the date of such election, and the time and the result of the canvass of the returns of such election, and containing a description of such incorporated city or town, by naming said incorporated city or town. Said document shall be filed by the secretary of state immediately upon receipt thereof.

§ 5. Limit to number of elections. Nothing herein contained shall be construed as prohibiting a further election or further elections to be held in any such incorporated city or town to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall not have voted in favor thereof; provided, that there must be an interval of at least ninety days between said elections, and that not more than three such elections shall be held in any one incorporated city or town, upon any one initiation of an annexation proposal by the city and county of San Francisco; and further provided, that no annexation proposal shall be so initiated by the city and county of San Francisco, more than once in a period of two years.

§ 6. District formed of incorporated and unincorporated territory. Size of district. Any and all of the said incorporated cities or towns, to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall have voted in favor thereof together with such unincorporated territory as the board of supervisors of the said city and county of San Francisco may determine to have included, the whole to form an area contiguous to said city and county shall be by the board of supervisors of said city and county created into a district; provided, however, that with reference to any

such district which may be first created following the adoption of this act, no such district shall in any event be created containing a population of less than nine thousand people or a total area of less than seventy-five square miles. The population as ascertained and established by the last preceding census taken under the authority of the congress of the United States, or the legislature of California, or of the board of supervisors of said county of San Mateo, or of any legislative body of any such incorporated city or town may be used as the basis for ascertaining such population. Also, if necessary, such population of the said district or any portion thereof, may be determined by the board of supervisors of said county of San Mateo; and as to any incorporated city or town in said district, such population may, if necessary, be determined by the legislative body of such incorporated city or town.

§ 7. Question for consolidation. Subsequent to said elections in said incorporated cities or towns, and within the two years above described, there shall be submitted by the board of supervisors of the county of San Mateo a proposal to the voters of said entire district, as one indivisible question, substantially in the following form: "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county in San Francisco to wit: (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None'), 'Yes,' " and "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county of San Francisco (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None'), 'No.' " There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal and if an elector shall stamp a cross (X) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal.

§ 8. Manner of submitting question. Notice. Description of territory and debts. The manner to be followed by the board of supervisors of said county of San Mateo in the submission of said question and the holding of such election, their establishment of election precincts and their appointment of election officers, and the publication of the notice of such election, shall be substantially the same as that set forth in section two of this act for the submission of an annexation proposal to any incorporated city or town, and the notice thereof shall be published

in the incorporated city or town included in said district containing the largest population as ascertained and established by the last preceding census taken under the authority of the congress of the United States, or of the legislature of California; provided, that if there be no newspaper printed and published in said incorporated city or town, as provided for herein, then in the nearest incorporated city or town where such a newspaper is so printed and published. This notice shall include a particular description of any such incorporated city or town so proposed to be annexed, by naming such incorporated city or town together with a particular description of any debts to be assumed by such district, as in this act set forth, unless such particular description is contained in the said election proposal so submitted. In addition to such description such territory as may be made up of unincorporated territory, shall also be designated in such notice by some appropriate name or other words of identification, by which such territory may be referred to and indicated upon the ballots to be used at any election at which the question of annexation or consolidation of additional territory is submitted as herein provided. Any such unincorporated territory must in said notice be specifically described by giving the boundaries thereof, unless such particular description is contained in the said election proposal so submitted.

§ 9. Proposal for permitting territory to withdraw from San Mateo county. At the same election so held in said district there must also be held throughout the county of San Mateo, and also under the supervision of the board of supervisors of said county of San Mateo, an election at which a proposition must be submitted to the electors of such county for the consent of such county to such annexation of said district to the city and county of San Francisco. The board of supervisors of said county of San Mateo shall submit a proposal to the voters of said entire county, substantially in the following form: "Shall the territory herein designate in general terms the territory to be annexed) be permitted to withdraw from the county of San Mateo and consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) 'Yes,'" and "Shall the territory (herein designate in general terms the territory to be annexed) be permitted to withdraw from the county of San Mateo and consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) 'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal, and if an elector shall stamp a cross (X) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal.

§ 10. Manner of submitting question. Notice. Description of territory. The manner to be followed by the board of supervisors of the said county of San Mateo in the submission of said question and the holding of such election, their establishment of election precincts, and their appointment of election officers, and the publication of notice of such elec-

tion shall be substantially the same as that set forth in sections two and eight of this act for the submission of an annexation proposal to any incorporated city or town, and to any district as provided for in this act, and the notice thereof shall be published in the incorporated city or town in said county containing the largest population as ascertained and established by the last preceding census taken under the authority of the congress of the United States or of the legislature of California. And if there be no such newspaper so published in said last described city, then in the nearest incorporated city or town where such a newspaper is so printed and published. This notice shall contain a description of the territory proposed to be annexed the same as provided for in section eight of this act for the notice to be given to the district referred to in said section eight. So far as possible, the notices to be published to the county of San Mateo and to the district proposed to be annexed to the city and county of San Francisco shall be consolidated in one notice. And further, so far as possible the election precincts and polling places and election officers for both the county and the district election shall be identical.

§ 11. Returns sent to supervisors of San Mateo county. The judges and inspectors of such elections in said county of San Mateo and in said district so proposed to be annexed, for each polling place, shall immediately, upon the closing of the polls, count the ballots, make up, certify and seal the ballots and tally sheets of the ballots cast at their respective polling places, doing so as nearly as practicable in the manner provided in the laws of this state relating to general elections and they shall thereupon deliver the ballots, tally sheets and returns to and deposit the same with the clerk of the said board of supervisors of the county of San Mateo.

§ 12. Canvass of returns. Returns sent to board of supervisors of San Francisco. Returns sent to secretary of state. Such board of supervisors of the county of San Mateo shall at the time provided for its regular meeting next after the expiration of ten days from and after the date of said elections meet and proceed to canvass said returns, and said canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments until said canvass is completed. The said board of supervisors shall so canvass the returns of any such election held in the county to determine whether the county will permit the withdrawal therefrom of any territory, and likewise the returns of any such election held in any such district. Immediately upon the completion of such canvass such canvassing body shall cause a record thereof to be made and entered upon its minutes stating the proposals submitted and showing: first, the whole number of votes cast on the proposal submitted to the county of San Mateo, the number of votes cast therein in favor of such proposal and the number of votes cast therein against such proposal; and second, the whole number of votes cast on the proposal submitted to the district proposed to be annexed, the number of votes cast therein in favor of such proposal and the number of votes cast therein against such proposal. The clerk or other officer performing the duties of clerk of such canvassing body shall promptly, and within ten days of the completion of such canvass by said body, make and certify under the seal thereof, and transmit to

the board of supervisors of the city and county of San Francisco a copy of the records of the canvass of the returns of the elections so canvassed by said canvassing body, together with a statement showing the date of such elections, and the time and the result of the canvass of the returns of such elections, and containing a description of such district so proposed to be annexed, by naming the incorporated cities or towns in said district and also the unincorporated territory in said district, as said incorporated cities or towns and unincorporated territory were described in the election notice as provided for in this act for the elections held in said district. And if it shall appear, from a canvass of the returns of the election held in the county of San Mateo or of the election held in the district so proposed to be annexed, that a majority of the qualified electors voting on such proposal voted in favor thereof, either in such county, or in such district proposed to be annexed, the said clerk or other officer performing the duties of clerk of such body so canvassing such returns shall also, promptly, and within said ten days, make and certify, under the seal thereof, and transmit to the secretary of state of the state of California, a like copy of the record of the canvass of said returns, together with a like statement showing the date of such election, and the time and the result of the canvass of the returns of such election, and containing a like description of such district. Said document shall be filed by the secretary of state immediately upon receipt thereof.

§ 13. Proposal submitted in city and county of San Francisco. If it shall appear from a canvass of the returns of such elections that a majority of the qualified electors of such district, and also a majority of the qualified electors of such county of San Mateo voting on the question of such annexation are in favor of such annexation, the said proposal of annexation shall be, by the board of supervisors of said city and county of San Francisco submitted to the electors of said city and county. The said board of supervisors of the said city and county of San Francisco shall submit a proposal to the voters of the said city and county substantially in the following form: "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city the county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of the property of said territory for the following indebtedness of said city and county of San Francisco, to wit: (herein insert in general terms, reference to any debts to be assumed, and if none, insert 'None')—'Yes,'" and "Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of San Francisco in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of the property of said territory for the following indebtedness of said city and county of San Francisco, (herein insert in general terms, reference to any debts to be assumed, and if none,

insert 'None')—'No.'" There shall be a voting square to the right of and opposite each such proposition. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes" the vote of such elector shall be counted in favor of the said proposal, and if an elector shall stamp a cross (X) in the voting square after the printed word "No" the vote of such elector shall be counted against such proposal.

§ 14. Manner of submitting question. Description of territory and debts. The manner to be followed by the board of supervisors of the said city and county of San Francisco in the submission of said question and the holding of said election, their establishment of election precincts, and their appointment of election officers, and the publication in said city and county of notice of such election shall be substantially the same as that set forth in sections two and eight of this act for the submission of an annexation proposal to any incorporated city or town and to any district as provided for in this act. The notice required to be published shall include a particular description of any district so proposed to be annexed, together with a particular description of any debts to be assumed by such district, the same as provided for in section eight of this act for the notice to be given to the district referred to in said section eight. Said election in said city and county of San Francisco may, in the discretion of the board of supervisors thereof, be held at the same time as the elections held in said district and in said county of San Mateo.

§ 15. Use of general election laws. The ballots used in any elections provided for in this act, the opening and closing of the polls, and the holding and conducting of such elections, shall be in conformity, as nearly as may be, with the laws of this state concerning general elections, except as herein otherwise provided.

§ 16. Annexation completed. Indebtedness assumed. Upon the approval of any such annexation proposal by the electors of said city and county of San Francisco as shown by a canvass of the returns thereof, and the certification of said returns to the secretary of state, said certification being made in the same manner as provided in section twelve of this act, the secretary of state shall file the document certified to him by the clerk of the canvassing body of the city and county of San Francisco, in his office immediately upon the receipt thereof. The secretary of state having so filed said document in his office, then, from and after the date prescribed in the proposal so submitted at said elections, the annexation of such district so proposed to be annexed, as described therein, shall be deemed to be and shall be complete and thenceforth such annexed district shall be to all intents and purposes a part of such city and county of San Francisco. And from and after said date the indebtedness so referred to in said proposal shall be deemed to have been assumed and upon the said date stated in said annexation proposal such district and such city and county of San Francisco shall be and become one consolidated city and county to be governed by the charter of the city and county of San Francisco and any amendment or amendments thereto.

§ 17. Submission of new charter or amendments. Borough government. Separate propositions. Controlling proposition. In any such sub-

mission of any proposal to the electors of any incorporated city or town, or of any district proposed to be annexed to the city and county of San Francisco, or to the electors of said city and county of San Francisco, as provided for in this act, there may be included a condition that any such proposed annexation shall be effected only upon the ratification by the electors of said incorporated city or town, and of said district, and of said city and county of San Francisco, at the same election at which such annexation proposal is submitted to such electors of said incorporated city or town, or district, or city and county of San Francisco, of any proposed new charter for said city and county of San Francisco, or of any proposed amendment or amendments to an existing charter of said city and county of San Francisco, which new charter or amendment or amendments to an existing charter may include provisions for borough government for all or any portion or portions of any territory proposed to be annexed; and also that such proposed annexation shall be effected only upon the final approval by the legislature of such new charter or such amendment or amendments to an existing charter of the city and county of San Francisco.

In submitting any such proposed new charter or such amendment or amendments to an existing charter, at the elections in the incorporated cities or towns, for the ratification of the electors of any of such cities or towns, separate propositions, whether alternative or conflicting, or one included within the other, may be submitted at the same time to be voted on by the electors separately in any one or more of such cities or towns. As between those so related, if more than one receive a majority of the votes of any such city or town, the proposition receiving the larger number of votes shall control as to all matters in conflict.

§ 18. Vote on assumption of indebtedness. No property in any territory annexed to said city and county of San Francisco as provided for in this act, shall be taxed for the payment of any indebtedness of such city and county outstanding at the date of such annexation and for the payment of which the property in such territory was not, prior to such annexation; subject to such taxation, unless there shall have been submitted to the qualified electors of such territory the proposition regarding the assumption of indebtedness, as provided for in this act, and the same shall have been approved by a majority of such electors voting thereon, as provided for in this act.

§ 19. Description of debts. The particular description of any debts to be assumed by any such annexed territory and which particular description shall be published, as in this act provided for, shall distinctly state that the property of such annexed territory shall, after such annexation, be subject to taxation as an integral part of the city and county formed under this act, along with the entire territory of the proposed city and county, in accordance with the assessable valuation of the property of said annexed territory and equally with property within such annexing city and county, to pay any bonded indebtedness of any such annexing city and county outstanding at the date of said annexation or any indebtedness theretofore authorized and to be represented by bonds of such annexing city and county thereafter to be issued, or any other indebtedness of said annexing city and county, which indebt-

edness it is proposed shall be so borne by the said property so annexed. The said notice shall, in addition, distinctly specify the improvement or improvements, or other purpose for which the indebtedness was so incurred or authorized and state the amount or amounts of such indebtedness already incurred outstanding at the date of the first publication of said notice and the amount or amounts of such indebtedness theretofore authorized and to be represented by bonds thereafter to be issued and the maximum rate of interest payable or to be payable on such indebtedness.

§ 20. Government of unannexed territory. Duty of legislature. In the event of any election as in this act provided for at which there shall be submitted a proposal for the annexation of any territory to the city and county of San Francisco, which annexation will result in the leaving of a portion or portions of the county of San Mateo unannexed to said city and county of San Francisco, then any notice of election or election ballot as provided for in this act shall state that the said annexation and consolidation shall not take effect until the legislature of the state shall have, according to law, provided for the government of any such portion or portions of any such county of San Mateo so remaining and not annexed to said city and county of San Francisco. It shall be the mandatory duty of the legislature, at the first session following any such final election; in the event of the approval of such annexation proposal at such election, or if the legislature be then in session then at such session, to so provide for the government of any such portion or portions of such county of San Mateo so remaining and not annexed to such city and county of San Francisco. Upon such provision being made by the legislature, and upon its finally becoming effective, and upon the said annexation otherwise becoming effective, then the said annexation to such city and county of San Francisco shall be deemed complete and in full force and effect.

§ 21. Legislature to determine proportion of debts and liabilities. Commission to advise legislature. Expenses charged to city and county of San Francisco. At the session of the legislature next after the final consummation of such annexation as herein provided for, or if the legislature is in session at the time of such final consummation then at such session of the legislature, the legislature shall determine the just proportion of the debts and liabilities of the county of San Mateo for which the city and county of San Francisco shall be liable, and the just proportion of the property and assets of such county of San Mateo to which such city and county of San Francisco shall be entitled, as existing at the time that any territory less than the whole of said San Mateo county is taken from such county of San Mateo as a result of any annexation as in this act provided for. The governor of the state shall appoint a commission of three persons; one, a qualified elector of the city and county of San Francisco; one, a qualified elector of the unannexed territory, and one, a qualified elector of some territory other than said annexing city and county and other than such unannexed territory, for the purpose of rendering a report to the legislature in order to advise the legislature; first, upon the proper provision for the government of any portion or portions of such unannexed territory; and, second, upon

the proper determination of the just proportion of the debts and liabilities of the county of San Mateo for which such city and county shall be liable, and of the just proportion of the property and assets of such county of San Mateo to which such city and county shall be entitled, as so existing at the time that any territory is so taken from such county of San Mateo as a result of any such annexation as in this act provided. The actual necessary expenses of said commission, and compensation for their services at the rate of ten dollars per day for each day of actual service by each of said commissioners, shall upon a demand therefor being sworn to and presented to the legislative body of the city and county of San Francisco be a proper and legal charge against the treasury of said city and county. The final annexation and incorporation of said additional territory as a part of said consolidated city and county shall be deemed completed upon following of the procedure hereinabove in this act set forth, and it shall not be deemed necessary to await the said action of the legislature with reference to the adjustment of debts and liabilities and property and assets in this section provided for prior to said consolidation being final and complete.

§ 22. County, cities, and governmental agencies dissolved. Charters annulled. Offices surrendered. Superior court. Property, debt and liability. Upon the completion of the annexation of any such territory to the city and county of San Francisco as provided for under the provisions of this act, the county of San Mateo, if the whole of said county be annexed, and each and every incorporated city or town, or governmental agency of any character, so annexed, shall ipso facto be deemed to be and shall be dissolved and disincorporated, and any freeholders' charter thereof shall be deemed to be and shall be surrendered and annulled and such county of San Mateo and any such incorporated cities or towns or governmental agencies, shall be deemed to be and shall be merged in said city and county of San Francisco and shall be thereafter governed in the name of and under the freeholders' charter of and as a part of such city and county of San Francisco or under any amendment or amendments to such charter. Upon the final completion of any annexation as provided for in this act all persons then occupying or possessing the several offices of or under the government of such county of San Mateo or of such incorporated cities or towns, or such governmental agencies, or unincorporated territory so annexed, shall immediately quit and surrender the occupancy or possession of said offices, which shall thereupon cease and terminate and they shall severally forthwith deliver all moneys, funds, books, papers, archives and records in their custody and all other property of such county, incorporated city or town, governmental agency, or unincorporated territory in their hands or under their control, to the proper officers of the city and county of San Francisco; provided, however, that if any portion of said county of San Mateo shall be left unannexed to said city and county of San Francisco that the disposition of such moneys, funds, books, papers, archives and records so in the custody of such officers of said county of San Mateo, or of unincorporated territory so annexed, shall be determined by the legislature in its final action on the government of such unannexed territory as in this act provided for. Any regularly constituted superior court of this state existing at the time of such annexa-

tion, within such county of San Mateo or within such incorporated city or town, or unincorporated territory, so annexed, shall upon the consolidation of said territory as a part of said city and county of San Francisco under the terms of this act, become a regularly constituted superior court of the state in and for said city and county of San Francisco, and any person or persons so occupying the position of superior judge in any such annexed territory shall continue to occupy said position, as judge or judges of the superior court of the state in and for said city and county of San Francisco to the end of the term of office for which he or they may have been elected or appointed, with the same salary as theretofore attached to said position, and thereafter such position shall continue to be filled as provided by law, and at the same salary as fixed by law for the judges of the superior court in and for said city and county of San Francisco.

Upon completion of any annexation, as provided for in this act, of the county of San Mateo or of any incorporated city or town, or of any unincorporated territory, or governmental agency, the property, debts and liabilities of every description of said county, or incorporated city or town, or of any unincorporated territory, or governmental agency, shall be and become the property, debts and liabilities of such newly consolidated city and county of San Francisco.

§ 23. Debts, etc., in San Mateo county, cities, etc., not affected. Ordinances repealed. Pending cases transferred. Street proceedings continued. Any annexation provided for under the provisions of this act shall not affect any debts, demands, liabilities or obligations of any kind existing in favor of or against such county of San Mateo or such incorporated cities or towns, or such governmental agencies, so annexed, at the time of such annexation, or any action or proceeding then pending in any court in which any such debt, demand, liability or obligation of any kind may be involved, or any action or proceeding brought by or against such county, incorporated cities or towns or such governmental agencies, prior to such annexation, but all of such actions and proceedings shall be continued and concluded to final judgment or otherwise in all respects the same as if such annexation had not been effected; provided, however, that any such debt, demand, liability or obligation, in favor of or against such county, incorporated cities or towns, or such governmental agencies, so annexed shall, upon such annexation, be and become such a debt, demand, liability or obligation in favor of or against such newly consolidated city and county of San Francisco. All ordinances or resolutions of such county of San Mateo or of any such incorporated cities or towns, or such governmental agencies, so annexed under the provisions of this act, shall immediately upon such annexation becoming effective, be deemed to be repealed and of no further force and effect; provided, however, that such repeal shall not operate to discharge any person from any liability, civil or criminal, then existing, nor affect any prosecution then pending for any violation of any such ordinances, or resolutions, and all cases then pending in any justice's court, police court or court of any recorder or other judicial municipal magistrate or officer of such county, incorporated cities or towns, or such governmental agencies, so annexed shall, upon such annexation becoming effective, ipso

facto, be deemed to be and be transferred to the justices' court, police court or other judicial municipal magistrate or officer of such city and county of San Francisco which has jurisdiction of proceedings or misdemeanors or of other actions civil or criminal of the character so transferred; provided, further, that such repeal shall not apply to ordinances or resolutions, under which vested rights have accrued or to ordinances or resolutions relating to proceedings for street or other public improvements, or to proceedings for improving, opening, extending, widening or straightening of streets or other public places, or to proceedings for changing the grade thereof, all of which proceedings shall be continued and conducted by and under the authority of the newly consolidated city and county of San Francisco with the same force and effect as if continued and conducted by and under the authority of the county of San Mateo or of any incorporated city or town by which they were commenced, and all ordinances and resolutions of said city and county of San Francisco shall, upon the completion of such annexation, ipso facto, have full force and effect in and throughout the said annexed territory.

§ 24. Taxes levied but not collected property of San Francisco. Condition. In the event that a tax for county purposes has been levied by the board of supervisors of the county of San Mateo or has been so levied for the purposes of any political subdivision, either by such board of supervisors or by any legislative body of any incorporated city or town, or other governmental agency, against property situated in territory which, subsequent to such levy, is annexed to said city and county of San Francisco under the provisions of this act, but which at the time of such annexation has not been collected, then all such taxes so uncollected shall be and become the property of the city and county of San Francisco; provided, however, that any such taxes which have been levied against the property of any district, for the purposes of such district, must be expended for the benefit of any territory so annexed and included in such a district, in accordance with the purposes of the levy of said tax. This section shall also apply to all such taxes not paid into the county treasury or any treasury of any incorporated city or town, or other political subdivision or governmental agency, prior to the taking effect of this act.

§ 25. Districts unchanged. Nothing in this act shall alter or affect the boundaries of any senatorial or assembly district, or of any congressional district.

§ 26. Expenses paid by city and county of San Francisco. All proper expenses of proceedings for annexation of territory to the city and county of San Francisco under this act shall, in the first instance, be paid by such city and county; provided, that if such annexation be not finally completed, then the expenses for such election incurred in any city or town or district which shall have voted in favor of said annexation, or in the county of San Mateo if said county shall have so voted, shall be returned to the said city and county of San Francisco by such city, town, or county holding such election.

§ 27. Duties performed by other than prescribed officials. With reference to any duties prescribed in this act to be performed by the legis-

lative body or any other board, officer or department of the county of San Mateo or any incorporated city or town so proposed to be annexed under the terms of this act, or of said city and county of San Francisco, if the charter of any such incorporated city or town or of said city and county of San Francisco, or any law, imposes such duties upon any other board, officer or department of said county of San Mateo or of said incorporated city or town or of said city and county of San Francisco, as, upon a board of election commissioners or registrar of voters of said county of San Mateo, or of such incorporated city or town, or of said city and county of San Francisco, then such duties shall be so performed by such other board, officer or department upon which such duties are so imposed.

§ 28. Time for election. Any election provided for in this act may be held at a special election or at any general election.

§ 29. "Governmental agency" defined. The term "governmental agency" as used in this act shall be construed to include school districts, lighting districts, sanitary districts, or any other districts organized or authorized by law, of a special or quasi-municipal character.

§ 30. Constitutionality. If any section of this act other than section thirty-one thereof, or if any subsection, sentence, clause or phrase other than in said section thirty-one contained, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. If, however, said section thirty-one, or any subsection, sentence, clause or phrase in said section thirty-one contained, is for any reason held to be unconstitutional or inoperative, then in that event the validity of all of the remaining portions of this act shall be deemed affected and invalidated thereby. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections other than said section thirty-one or any one or more subsections, sentences, clauses, or phrases other than in said section thirty-one contained, are declared unconstitutional. Furthermore, this legislature declares that it would not have passed this act, either in whole or in part, unless said section thirty-one was included and incorporated therein and made a part thereof, and it hereby further declares said section thirty-one, and every subsection, sentence, clause and phrase in said section thirty-one contained, to be a substantial and integral part of said act.

§ 31. Approval of constitutional amendment necessary. This act shall take effect upon, and only in event of, the ratification and approval by the people of the state of assembly constitutional amendment number two, being a resolution to propose to the people of the state of California to amend section eight and one-half of article eleven of the constitution of the state, relating to city charters and to provisions therein for municipal courts, submitted by the forty-second session of the legislature; and not otherwise.

§ 32. Title. This act may be designated and referred to as the "San Francisco-San Mateo Consolidation Act."

ACT 3348c.

An act to provide for the establishment of passenger transportation facilities upon The Embarcadero, in the city and county of San Francisco.

[Approved May 17, 1917. Stats. 1917, p. 585. In effect July 27, 1917.]

§ 1. Harbor commissioners may maintain passenger service on state railroad. The board of state harbor commissioners may when in its judgment the wants of commerce of the port of San Francisco requires, maintain passenger service upon the state railroad located upon The Embarcadero in the city and county of San Francisco; provided, that said board may make such further extensions of said service through, over, under and above lands within its jurisdiction, and through, over, under and above the waterfront as defined by section two thousand five hundred twenty-four of the Political Code, as said board may determine are demanded by public convenience and necessity; and provided, further, that if the establishment and maintenance of said passenger service upon such railroad shall, after careful investigation, be found by said board of state harbor commissioners to be impracticable, or not feasible, such board may establish or maintain such other passenger service or the means, facilities, or modern street improvement by which or over which such other passenger service can be operated and maintained by said board, or by other persons, firms, associations, or corporations thereunto authorized by said board.

§ 2. Acquiring facilities for passenger traffic. Said board of state harbor commissioners shall have power to acquire and furnish such facilities as are reasonable and necessary for the accommodation of passenger traffic upon said Embarcadero.

§ 3. Charges. Charges for carriage by said passenger service shall be made, fixed or determined by the state board of harbor commissioners; provided, however, that such charges shall not be greater than shall be necessary for the obtaining of sufficient revenue which, in connection with the other revenues of the port of San Francisco, shall be necessary for the maintenance of the commerce of the port including the maintenance of said passenger service.

§ 4. Added powers. The state board of harbor commissioners may obtain such added powers under existing licenses, grounds, permits or easements, or such future licenses, grounds, permits or easements, as may be necessary to secure the fulfillment of the object of this act.

ACT 3348d.

An act to authorize the board of state harbor commissioners to acquire by purchase, condemnation, gift, grant or cession, certain property in the city and county of San Francisco, including Mission Rock, and extending the jurisdiction of said board over the same, and providing for the payment for the same.

[Approved May 17, 1917. Stats. 1917, p. 625. In effect July 27, 1917.]

§ 1. Board of state harbor commissioners authorized to acquire certain property. For the purpose of acquiring additional area for the construc-

tion of docks, wharves, slips and piers and increasing the harbor facilities on the waterfront of the city and county of San Francisco, the board of state harbor commissioners is hereby authorized and empowered to acquire, when in its discretion it is deemed for the best interests of the harbor, by purchase, condemnation, gift, grant or cession, for and on behalf of the state of California, all that certain tract or parcel of land situated in the city and county of San Francisco, state of California, and particularly described as follows, to wit: Commencing at a point in the bay of San Francisco, distant three thousand five hundred seventy feet southeasterly from the southerly corner of Brannan and Second streets, as the same are laid down on the official map of said city, said distance being measured along the extension southeasterly of the southwesterly line of Second street; thence in a southwesterly direction, at right angles with said line of Second street extended, five hundred feet; thence at right angles southeasterly eight hundred feet; thence at right angles northeasterly eight hundred feet; thence at right angles northwesterly eight hundred feet; and thence at right angles southwesterly three hundred feet, to the point of commencement; said tract of land being a square, including the rock known as Mission Rock, together with the wharves and other improvements thereupon and the appurtenances thereunto belonging.

§ 2. Jurisdiction extended. The jurisdiction of said board shall be and it is hereby extended so as to include all of the land described in section one of this act.

§ 3. How acquired. The portion of said tract that is held in private ownership may be separately acquired by said board, and the portions that are owned by the United States of America may be separately acquired by said board, and said board is hereby authorized to accept from the United States a cession or gift or grant of said last-named portions, if the same can be obtained, or to acquire the same by purchase or condemnation, in its discretion.

§ 4. Action for condemnation. The board of state harbor commissioners may institute any action or actions that may be necessary, and prosecute the same to final judgment, for the condemnation of any portion, or portions, of the said tract of land, and the purposes herein mentioned are hereby declared to be a public use, in behalf of which the right of eminent domain may be exercised by the board of state harbor commissioners for and in the name of the people of the state of California, for the estates and rights specified in, and in the manner provided in part three, title seven of the Code of Civil Procedure of the state of California.

§ 5. Price payable from what funds. The board of state harbor commissioners is hereby authorized to pay the purchase price thereof, or any judgment rendered in pursuance hereof in such condemnation proceedings, by drafts drawn upon the controller of the state, who shall draw his warrant or warrants therefor on the state treasurer, payable out of any money in the state treasury to the credit of the "San Francisco harbor improvement fund" or of the "Third San Francisco seawall fund," or partly from one and partly from the other of said funds, in the discretion of said board of state harbor commissioners.

TITLE 476.

SANITARY DISTRICTS.

ACT 3349.

An act to provide for the formation, government, operation and dissolution of sanitary districts in any part of the state, for the construction of sewers and other sanitary purposes; the acquisition of property thereby; the calling and conducting of elections in such districts; the assessment, levy, collection, custody, and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity, and making provision for the payment of such bonds, and the disposal of their proceeds.

[Approved March 31, 1891. Stats. 1891, p. 223.]

Amended 1893, p. 88; 1895, p. 85, but this amendment declared unconstitutional (In re Werner, 129 Cal. 567); also amended 1901, p. 633; 1903, p. 121; 1905, p. 94; 1907, p. 83; 1909, pp. 233, 583; 1911, pp. 301, 706; 1913, p. 344; 1919, p. 403.

The amendment of 1919 follows.

§ 22. Sewers may be built at cost of owners of frontage. Owners may object. Bids. Award of contract. Cost of improvements a lien on property. Definitions. The sanitary board shall have power at any time after main sewers, or other sewers are laid, to order and contract for the construction of a sewer in any street or part of a street of the district where a sewer is not already constructed, and to provide by such order that the cost thereof shall be borne by the property fronting along the line of the sewer as ordered; provided, however, that where only a portion of the property fronting along the line of sewer is affected or benefited by the construction of such sewer, then the sanitary board shall have power to provide by an order that the cost of construction of such main sewer shall be borne only by the property to be affected or benefited. Before ordering any work done, or improvement made, which is authorized by this section, the sanitary board shall pass a resolution of intention so to do and describing the work. The secretary of the board shall thereupon cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notices shall, in legible characters, state the fact of the passage of the resolution, its date and briefly the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for a period of five consecutive days in a daily newspaper published and circulated in said district, and designated by said sanitary board, or by one insertion in a weekly newspaper so published, circulated and designated. If there be no newspaper published and circulated in said district, then and in that case said secretary shall post said notices in three public places in said district, in addition to said posting along the line of said work or improvement. Any owner of property fronting upon said proposed work or improvement may make a written objection to the same within fifteen days from and after the first publication of said notice, or from and after the day of the posting of said notice if the same cannot be pub

lished as herein provided, which objection shall be delivered to the secretary of the sanitary board, who shall indorse thereon the date of its reception by him. The sanitary board shall, at its next meeting after the time for presentation of objections has expired, fix a time for hearing said objections, not less than one week thereafter. The secretary of the sanitary board shall thereupon notify the person or persons making such objection, by depositing a notice thereof in the United States postoffice in said district, or if there be none in said district, then in the one nearest thereto, postage prepaid, addressed to each objector, or his agent, when such objector appears by agent. At the time specified said sanitary board shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. Upon such decision or at the expiration of the said fifteen days, if no written objection to the work therein described has been made as aforesaid by any owner of the property fronting on said work or improvement, the sanitary board shall be deemed to have acquired jurisdiction to order any work to be done, or improvement to be made, authorized by said resolution and this section. After said sanitary board has acquired jurisdiction to do such work and make such improvement, it may order the work done and improvement made, and provide in such order a time for receiving bids, and likewise authorize the president and secretary of the sanitary board to enter into a contract for the performance of said work and making of said improvement. Such order shall be published for a period of five consecutive days in a daily newspaper published and circulated in said district, and designated by said sanitary board, or by one insertion in a weekly newspaper so published, circulated and designated, and in case there be no such newspaper published and circulated in said district, then and in that event such order shall be posted in at least three public places in said district; and at the opening of said bids the board must award the contract to the lowest responsible bidder, or may reject any and all bids and advertise for bids and upon the opening of such bids award the contract to the lowest responsible bidder, unless the board is satisfied there is collusion between bidders when it may again reject the bids and again advertise for bids until they are satisfied the bids are fair and not made under collusion or fraud when it must award the contract. And in case such order is made and such contract is let, then the cost of such work and improvement done under such contract shall become a lien upon and shall be assessed against such blocks, lots and lands fronting upon said work and improvement as would be assessable for said work and improvement under the provisions of that certain act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred eighty-five, and acts amendatory and supplemental thereto, and the manner, method and mode of such assessment and collection of such assessment and foreclosure of such lien shall be made in accordance with the provisions of section six and subsequent of said act and acts supplemental and amendatory to such provisions; provided, however, that the words "city council" used in said act shall be understood to mean "sanitary board"; the words "superintendent of streets" and "city engineer" shall be understood to mean "the engineer of such sanitary district"; the words

"city" and "municipality" shall be understood to mean "sanitary district"; the words "clerk" and "city clerk" shall be understood to mean "secretary of said sanitary board"; the term "treasurer" or "city treasurer" shall be understood to mean any person or officer who shall have charge of and make payment of the funds of such sanitary district; and further provided, that all the powers and duties conferred by the said provisions of said act and acts amendatory and supplemental thereof upon city councils, superintendent of streets, clerks and city clerks, and treasurers and engineers and city engineers are hereby conferred and imposed upon the respective officers and board above specified. [Amendment approved May 8, 1919; Stats. 1919, p. 403.]

ACT 3351.

An act to provide for the formation, government, operation, reorganization, dissolution and alteration of boundaries of sanitary districts in any part of the state, for the construction of sewers, septic tanks, and other sanitary disposal of sewerage matter; the acquisition of property thereby, the calling and conducting of elections in such districts; the assessment, levying, collection, custody, and disbursement of taxes therein; the issuance, disposal and retirement of the bonds thereof, and the determination of their validity and making provision for the payment of such bonds, and the disposal of their proceeds.

[Approved May 25, 1919. Stats. 1919, p. 942. In effect July 25, 1919.]

§ 1. Petition to organize sanitary district. Whenever twenty-five persons in any county of the state shall desire the formation of a sanitary district within the county, they may present to the board of supervisors of such county a petition, in writing, signed by them, stating the name of the proposed district, and setting forth the boundaries thereof, and praying that an election be held as provided by this act. Each of the petitioners must be a resident and freeholder within the proposed district.

§ 2. Order calling election. When such petition is presented as above provided, the board of supervisors must, within thirty days thereafter, order that an election be held as provided by this act. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election persons to fill the offices provided by this act, viz., a sanitary assessor, and five members of the sanitary board, will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signature and presentation of such petition, a resident and freeholder within the limits of the proposed district.

§ 3. Posting and publishing of order. A copy of such order shall be posted for four successive weeks prior to the election, in three public places within the proposed district, and shall be published for four successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper pub

lished in the county. It shall be sufficient if the order be published once a week.

§ 4. Conduct of election. If majority vote in favor. If majority vote against. The board of supervisors, at least fifteen days prior to the election, shall select one, and may select two, polling places within the proposed district, and make all suitable arrangements for the holding of such election. They must appoint one inspector and two judges of election in each polling place, who shall constitute the officers of said election; if none are so appointed or if those appointed are not present at the time of the opening of the polls, the electors present may appoint them and they shall conduct the election. The ballots shall contain the words, "for a sanitary district," or "against a sanitary district," as the case may be, and also the names of the persons to be voted for at said election. At such election there shall be elected a sanitary assessor and five persons for members of the sanitary board. Such election, and all subsequent elections in said district, shall be conducted as nearly as practicable in accordance with the general election laws of the state, except that the provisions of said laws as to the form of ballots and the making of nominations shall not apply. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for. If a majority of the votes cast at such election shall be in favor of a sanitary district, the board of supervisors shall make and cause to be entered in the minutes of said board an order that a sanitary district of the name and with the boundaries stated in the petition (setting forth such boundaries) has been duly established, and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the sanitary district. If a majority of the votes cast shall be against a sanitary district, the board shall by order entered in its minutes, so declare; no other proceeding shall be taken in relation thereto until the expiration of one year from the date of the presentation of the petition to said board.

§ 5. Powers of sanitary district. Every sanitary district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the sanitary board; to sue and be sued by its name; to construct, reconstruct, alter, enlarge, lay, renew, replace and maintain such sewers, drains, septic tanks and other drainage and sewer disposal system as in the judgment of the sanitary board shall be necessary or proper, and for this purpose to acquire by purchase, gift, devise, condemnation proceedings, or otherwise, such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the sanitary board shall be necessary or proper, and to pay for and hold the same; to make and accept any and all contracts, deeds, releases, and documents of any kind which, in the judgment of the sanitary board, shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to assess, levy, and collect taxes to pay

the principal and interest of the same, and the cost of laying and the expense of maintaining any sewer or sewers that may be constructed subsequent to the issuance of said bonds or any lawful claims against said district, and the running expenses of the district; in all work for the construction and repairs upon such sewers, septic tanks, drains and other drainage and sewer disposal system when the expenditure required for the same exceeds the sum of two hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation, printed and published in such district, for at least two weeks, or by printing and posting the same in at least four public places therein for the same period, as the sanitary board may direct; such notice shall distinctly and specifically state the work contemplated to be done; provided, that the sanitary board may reject any and all bids presented and readvertise in their discretion; provided, however, that in cases of emergency said notice may be dispensed with and the contract let for said repair or said work may be done by day's labor and the material therefor purchased in the open market; to employ all necessary agents and assistants, and pay the same; to lay its sewers, and drains in any public street or road of the county, and for this purpose enter upon the same and make all necessary and proper excavations, restoring the same to proper condition; but in case such street or road shall be in an incorporated city or town the consent of the lawful authorities thereof shall first be obtained; to make and enforce all necessary and proper regulations for the removal of garbage, and the cleanliness of the roads and streets of the district, and all other sanitary regulations not in conflict with the constitution or laws of the state; any violation of any such regulations or ordinances is hereby declared to be a misdemeanor punishable by fine or imprisonment, or both; but no such fine shall exceed the sum of one hundred dollars; and no such imprisonment shall exceed one month; to call, hold and conduct all elections necessary or proper after the formation of the district; to prescribe, by order, the time, mode and manner of assessing, levying, and collecting taxes for sanitary purposes, except as otherwise provided herein; to compel all residents and property owners within the district to connect their houses and habitations with the street sewers, drains or other sewerage disposal system; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers, or the purposes for which it was formed.

§ 6. Officers. The officers of the district shall be a sanitary assessor and five members of the sanitary board.

§ 7. Sanitary assessor. There shall be an election for sanitary assessor on every even-numbered year in which members of the sanitary board are elected, and at the same time, place and manner; and the person then elected shall hold office for two years next thereafter, and until the election and qualification of his successor. The person elected assessor at the election at which the district was formed shall hold office until the election and qualification of his successor; provided, that if at any time a vacancy occur in the office of assessor, the sanitary board shall appoint a suitable person to fill such vacancy until the next elec

tion at which an assessor may be elected under the provisions of this act.

§ 8. List of property in district. It shall be the duty of the sanitary assessor to make out, before the first Monday in July of each year, a list of all the tangible real and personal property within the district; he shall list the tangible real and personal property in any annexed district separately. Such list shall contain a general description of the property; said description shall be identical with said descriptions of the same properties as contained on the county assessment list for the current year, an assessment of the value thereof, the name or names of the owner or owners, and such other matters as may be ordered by the sanitary board and such matters as shall be necessary to make such list conform to the provisions of the general laws of the state of California. The land shall be assessed separately from the improvements thereon. No mistake in the name of the owner of any of the real or personal property assessed, or any informality in the description, or in other parts of the assessment, shall invalidate the same. The sanitary assessor shall verify said list by his oath, before some officer authorized to administer oaths, and shall deposit the same with the sanitary board on the first Monday of July of each year, or as soon thereafter as is practicable. He shall have power to administer all oaths and affirmations necessary or proper in the performance of his duty as assessor, and shall receive such compensation as shall be fixed by the order of the board. He shall also perform such further duties and do such further acts as may be ordered or required by the sanitary board.

§ 9. Election and term of sanitary board. Compensation. Canvass of vote. There shall be an election for two members of the sanitary board in every even-numbered year, beginning with the second even-numbered year after the election at which the district was organized, and the two members then to be elected shall hold office until the election and qualification of their successors in the next even-numbered year; and there shall be an election for three members of the sanitary board in every odd-numbered year, beginning with the second odd-numbered year, after the election at which the district was organized, and the three members then to be elected shall hold office until the election and qualification of their successors in the next odd-numbered year. The five members elected at the election at which the district was organized shall, at their first meeting, or as soon thereafter as may be practicable, so classify themselves, by lot, that two of them shall go out of office in the second even-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act each of the members of the sanitary board shall receive for each attendance of the meeting of the sanitary board, five dollars, and shall receive no other compensation, no member of the sanitary board, however, shall receive pay for more than one meeting in any calendar month. All elections for officers, after the formation of the district shall be held on the first Monday after the first Tuesday in the month of March. Not less than twenty days before the day of such election the sanitary board must give notice of said election by posting notices thereof in three public places in the sanitary district,

which notices must specify the time and place of election, the hours during which the polls will be kept open, and the officers to be elected. They shall select one, and may select two, polling places within the district; shall appoint one inspector and two judges of election in each polling place, and make all necessary and proper arrangements for holding the election. Said election officers shall constitute the election board. If no election officers are so appointed, or if those appointed are not present at the time of the opening of the polls, the electors present may appoint them and they shall conduct the election. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, except that the requirements of said laws as to the form of ballots and the making of nominations of candidates shall not apply. Every qualified elector resident within the district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election. At such election the last great register of the county shall be used, and any elector whose name is not upon such great register shall be entitled to vote upon producing and filing with the board of election a certificate, under the hand and seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

The officers of the election must publicly canvass the votes immediately after the closing of the polls, and must certify the result within twenty-four hours after the closing of the polls to the sanitary board. Said board shall within five days after the election canvass said returns, and shall make, sign and deliver certificates of election to the persons or persons elected.

§ 10. Powers of sanitary board. Officers. The sanitary board shall be the governing power of the district, and shall exercise all the powers thereof, except the making of an assessment list in the first instance as herein provided. At its first meeting, or as soon thereafter as may be practicable, the board shall choose one of its members as president, and another of its members as secretary. And all contracts, deeds, warrants, releases, receipts, and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The board shall hold such meetings, either in the day or in the evening, as may be convenient. In case of the absence or inability to act of the president or secretary, the board shall, by order entered upon the minutes, choose a president pro tem., or secretary pro tem., or both as the case may be.

§ 11. Equalization of assessments. Fixing tax rate. Tax a lien on property assessed. Limit on amount of bonds. On the first Monday of July each year, at the hour of 7:30 o'clock P. M., the sanitary board shall meet at its usual place of meeting within said district, and proceed to organize itself into a board of equalization, and if the sanitary assessor has returned the assessment list for said year said board shall proceed to equalize the property so assessed and returned by said sanitary assessor. If said assessment list has not been returned by said sanitary assessor said board must adjourn from day to day until said assessment list has been returned, and for the purpose of adjournment

one or more of the members of said board present may make said adjournment and announce the same. Upon the assessment list having been returned by the assessor, said board of equalization shall proceed to equalize the property listed on said assessment list, and said board shall continue in session as a board of equalization until the property upon the entire list returned by the assessor shall have been examined, rectified and equalized, with such reasonable intermissions during the day and from day to day as may be expedient. The board shall have power to hear complaints as to the proceedings of the assessor, and to adjudicate and determine the controversy thereon, and may of its own motion raise an assessment, after such reasonable notice to the party whose assessment is to be raised, as may be ordered by the board. After the examination and rectification of the assessor's list shall have been completed, the board shall, by resolution, fix the rate of taxation for sanitary purposes, designating the number of cents on each one hundred dollars to be levied for each fund and shall designate the fund into which the same shall be paid; but no more than fifteen cents on each one hundred dollars shall be levied for all the sanitary purposes of any one year, besides what shall be required for the payment of the principal and interest of such year upon outstanding bonds. After the entry in the minutes of the resolution fixing the rate of taxation the sanitary board shall cause the assessor to compute the amount of the tax upon each piece of real and personal property, and enter the same upon the assessment list in a suitable place. The list, when so completed, shall be verified by the assessor and signed by the president and secretary; and the amount of the tax shall thereupon become a lien upon the property upon which it is assessed, and shall have the effect of a judgment against the person of the owner thereof, and every such lien shall have the force and effect of an execution duly levied against all the property of the delinquent; and the judgment shall not be deemed satisfied or the lien extinguished until the taxes are paid or the property sold to satisfy the same, and no statute of limitations shall apply. No bonds shall be voted for or issued at any one time, which in the aggregate shall exceed fifteen per cent of the assessed value of all the real and personal property of such district; whether it be made up of one issue of bonds or of several issues.

§ 12. Duty of county tax collector. Duty of district attorney. Redemption of property sold for delinquent taxes. As soon as practicable, but not later than the third Monday in July, after the taxes have been computed and extended on the assessment list, verified by the assessor and signed by the president and secretary of said board, the board shall transmit, or cause the assessor to transmit, a duplicate of the list so made, to the tax collector of the county, who shall collect the taxes shown by said list to be due, in the same manner as he collects the county taxes, and all the provisions of the laws of the state as to the collection of taxes and delinquent taxes, and the enforcement of the payment thereof, so far as applicable, shall apply to the collection of taxes for sanitary purposes; and said tax collector, and the sureties on his official bond, shall be responsible for the due performance of the duties imposed upon him by this act; provided, that the sanitary board may, in its discretion, direct the district attorney of the county

which notices must specify the time and place of election, the hours during which the polls will be kept open, and the officers to be elected. They shall select one, and may select two, polling places within the district; shall appoint one inspector and two judges of election in each polling place, and make all necessary and proper arrangements for holding the election. Said election officers shall constitute the election board. If no election officers are so appointed, or if those appointed are not present at the time of the opening of the polls, the electors present may appoint them and they shall conduct the election. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, except that the requirements of said laws as to the form of ballots and the making of nominations of candidates shall not apply. Every qualified elector resident within the district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election. At such election the last great register of the county shall be used, and any elector whose name is not upon such great register shall be entitled to vote upon producing and filing with the board of election a certificate, under the hand and seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

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mence and prosecute suits for the collection of the whole, or any portion of the delinquent taxes; and it shall be the duty of the district attorney to carry out such directions of the sanitary board, and he, and the sureties upon his official bond, shall be responsible for the due performance of the duty imposed upon him by this act.

All money collected for sanitary purposes by the district attorney under this act shall be at once paid to the county treasurer; provided, further, that the sanitary board may, at any time, by order entered in its minutes, provide a system for the collection of delinquent taxes, or make any change in the manner of their collection, which as to such taxes shall have the force of law. Whenever any property is sold for delinquent sanitary taxes, under the provisions of this act, the tax collector shall file with the county recorder, at the expense of the purchaser, a copy of the certificate of such sale; and when at any time redemption is made of any property which has been sold for delinquent sanitary taxes the redemption officer of the sanitary district shall immediately forward a copy of the redemption certificate to the county recorder and the county recorder shall inscribe or stamp upon the margin of the certificate of sale of said property then on file in his office, the word "redeemed," together with the date, the amount paid, and the name of the party redeeming said property; and further provided, that whenever the tax collector issues a deed to the purchaser of any property sold for delinquent sanitary taxes, the said tax collector shall forward a copy of the deed to the county recorder, and the county recorder shall then inscribe or stamp upon the margin of the certificate of sale of said property then on file in his office, the words "deeded to," together with the date, and the name of the party to whom said deed was issued. In the event that property upon which sanitary district taxes have become delinquent is, on account of such delinquency, sold by the tax collector, and a deed therefor is issued to any person other than the state of California, the party who was of record as the owner of such property at the time of such sale and of such issuance of such deed, is hereby granted the right to redeem said property from the tax title purchaser thereof, at any time within a period of five years from and after the issuance of such deed, by the payment to the said tax title purchaser of the amount for which the said property was to him sold by the tax collector and an additional premium which shall not be greater than one hundred per cent of the said purchase price. It is hereby declared to be unlawful for any person or persons who have purchased at a delinquent tax sale any property which is sold for delinquent sanitary taxes, to demand for its redemption any sum greater than the amount which is by this act specified; or to refuse to redeem any such property to the party who was the owner thereof at the time of such delinquent tax sale, when proper tender is made, within five years after date of such sale, of an amount which is not greater than the amount which is by this act permitted.

§ 13. Funds kept by county treasurer. The tax collector shall pay over to the county treasurer all moneys collected by him for sanitary purposes, as fast as the same shall be collected, and the said treasurer shall keep the same in the county treasury as follows: In a fund called the bond fund of sanitary district (naming it) he shall place and keep

the moneys levied by the sanitary board for such fund; and no part of the money in this fund shall be transferred to any other fund, or be used for any other purpose than the payment of the principal and interest of the bonds of the sanitary district, and for the retirement of bonds which had been issued by a district which formerly formed a part of the sanitary district as hereinafter provided for, so long as any such bonds shall be unpaid; in a fund called the running expense of sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund. The whole or any part of the money in the running expense fund may be transferred to the bond fund, or to the other fund hereinafter provided for, upon the order of the sanitary board, and it shall be the duty of the treasurer to comply with such order. The treasurer shall pay out moneys from either of said funds, or from the fund hereinafter mentioned, only upon the written order of the sanitary board, signed by the president and countersigned by the secretary, which order shall specify the name of the person to whom the money is to be paid and the fund from which it is to be paid, and shall state generally the purpose for which the payment is made, and such order shall be entered in the minutes of the sanitary board. The treasurer shall keep the order as his voucher, and shall keep a specific account of his receipts and disbursements of money for sanitary purposes. The treasurer and sureties upon his official bond shall be liable for the due performance of the duties imposed upon him by this act. The treasurer shall keep the money arising from the sale of bonds in the fund hereinafter mentioned.

§ 14. Bond election. At any time after the district is organized the sanitary board, by order entered in the minutes, may, when in its judgment it is advisable, and must, upon a petition of a majority of the qualified electors residing in the district, call an election and submit to the electors of the district the question whether the bonds of such district shall be issued and sold for the purpose of raising money for construction, reconstruction, alteration, laying, renewing, replacing or enlargement of sewers, drains or septic tanks or other drainage or sewer system, whether the same be for a system of the same nature as or of a different nature than the system already installed or constructed for the disposal of sewage.

The order calling such election shall be valid and effectual when signed by two-thirds of the members of said sanitary board, and may so submit to said electors as one proposal the question of issuing bonds to make all said outlays, or so many of them as may be selected, or said order may submit at said election as separate questions the issuance of bonds for any of said outlays singly or in such combinations as the order may direct.

§ 15. Notice of election. Notice of such election shall be given by posting notices, signed by the board, or by a majority thereof, in three public places in the district, not less than twenty days before the election; and by publishing such notice not less than once a week for three successive weeks before the election in a newspaper printed and published in the district, if any newspaper is published therein, and if not, in a newspaper printed and published in the county.

§ 16. Contents of notice. Such notice shall contain:

1. Time and place of holding such election.
2. The names of the officers of election appointed to conduct the same.
3. The hours during the day in which the polls will be open.
4. A statement of the purpose for which the election is held.
5. The amount and denomination of the proposed bonds, the rate of interest and the number of years, not exceeding forty, the whole or any part of said bonds are to run.

§ 17. Conduct of election. Two-thirds vote. At any time prior to the day fixed for the election, the board shall select one, and may select two, polling places within the district, appoint one inspector and two judges of the election for each polling place, and make all necessary and proper arrangements for holding the election. If no election officers are appointed, or if those appointed are not present at the time for opening the polls, the electors present may appoint them and they shall conduct the election. The vote must be by ballot (without reference to the general election law in regard to form of ballot). The ballot shall contain the words "Bonds—Yes" and "Bonds—No," and the persons voting at said bond elections shall put a cross (X) upon their ballots with pencil or ink after the words "Bonds—Yes" or "Bonds—No" (as the case may be) to indicate whether they have voted for or against the issuance of bonds.

The elections shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided.

Every qualified elector resident within the district for the length of time necessary to enable him to vote at a general election shall be entitled to vote at the elections above provided for. After the votes shall have been announced the ballots shall be sealed up and delivered to the secretary or president of the sanitary board, which board shall on the seventh day after the election, at eight o'clock P. M., meet and canvass the returns of the election, and if it appears that two-thirds of the votes cast at said election were in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, two-thirds of the votes cast be in favor of the issuance of bonds as proposed by the sanitary board, the said board shall thenceforth have full power and authority to issue and dispose of bonds as proposed in the order calling the election; provided, that the total amount of bonds so issued shall not exceed ten per cent of the assessed value of all real and personal property of the district, as shown by the last equalized assessment-book of the county.

§ 18. Form of bonds. All bonds issued under the provisions of this act shall be of such denominations as the sanitary board may determine, except that no bonds shall be of a less denomination than one hundred dollars, nor of a greater denomination than one thousand dollars. Said bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district

is situated, and shall bear interest at a rate not exceeding six per cent per annum, which interest shall be payable semi-annually in like gold coin. Not less than one-fortieth part of the total issue of bonds shall be payable each year, on a day to be specified by the sanitary board, but no bonds shall be payable in installments, but each bond issued hereunder shall be payable in full on the date specified therein by said board. Each bond shall be signed by the president and countersigned by the secretary of the sanitary board, and said bonds shall be numbered consecutively, beginning with number one, and shall have coupons attached referring to the number of the bond to which they are attached, which coupons shall be signed by the president and countersigned by the secretary of said board. The bonds must be disposed of by the sanitary board in such manner and in such quantities as may be determined by said board in its discretion, but no bond must be disposed of for less than its face value. The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund, to be called the sewer construction fund of — sanitary district (naming it); the money in such fund shall be used for the purpose indicated in the order calling the election upon the question of the issuance of the bonds, and for no other purpose; provided, that if after such purposes are entirely fulfilled any balance remain in such fund, such balance may, upon the order of the sanitary board, be transferred to either of the other funds provided by this act.

§ 19. Exchange of bonds. If the result of the election be against the issuance of bonds, no other election upon the question shall be called or held for a period of one year. After a district organized under the act of 1891, mentioned in section thirty-one hereof, shall have been reorganized under this act as provided in said section thirty-one hereof, the entire amount of unredeemed bonds issued by such districts under the provisions of said act of 1891 may be presented by the holder or holders thereof to the sanitary board organized under the provision of this act or to sanitary districts reorganized under the provision of section thirty-one of this act, and there shall be exchanged therefor and issued in lieu thereof to such holder or holders, by the sanitary board organized under the provision of this act or to sanitary districts reorganized under the provision of section thirty-one of this act, bonds issued in accordance herewith for the various amounts of the bonds so surrendered; it being the intention hereof to permit the surrender of sanitary district bonds heretofore issued payable in installments by the holder thereof, and the exchange therefor of a like amount of bonds of such sanitary district having a denomination equal to the installments payable under one or more of the bonds heretofore issued by any one sanitary district; said new bonds to be payable as nearly as practicable at the same time as said installments and in equal amounts; the amount of said new bonds issued in lieu of said old bonds to be payable in any one year to equal the amount of the installments on said old bonds payable in such year. All expenses of the exchange shall be borne by the holder of the bonds presented for exchange, and interest on the new bonds shall be paid at the same time and rate as on the old bonds. Upon such exchange being effected the old bonds shall be canceled by

punching holes in the signatures thereto attached, and shall be retained by the treasurer of said county as evidence of such cancellation.

§ 20. Tax to pay interest and principal. Payment within forty years. The sanitary board of each district shall annually levy a tax upon the taxable property in the district sufficient to pay the interest of said bonds for the year, and such portion of the principal as is due or is to become due during such year, and in any event the tax must be high enough to raise annually a proportion of the principal of said bonds equal to the sum produced by dividing the whole amount of said bonds outstanding by the number of years said bonds then have to run, so that the entire amount of principal and interest of said bonds shall be paid at or before maturity, and in any event within forty years of the date of issuance of the bonds; and it is hereby made the duty of the tax collector, or such other person as may be charged with the duty of collecting the sanitary taxes, to collect the said taxes so to be levied, and the duty of the sanitary board to order the same to be paid in manner and form as provided by this act, and the duty of the county treasurer to pay the same. If, for any reason, any portion of the tax for any year remains unpaid, and in consequence thereof any portion of the interest or principal due for any year remains unpaid, the same shall be added to the levy for the next year, and be collected and paid accordingly. The payment of the whole amount of the principal and interest of all of said bonds, within forty years from their issuance, is hereby made the imperative duty of the district; and, if necessary for that purpose, a special tax shall be levied; and it is hereby made the duty of every officer and board to do his or its respective part towards the levy, collection, and payment of such tax; and mandamus shall issue from the superior court of the county in which the district is situated, or from any other competent court, upon application of any party interested, for the purpose of compelling the performance of the duty imposed by this act upon any and all officers or boards.

§ 21. Action to determine validity of bonds. If the result of any election upon the question of the issuance of bonds be in favor of such issuance, the sanitary board may, in their discretion, before such issuance, commence, in the superior court of the county, a special proceeding to determine their right to issue such bonds and the validity thereof, similar to the proceeding in relation to irrigation bonds, provided for by an act entitled "An act to provide for the organization and government of irrigation districts and to provide for the acquisition or construction thereby or works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes," approved March 31, 1897; and all acts amendatory thereof and supplementary thereto and all the provisions of said act shall apply to and govern the proceedings so to be commenced by the sanitary board, so far as the same are applicable; and said proceedings shall be in accordance with the provisions of said act, so far as the same are applicable, and the judgment in such proceedings shall have the same effect as a judgment in relation to irrigation bonds under the provisions of said act.

§ 22. Publication of orders. Any general regulation of the sanitary board shall be by order entered in the minutes, but such order shall be published once a week for one week in some newspaper published within the district, if there be one, and if there be no such newspaper then such order shall be posted for one week in three public places within the district. A subsequent order of the board that such publication or posting has been duly made shall be conclusive evidence that such publication or posting has been properly made. Orders not establishing a general regulation need not be published or posted (unless otherwise provided by this act), but shall be entered in the minutes, and the entry shall be signed by the secretary of the board. A general regulation shall take effect immediately upon the expiration of the week of publication or posting thereof. An ordinary order shall take effect upon the entry in the minutes.

§ 23. Duty of district attorney. The board may instruct the district attorney of the county to commence and prosecute any and all actions and proceedings necessary or proper to enforce any of its regulations or orders, and may call upon said district attorney for advice as to any sanitary subject; and it shall be the duty of the district attorney to obey such instructions and to give advice when called on by the board therefor. The board may at any time employ special counsel for any purpose. All fines for the violation of any regulation or order of the sanitary board shall, after the expenses of the prosecution are paid therefrom, be paid to the secretary of the board, who shall forthwith deposit the same with the county treasurer, who shall place the same in the running expense fund of the district.

§ 24. Dissolution of district. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by the sanitary board upon the question of dissolution. Such election shall be called and conducted in the same manner as other elections of the district. Upon such or any other dissolution the property of the district lying within the corporate limits of any city or town shall vest absolutely in the incorporated city or town; and if the whole or a portion of the property of the district is without the corporate limits of an incorporated city or town the whole or the portion of the property of the district that lies without the corporate limits of the city or town shall vest in the board of supervisors of the county until the formation of a city or town; embracing the territory lying without such incorporated city or town; provided, however, that if at the time of such election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve the district shall dissolve the same for all purposes, excepting only the levy and collection of taxes for the payment of such indebtedness and for the payment of the expenses of assessing, levying and collecting the same, and the expense of maintenance of said sewer system, and from the time such district is thus or otherwise dissolved, until such bonded indebtedness, with the interest thereon, is fully paid, satisfied and discharged, the legislative authority of said incorporated city or town, where the property of the district lies wholly within the corporate limits of an incorporated city or town, and in all other cases

the board of supervisors are hereby constituted, ex officio, the sanitary board of such district. And it is hereby made obligatory upon such board or legislative authority to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness and the interest thereon, and for the purpose of maintenance of the sewer system as herein provided, and said board or legislative authority shall maintain the sewer system installed in proper condition and shall fulfill and compel fulfillment of any and all contracts made by the sanitary district for the right of connections made with property lying outside of the boundaries of said district; and shall maintain and protect all other rights acquired by the district; and shall not permit connection to be made with the system installed by any property outside of the boundaries of said sanitary district existing at the time of dissolution.

§ 25. Construction of sewers. Street improvement act of 1911 to apply. The sanitary board shall have power, except in incorporated cities or towns, at any time after main sewers, or other sewers are laid, to order and contract for the construction of a sewer in any street, highway or upon property and rights of way owned by the sanitary district or part of any street, highway or property or rights of way owned by sanitary districts where a sewer is not already constructed, and to provide by such order that the cost thereof shall be borne by the property fronting along the line of the sewer, or to be borne by a district as ordered. The provisions of that certain act entitled, "An act to provide for work in and upon streets, avenues, lanes, alleys, courts, places and sidewalks within municipalities, and upon property and rights of way owned by municipalities, and for establishing and changing the grades of any such streets, avenues, lanes, alleys, courts, places and sidewalks, and providing for the issuance and payment of street improvement bonds to represent certain assessments for the cost thereof and providing a method for the payment of such bonds" (approved April 7, 1911), and the amendatory acts thereto, is hereby made applicable to sanitary districts. All proceedings shall be had in accordance with the provisions of said act and the amendments thereto; provided, however, that the words "city council" and "council" used in said act shall be understood to mean sanitary boards. The words "city" and "municipality" shall be understood to mean sanitary districts. The words "clerk" and "city clerk" shall be understood to mean "secretary" of the sanitary board. The words "superintendent of streets" and "street superintendent" and "city engineer" shall be understood to mean the engineer of such "sanitary district" and the terms "treasurer" and "city treasurer" shall be understood to mean any person or official who shall have charge of and make payment of the funds of such sanitary district. The term "right of way" shall mean any parcel of land through which a right of way has been granted to the sanitary district for the purpose of constructing and maintaining a sewer therein; and provided, further, that all the powers and duties conferred by the said provisions of said act and acts amendatory and supplementary thereto upon city councils, superintendents of streets, clerk and city clerks, and treasurers and engineers, are hereby conferred and imposed upon the respective officers and board above specified.

§ 26. **Annexation of territory. Order for election. Posting and publishing of order. Conduct of election. Canvass of votes. Majority vote. Payment of costs if less than majority favors. Issue of bonds after annexation.** The boundaries of any sanitary district may be altered, and outlying contiguous territory in the same county as such sanitary district annexed thereto in the manner following: A petition signed by twenty-five per cent of the qualified electors of such contiguous territory proposed to be annexed as shown by the last equalized assessment-book of the county in which said sanitary district is situated, designating specifically the boundaries of such contiguous territory proposed to be annexed, and the assessed valuation thereof as shown by said last equalized assessment-book, and stating that such territory is not within the limits of any other sanitary district, and asking that such territory be annexed to said sanitary district, shall be presented to the sanitary board thereof, together with a duly executed bond for the sum of not less than one hundred dollars, to be approved by said sanitary board and filed with the secretary of the sanitary board as security for the payment by said petitioners of the reasonable costs of the election hereinafter provided for, in the event that at said election less than a majority of the votes cast are in favor of the annexation of the proposed territory to the sanitary district. When such petition is presented and a bond approved and filed as above provided for, the sanitary board must within thirty days thereafter order that an election be held for the purpose of determining whether or not such proposed territory shall be annexed. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district. This order shall be entered in the minutes of the sanitary board and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was at the time of the signing of the petition and the presentation thereof a resident and freeholder within the limits of the proposed district to be annexed.

A copy of such order shall be posted for four successive weeks prior to the election, in three public places within the district and the district proposed to be annexed, and shall be published for four successive weeks prior to the election in some newspaper published in the district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week. At any time prior to the day fixed for the election, the board shall select one and may select two polling places within the sanitary district, and shall select one and may select two polling places within the district proposed to be annexed, appoint officers of election, and make all necessary and proper arrangements for holding the election. Upon the ballots to be used at such election there shall be printed the words, "For annexation to the sanitary district," and "Against annexation to the sanitary district," and there shall be a voting square to the right of and opposite each such propositions. The election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector resident within the district and the district proposed to be annexed for the length of time necessary to enable him to vote at a general elec-

tion shall be entitled to vote at the election above provided for. After the votes shall have been announced the ballots shall be sealed up and delivered to the secretary or president of the sanitary board which shall, as soon as practicable proceed to canvass the same. Immediately upon the completion of such canvass said sanitary board shall cause a record thereof to be made and entered upon its minutes showing the whole number of votes cast in such sanitary district, the whole number of votes cast in the district proposed to be annexed, the whole number of votes cast in each in favor of annexation, and the number thereof cast in each against annexation; and if it shall appear from such canvass that a majority of all of the votes cast in such sanitary district and a majority of all the votes cast in the district proposed to be annexed, are in favor of annexation the secretary, or other officer performing the duties of secretary of the sanitary board of such sanitary district shall make and cause to be entered in the minutes of said board and endorsed on said petition an order approving said petition, and said petition shall thereupon be transmitted and filed with the board of supervisors of the county in which such sanitary district is situated. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and the facts stated in such entry. Said board of supervisors, at its next regular meeting after filing of said petition, shall by an order alter the boundaries of said sanitary district and annex thereto the contiguous territory described in said petition. Such order shall be conclusive evidence of the validity of all prior proceedings leading up to such annexation and recited in said order, and from and after the same such territory shall become and be a part of such sanitary district. If at said election less than a majority of the votes cast in either the sanitary district or the district proposed to be annexed be in favor of annexation of the proposed territory to the sanitary district, the signers of said petition shall, within ten days after the canvassing of the votes of said election, pay to the sanitary board a sum of money covering the reasonable cost of said election, and if said sum of money is not so paid within ten days, as aforesaid, the sanitary board shall have the right of action under said bond to recover the reasonable cost of said election, and the sanitary board shall, by order, disapprove said petition and enter the same in the minutes of said board, and no other proceedings shall be taken in relation thereto until the expiration of one year from the presentation of said petition, except to collect the costs of said election as herein provided.

At any time after the annexation of such contiguous territory, the sanitary board may issue bonds for the construction of sewers therein in the manner and for the purposes prescribed and specified in sections fourteen to twenty-one, inclusive, of this act; provided, however, that only qualified electors resident within said annexed territory shall be entitled to petition or vote in said proceedings; and provided, further, that taxes for the payment of the principal and interest of such bonds shall be limited to the taxable property situate within such annexed contiguous territory; provided, further, that nothing in this section shall be construed to limit the powers or alter the procedure elsewhere in this act provided for the issuance of bonds by an entire district and pay-

able out of taxes levied upon all the taxable property therein, whether the boundaries of the district remain as originally established or have been altered by the annexation of contiguous territory.

§ 27. Lateral sewer maintained by city. At any time after the sewer or other sanitary system is constructed the board of trustees or other governing body of any municipal corporation lying within the limits of any sanitary district may elect to keep and maintain the lateral sewer lying within said municipality in order and repair and may enter into an agreement with the sanitary board so to do. From and after the date of such agreement said board of trustees shall keep said lateral in repair and the sanitary board shall not be required to keep the same in order or repair. After a municipality elects to keep the lateral sewers within its corporate limits in order and repair the property within the corporate limits of such municipality shall not be taxed for running expenses except for the inspection and repairs of the main sewers lying within such municipality.

§ 28. Payment of bonds by sale of additional bonds. Whenever any sanitary district has an outstanding indebtedness evidenced by the bonds thereof, the sanitary board or other governing body thereof shall have the power at any election calling for the issuance of additional bonds for the construction of a larger or more comprehensive sewer or other sanitary system in the original district or in a sanitary district whose boundaries have been altered by the annexation of outlying contiguous territory thereto as provided for in this act, to submit to the qualified electors of such sanitary district the question of declaring all or any of such bonds to be at once due and payable, and provided for the payment or retirement thereof out of moneys to be realized from the sale of such additional bonds.

§ 29. Construction of larger main sewer or different systems. Whenever the sanitary board of an original sanitary district, or of a sanitary district the boundaries of which have been altered by the annexation of outlying contiguous territory, as provided for in this act, shall by order passed by a vote of two-thirds of all its members and approved by the president of the board, which order shall be entered in the minutes, determine that the public interest or necessity of the original district or of a district whose boundaries have been altered by the annexation of outlying contiguous territory, demands the construction of a larger main sewer or a different system, the board may call an election for the purpose of determining whether bonds shall be issued for the construction of a larger main sewer or for a system different from that already constructed for the disposal of sewage.

The proceedings in respect to the issuance of bonds for such purposes shall in every respect, except as in this section otherwise provided, conform to the requirements of sections fourteen to twenty-one inclusive of this act.

§ 30. Nomination of elective officers. Petition of nomination. The mode of nomination of election of all elective officers of such sanitary district, to be voted upon at any sanitary election, shall be as follows and not otherwise. The name of the candidate shall be printed upon

the ballot, when a petition of nomination shall have been filed with the secretary of the board, when the district is already formed, or with the clerk of the board of supervisors when the election is for the purpose of forming a sanitary district, in his behalf in the manner and form as follows: The petition of nomination shall consist of not less than five nor more than twenty signatures which shall read substantially as follows:

Petition of Nomination.

State of California, } ss.
County of —, }

I, (or we) the undersigned certify that I do hereby join in a petition for the nomination of — for the office of — of the sanitary board of sanitary district No. — to be voted for at the sanitary election to be held in sanitary district No. — of the county of — on the — day of —, 191—, and I further certify, that I am a qualified elector, residing within said district, and am not at this time a signer of any other petition nominating any other candidate for the above office, or in case there are several places to be filled in the above named office that I have not signed more petitions than there are places to be filled in the above office.

(Signed) — —.

State of California, } ss.
County of —, }

— being first duly sworn deposes and says: That he is one of the persons who signed the foregoing petition and that the signatures thereto are the genuine signatures of the persons whose names are signed thereto.

The certificate of nomination may be upon one or more papers, which certificate must contain the name of one candidate and no more.

Each signer must be a qualified elector, residing within said district, and must not at the time of the signing a certificate have his name signed to any other certificate for any other candidate for the same office, nor in case there are several places to be filled in the same office signed to more certificates for that office than there are places to be filled for that office. The certificate or certificates shall be verified under oath of one of the signers thereto, that the signature or signatures is, or are, the true and genuine signatures of the persons whose names are signed thereto.

A petition or petitions of nomination, as aforesaid, may be presented to the secretary of the sanitary board, where a sanitary district is already formed or to the county clerk, where a sanitary district has not been formed; not earlier than thirty days nor less than twenty days before the election. The secretary of the sanitary board, where a sanitary district is already formed or the county clerk, where a sanitary district has not been already formed shall indorse thereon the date upon which the petition was presented to him. When a petition of nomination is presented for filing the secretary of the sanitary board, where a sanitary district is already formed or the county clerk, where a sanitary district has not been formed shall forthwith examine the same and

ascertain whether or not it conforms with the provisions of this section. If found not sufficient it shall be returned to the person who presented the same. The secretary of the sanitary board, or the county clerk, shall cause the ballots to be printed and they shall contain the names of the candidates whose nomination petition or petitions have been filed as provided for herein.

§ 31. Election for reorganization of district formed under act of 1891. Two-thirds vote. The sanitary board of any district heretofore organized under that certain act entitled, "An act to provide for the formation, government, operation and dissolution of sanitary districts in any part of the state for the construction of sewers and other sanitary purposes; the acquisition of property thereby; the calling and conducting elections in such districts; the assessments, levy, collection, custody and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity, and making provision for the payment of such bonds and the disposal of their proceeds," approved March 31, 1891, may submit to the electors thereof the question whether such district shall become organized under the provisions of this act. Notice that such question will be so submitted shall be given by posting for four successive weeks prior to the election in three public places within the district, and shall be published for four successive weeks prior to the election in a newspaper printed and published in the district if there be one, and if not, in a newspaper printed and published in the county. It shall be sufficient if the notice be published once a week. Such notice shall distinctly state the proposition to be so submitted and shall invite the electors thereof to vote upon such proposition by placing upon their ballots the words "for reorganization," or "against reorganization," or words equivalent thereto, and there shall be a voting square to the right of, and opposite each such proposition. At any time prior to the day fixed for the election the board shall select one and may select two polling places within the district and make all necessary and proper arrangements for holding the election. The election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable except as herein otherwise provided. The votes so cast shall be canvassed by the sanitary board as soon as convenient after the election. If two-thirds of the votes cast at such election are in favor of reorganization then the board shall cause an entry of that vote to be made in its minutes. From and after the date of such entry the district shall be deemed to be organized under this act, with all the powers conferred herein; the persons in office at the time of such reorganization shall be entitled immediately to enter upon the duties of the like offices of the district as reorganized, and shall continue therein until the expiration of the term for which they have been elected or appointed.

§ 32. Effect of reorganization. Any sanitary district organized under the provisions of section thirty-one of this act shall, for all purposes, be deemed and taken to be in law the identical district theretofore formed and existing; and such reorganization shall in no wise affect or impair the title to any property owned or held by such district, or in trust therefor, or any debts, demands, liabilities, or obligations existing

in favor of or against such district or any proceedings then pending; nor shall the same operate to repeal or affect in any manner any ordinance theretofore passed or adopted and remaining unrepealed, or, to discharge any person from any liability, civil or criminal, then existing, for any violation of such ordinance; but such ordinances, so far as the same are in any conflict with general laws, shall be and remain in force until repealed or amended by competent authority; provided, that proceedings theretofore commenced shall, after such reorganization, be conducted in accordance with the provisions of this act.

TITLE 483.

SAN LUIS OBISPO, TOWN OF.

ACT 3417.

Charter of. [Stats. 1911, p. 1699.]

Amended 1913; Stats. 1913, p. 1167; 1917, Stats. 1917, p. 1941.

TITLE 485a.

SAN PASQUAL BATTLEFIELD.

ACT 3441.

An act to accept the gift to the state of San Pasqual battlefield in San Diego county, to provide for collecting and systemizing the history of said battle, for determining the exact location thereof, and to report a suitable method of marking said battlefield and commemorating the heroism of those Americans who fought and died there.

[Approved May 11, 1919. Stats. 1919, p. 444. In effect July 22, 1919.]

§ 1. Gift of San Pasqual battlefield accepted. The state of California hereby accepts from William G. Henshaw and Ed. Fletcher the gift of the tract of land in San Diego county, described in the deed dated January 16, 1918, and recorded in the county recorder's office of San Diego county, January 21, 1918, in book seven hundred fifty of deeds, at page two hundred fifty-three, being a part of the scene of the actions fought at San Pasqual between the Americans and Mexicans on December 6 and 7, 1846, and in which actions the Americans lost eighteen men killed and thirteen wounded.

§ 2. Duty of historical survey commission. The California historical survey commission is hereby authorized and directed to collect all obtainable history of the engagements fought between the Americans and Mexicans in San Diego county, at or near San Pasqual, in December, 1846, and incidents related thereto, and to systemize and arrange same so that it may be made available for the use of students of history and for public reading. Said California historical survey commission shall also determine the exact location of said battles and shall recommend a suitable and proper means of marking said battlefield and commemorating the heroism of those Americans who fought and died there.

§ 3. Report. Said California historical survey commission shall report the result of their investigations and labors to the forty-fourth session of the legislature on or before January 15, 1921.

TITLE 486.**SAN RAFAEL.****ACT 3446.**

Charter of. [Stats. 1913, p. 1549.]

Amended 1917; Stats. 1917, pp. 1905, 1967.

TITLE 487.**SANTA BARBARA CITY.****ACT 3448.**

Charter of. [Stats. 1917, p. 1824.]

TITLE 493.**SANTA MONICA.****ACT 3526.**

Charter of. [Stats. 1907, p. 1007.]

Amended 1915, p. 1714; 1919, p. 1393.

ACT 3527.

An act granting certain tide-lands and submerged lands of the state of California to the city of Santa Monica upon certain trusts and conditions.

[Approved April 10, 1917. Stats. 1917, p. 90. In effect July 27, 1917.]

§ 1. Tide-land granted to Santa Monica. There is hereby granted to the city of Santa Monica, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California, held by said state by virtue of its sovereignty, in and to all the tide-lands and submerged lands, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

(a) **Purposes for which land may be used. Term of franchises and leases.** Said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon, for a period not exceeding twenty-five years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof for a period not exceeding twenty-five years, for purposes consistent with the trusts upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor;

(b) **Harbor improved without expense to state.** Said harbor shall be improved by said city without expense to the state, and shall always

remain a public harbor for all purposes of commerce and navigation, and the state of California, shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **No discrimination in rates. Right to fish reserved to people.** In the management, conduct or operation of said harbor or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors. The absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose, is hereby reserved to the people of the state of California.

TITLE 494.

SANTA ROSA.

ACT 3528.

Charter of. [Stats. 1905, p. 867.]

Amended 1917; Stats. 1917, p. 1811.

TITLE 495.

SCHOOLS.

ACT 3535a.

An act to authorize and empower the board of trustees of the San Francisco state normal school to sell or exchange and convey the lands and buildings of said school; to acquire by purchase, gift, condemnation or otherwise a new site for said school and to erect thereon buildings suitable and appropriate therefor, or to remodel or reconstruct any building already erected on the site so purchased or acquired, and to purchase therefor necessary and appropriate furniture and equipment; to create a fund into which shall be paid the proceeds of the sale of the present school property and making an appropriation to carry out the purposes of this act.

[Approved January 11, 1916. Stats. Ex. Sess. 1916, p. 41.]

Amended 1917; Stats. 1917, p. 573.

The amendment of 1917 follows:

§ 3. **Disposition of moneys received.** Moneys received from the sale of said lands shall be paid into the general fund in the state treasury. The board of trustees of the state normal school at San Francisco is hereby authorized and empowered to examine the lands heretofore and now occupied or owned by the Panama-Pacific International Exposition or any corporation or individual representing or acting for or in conjunction with said exposition, and to select therefrom a new and suitable site for said school and to acquire by purchase, gift, condemnation or otherwise for and on behalf of the state of California the necessary lands and structures; and the lands so selected and purchased shall be and remain the site of the state normal school at San Francisco until

otherwise provided by law. [Amendment approved May 17, 1917; Stats. 1917, p. 573.]

§ 6. Improvement and buildings. The said board is hereby authorized and empowered to improve the new site in a manner suitable for its intended uses, to erect and construct thereon new and modern normal school buildings and improvements necessary and proper for said normal school. The said board is also authorized and empowered to provide and purchase such furniture, fixtures, apparatus and other things as may be required for the proper equipment of said buildings and grounds for conducting said normal school.

§ 7. San Francisco State Normal School-Exposition preservation fund. A fund in the state treasury is hereby created and shall be known as "The San Francisco State Normal School-Exposition preservation fund." After the conveyance of said site to the state of California the state controller and the state treasurer shall transfer and make the proper entries upon their records, transferring the money paid into the San Francisco State Normal School-Exposition preservation fund and into the general fund under the provisions of an act entitled "An act to provide for the disposition of any money or other property accruing to or to be received by the state of California as its proportionate share of the returns from the holding of the Panama-Pacific international exposition," approved January 11, 1916, to the general fund in the state treasury and placed to the credit of the appropriation herein made from the general fund of the state treasury. The money so transferred shall be used for the purposes of this act. [Amendment approved May 17, 1917; Stats. 1917, p. 573.]

§ 8. Appropriation. Condition. Out of any money in the state treasury not otherwise appropriated, the sum of four hundred fifty thousand dollars, together with the sum of money herein ordered credited to this appropriation, is hereby appropriated to be expended in accordance with law for the purposes of this act; provided, that no part of the money appropriated herein from the general fund of the state treasury shall be used for the erection of buildings or the making of improvements until any existing structures on said site shall have been removed. Any moneys received from the sale of structures existing on said site at the time of its purchase shall be paid into the general fund of the state treasury and placed to the credit of the appropriation herein made. [New section added May 17, 1917; Stats. 1917, p. 573.]

ACT 3537d.

An act confirming and validating the organization of school districts.

[Approved April 24, 1917. Stats. 1917, p. 192.]

§ 1. Where the board of supervisors of any county have purported to establish a school district of any kind or class situated within such county and such district has acted as a school district for a period of one year previous to the taking effect of this act, all acts and proceedings taken for the purpose of creating such district are hereby legalized, validated and declared to be sufficient, and such school district is hereby

declared to be duly incorporated and as such school district under its appropriate name shall have all the rights and privileges and be subject to all the duties and obligations of a duly incorporated school district.

ACT 3547.

An act to re-establish "courthouse school district, Sonoma county."

[Approved March 30, 1878. Stats. 1877-78, p. 752.]

Repealed May 2, 1919; Stats. 1919, p. 239.

ACT 3554. Establishing a branch normal school at Los Angeles. [Stats. 1881, p. 89.]

Sections 1, 2 and 3 repealed in 1919; Stats. 1919, p. 820. See post. Act 4263i.

ACT 3557a.

An act to authorize the board of trustees of the San Jose State Normal School to exchange certain land belonging to said school for other land belonging to the San Jose high school district.

[Approved May 5, 1917. Stats. 1917, p. 260. In effect July 27, 1917.]

§ 1. Board of trustees of San Jose State Normal School may exchange land. The board of trustees of the San Jose State Normal School is hereby authorized and empowered to exchange, with the written approval of the state board of control and of the governor, a certain parcel of land, the property of said normal school, commencing at a point on the original line of east San Fernando street easterly five hundred three feet from the intersection of the original westerly line of south Seventh street with the original southerly line of east San Fernando street; thence southerly at right angles two hundred ninety-six feet; thence easterly at right angles ten feet; thence northerly at right angles two hundred ninety-six feet; thence westerly at right angles ten feet to the place of beginning; for a parcel of land belonging to the San Jose high school district, commencing at a point westerly four hundred forty-three feet from and at right angles to the original line of south Seventh street and southerly three hundred fifty-six feet from the point of intersection of the original westerly line of south Seventh street with the original southerly line of east San Fernando street; thence northerly at right angles to said westerly line sixty feet; thence westerly at right angles fifty feet; thence southerly at right angles sixty feet; thence easterly at right angles fifty feet to the place of beginning.

ACT 3574.

An act to enforce the educational rights of children and providing penalties for the violation of this act.

[Approved March 24, 1903. Stats. 1903, p. 388.]

Amended 1905, p. 388; 1907, p. 95; 1911, p. 949; 1915, p. 762; 1919, p. 406.

The title of the amendatory act of 1919 stated that section two of the act was amended. The body of the act shows however that it was section three and not section two that was amended.

The amendment of 1919 follows:

§ 1. Compulsory school attendance. Exemptions. Each parent, guardian or other person having control or charge of any child between the ages of eight and sixteen years, not exempted under the provisions of this act shall be required to send such child to a public full-time day school for the full time for which the public schools of the city, city and county or school district in which the child resides shall be in session; provided, that the following classes of children shall be exempted from the requirements of attendance upon a public day school:

1. **Physical or mental disability.** Children whose physical or mental condition is such as to prevent or render inadvisable attendance at school or application to study; provided, that a certificate to this effect by a regularly licensed physician, shall be filed with the clerk of the board of trustees or board of education of the school district.

2. **Distance from school house.** Children residing more than two miles from the school house by the nearest traveled road; provided, that such children shall be exempted only upon the written approval of the superintendent of schools of the county, notice whereof shall be filed with the clerk of the board of trustees or board of education of the school district.

3. **Instruction in private schools.** Children who are being instructed in a private full-time day school by persons capable of teaching; provided, that such school shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of this state; and provided, further, that the attendance of such pupils shall be kept by private school authorities in a register, such record of attendance to indicate clearly every absence of the pupil from school for a half day or more, during each day that school is maintained during the year.

4. **Instruction by private tutor.** Children who are being instructed, in study and recitation, for at least three hours a day for one hundred sixty days each calendar year by a private tutor or other person, in the several branches of study required to be taught in the public schools of this state, and in the English language; provided, that such tutor or other person shall be capable of teaching; and provided, further, that such instruction shall be offered between the hours of eight o'clock A. M. and four o'clock P. M.

5. **Age and schooling certificate.** Children who hold a permit to work or an age and schooling certificate granted by the proper judicial or educational officers in accordance with law. [Amendment approved May 10, 1919; Stats. 1919, p. 407.]

§ 3. Investigation of charges against parents. Criminal complaint. The board of education of any city or city and county, or the board of trustees of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against any parent or guardian or other person having control or charge of any such child, for violation of any of the provisions of this act. If it shall appear upon such investigation that any such parent or guardian or other person has violated any of the provisions of section one of this act, it is hereby made the duty of the secretary of such board of education, except as

hereinafter provided, or the clerk of such board of trustees, to make and file in the proper court a criminal complaint against such parent, guardian or other person, charging such violation, and to see that such charge is prosecuted by the proper authorities; provided, that in cities, and in cities and counties, and in school districts having an attendance officer or officers, such officer or officers shall have power and it shall be their duty to make and file such complaint, and see that such charge is prosecuted by the proper authorities. [Amendment approved May 10, 1919; Stats. 1919, p. 407.]

§ 3a. Permit to employ minor over fourteen. First—The superintendent of schools of any city, or of any city and county or of any county (over such portions of any such county as are not within the jurisdiction of any superintendent of city schools) shall have authority to issue to any employer a permit to employ any minor of the age of fourteen years who holds a diploma of graduation from the prescribed elementary school course; provided, that such permit shall be issued only when the prospective employer, or the parent or guardian of the minor, shall present to the superintendent asked to issue such permit, (1) a physician's certificate or other evidence acceptable to such authority, that such minor is physically fitted for the labor contemplated; and (2) a sworn statement by the parent, foster-parent or guardian of such minor that such minor is past the age of fourteen years, and that the parent or parents, or foster-parent or foster-parents, or guardian of such minor is incapacitated for labor through illness or injury, or that through the death or desertion of the father of such minor, the family is in need of the earnings of such minor, and that sufficient aid cannot be secured in any other manner. The person authorized to issue such permit in granting the same shall make a signed statement that he, or a competent person designated by him for this purpose, has carefully investigated the conditions under which the application for such permit has been asked, and has found that in his judgment the earnings of such minor are necessary for such family to support such minor, and that in his judgment sufficient aid cannot be secured in any other manner.

Second—*Idem.* No permit as specified in this section shall be issued except upon a written statement from a prospective employer that work is waiting for such minor and describing the nature of such work. Such permit shall specify the name and address of the employer, the name, address and age of the minor, the kind of work for which the permit is issued and the date on which the permit shall expire, which in no case shall be longer than six months from the date of issuance of the permit. Such permit shall be kept on file by the employer during the term of such employment and all unexpired permits shall be returned by the employer to the authority issuing the same within five days after the termination of such employment. Such permit shall be issued on forms prepared and provided in accordance with the provisions of this act by the superintendent of public instruction. Such permit shall be subject to cancellation at any time by the superintendent of public instruction, or by the commissioner of the bureau of labor statistics or by the person issuing the same, whenever any such officer or person shall find that the conditions for the legal issuance of such permit do

not exist. Such permit shall be always open to inspection by attendance and probation officers, by the officers of the state bureau of labor statistics and by officers of the superintendent of public instruction, and of the state board of education.

Third—Duplicate copy of permit. A duplicate copy of each permit to employ a minor granted under provisions of this act shall be kept by the person issuing such permit, and a report of all such permits issued during the year shall be included in the annual report of the city superintendent of schools to the county superintendent of schools. The superintendent of schools of each county and of each city and county shall include in his annual report to the superintendent of public instruction, a summary of all such reports, which shall include a summary of all such permits to employ minors issued by him during the year. [New section approved May 10, 1919; Stats. 1919, p. 409.]

§ 3b. Vacation permits for minors between twelve and fifteen. Any minor over the age of twelve years and under the age of fifteen years who holds a vacation permit issued as hereinafter provided may be employed in any of the establishments or occupations mentioned in section one of "An act regulating the employment and hours of labor of children; prohibiting the employment of minors under certain ages; prohibiting the employment of certain illiterate minors; providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof," approved February 20, 1905, as amended, and in section one of an act entitled "An act to be known as the child labor law, and regulating the employment, hours, kinds and conditions of labor of children; providing for the administration and enforcement of the provisions of this act by the commissioner of the bureau of labor statistics, providing penalties for the violation hereof and repealing all acts and parts of acts inconsistent herewith," on the regular weekly school holidays and during the regular vacation of the public schools of the school district, city, or city and county, in which the place of employment is situated. Vacation permits shall be signed by the principal of the school, or secretary of the board of school trustees or board of education having control of the school which such minor is attending, or has attended during the term next preceding any such vacation. Such permit shall contain the name and age of the minor to whom it is issued, and when issued for the regular vacation, the date of the termination of the vacation for which it is issued, and in any case shall be kept on file by the employer during the period of employment, and at the termination of such employment shall be returned to the minor to whom it was issued. [New section added May 10, 1919; Stats. 1919, p. 409.]

§ 3c. Age and schooling certificate for minors over fifteen. First—No minor of the age of fifteen years shall be employed, permitted or suffered to work during the hours the public schools are in session, unless such minor is provided with an age and schooling certificate as herein provided.

Second—An age and schooling certificate shall be approved only by the superintendent of schools of the county, city or city and county, or

hereinafter provided, or the clerk of such court, and each application for an age and schooling certificate shall be filed upon within three days after the filing of such application with the person legally authorized to issue such certificate; provided, that any person charged is prosecuted by the proper officer and in cities and counties, and in towns, such officer shall be their duty to make and file such certificate on the twentieth day of June of each year, file such certificate during the school year. The person authorized to issue such certificates shall have the authority to charge for carrying out the provisions of this act.

§ 3a. Permit to employ minor. The person authorized to issue age and schooling certificates until the minor in question, or the parent or guardian, has personally made application and until he has received, examined, approved and signed the following papers: (1) The school record of such minor, giving age, grade and attendance for the current term, duly signed by the principal or teacher. (2) Evidence of age such as the school enrollment record, or a certificate of birth, or a certificate of baptism duly attested, or a passport, or affidavit of the parent, guardian or custodian of such minor, such as shall convince such officer that the minor is fifteen years of age or upwards. (3) The written statement of the person, firm or corporation in whose service the minor is about to enter, that he intends to employ the minor, which statement shall give the nature of the occupation for which the child is to be employed. (4) A certificate signed by a physician appointed by the school board, or other public medical officer, stating that such minor has been examined by him, and, in his opinion, has reached the normal development of a minor of its age and is in sufficiently sound health and physically able to be employed in the work which it intends to do; provided, however, that no fee shall be charged the minor for such physician's certificate.

Third—Age and schooling certificates shall be issued on forms which shall be prepared and provided by the superintendent of public instruction, and shall be substantially in the following form, to wit:

Age and schooling certificate. This certifies that I am the (father, mother or guardian) of (name of the minor) and that (he or she) was born at (name of the city or town), in the county of (name of county, if known), and state or country of (name of state or country), on the (day and year of birth), and is now (number of years and months) old. Signature as provided in this act.

Town or city, and date.

There personally appeared before me the above named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of child), height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) has completed the prescribed grammar school course or that (he or she) has completed the equivalent of the seventh grade of the grammar school course and is a regular

then current term, upon a regularly conducted even-
a part-time continuation school or class.
on authorized to sign, with his official character

date.

belongs to the person in whose behalf it is drawn,
presented to (him or her) whenever (he or she) leaves
of the person, firm, or corporation holding the same.
certificate as to the birthplace and age of the minor under six-
over fifteen years of age shall be signed by his father, his
er, or his guardian, or other person having control or charge of
a minor.

Fourth—Every person authorized to sign the certificate prescribed by
this act, who knowingly certifies to any false statement therein, is
guilty of a misdemeanor, and upon conviction thereof shall be subject
to a fine of not less than five nor more than fifty dollars, or imprison-
ment for not more than thirty days, or by both such fine and im-
prisonment.

Fifth—A duplicate copy of each age and schooling certificate issued
under the provisions of this act shall be kept by the county, city, or
city and county superintendent issuing or authorizing the issuance of
such certificates, and a report of all such certificates issued during the
year shall be included in the annual report of each city superintendent
of schools to the county superintendent of schools. The superintendent
of schools of each county and of each city and county, shall include in
his annual report to the superintendent of public instruction, a sum-
mary of all such reports and a statement of the number of all such age
and schooling certificates issued by him during the year.

Sixth—No minor having an age and schooling certificate, as herein-
before described, and no other minor under sixteen years of age, who
would by law be required to attend school, shall be and remain idle
and unemployed for a period longer than two weeks while the public
schools are in session, but must enroll and attend school; provided,
that within five days after any minor having such age and schooling
certificate shall have ceased to be employed by any employer, such em-
ployer shall, in writing, notify the issuing officer that such minor is no
longer employed by such employer, giving the latest correct address
of such minor known to such employer; and such issuing officer shall
thereupon immediately notify the attendance officer having jurisdiction
in the place of such minor's residence, giving the said latest known
correct address of such minor and stating that such minor is not at
work.

Seventh—No minor of the age of fifteen years shall be permitted to
cease school attendance, without securing an age and schooling certifi-
cate as provided in this act.

Eighth—Nothing in this act shall be construed to repeal or in any
way modify the provisions of sections fourteen and sixteen of "An act
regulating the employment and hours of labor of children; prohibiting
the employment of minors under certain ages; prohibiting the employ-
ment of certain illiterate minors; providing for the enforcement hereof
by the commissioner of the bureau of labor statistics and providing

by a person authorized by him in writing and each application for an age and schooling certificate must be acted upon within three days after such application has been duly filed with the person legally authorized to issue such age and schooling certificate; provided, that any person authorized in writing to issue age and school certificates as herein provided shall on or before the thirtieth day of June of each year, file with the superintendent so authorizing him, all duplicate copies of such certificates issued by him during the school year. The person authorized to issue age and schooling certificates shall have the authority to administer the oaths necessary for carrying out the provisions of this act, but no fees shall be charged for administering such oaths or issuing such certificates. The person authorized to issue age and schooling certificates shall not issue such certificates until the minor in question, accompanied by its parent or guardian, has personally made application to him therefor, and until he has received, examined, approved and filed the following papers duly executed: (1) The school record of such minor, giving age, grade and attendance for the current term, duly signed by the principal or teacher. (2) Evidence of age such as the school enrollment record, or a certificate of birth, or a certificate of baptism duly attested, or a passport, or affidavit of the parent, guardian or custodian of such minor, such as shall convince such officer that the minor is fifteen years of age or upwards. (3) The written statement of the person, firm or corporation in whose service the minor is about to enter, that he intends to employ the minor, which statement shall give the nature of the occupation for which the child is to be employed. (4) A certificate signed by a physician appointed by the school board, or other public medical officer, stating that such minor has been examined by him, and, in his opinion, has reached the normal development of a minor of its age and is in sufficiently sound health and physically able to be employed in the work which it intends to do; provided, however, that no fee shall be charged the minor for such physician's certificate.

Third—Age and schooling certificates shall be issued on forms which shall be prepared and provided by the superintendent of public instruction, and shall be substantially in the following form, to wit:

Age and schooling certificate. This certifies that I am the (father, mother or guardian) of (name of the minor) and that (he or she) was born at (name of the city or town), in the county of (name of county, if known), and state or country of (name of state or country), on the (day and year of birth), and is now (number of years and months) old.

Signature as provided in this act.

Town or city, and date.

There personally appeared before me the above named (name of person signing) and made oath that the foregoing certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of child), height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) has completed the prescribed grammar school course or that (he or she) has completed the equivalent of the seventh grade of the grammar school course and is a regular

attendant for the then current term, upon a regularly conducted evening school or upon a part-time continuation school or class.

Signature of the person authorized to sign, with his official character and authority.

Town or city, and date.

This certificate belongs to the person in whose behalf it is drawn, and it shall be presented to (him or her) whenever (he or she) leaves the services of the person, firm, or corporation holding the same.

The certificate as to the birthplace and age of the minor under sixteen and over fifteen years of age shall be signed by his father, his mother, or his guardian, or other person having control or charge of such minor.

Fourth—Every person authorized to sign the certificate prescribed by this act, who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than five nor more than fifty dollars, or imprisonment for not more than thirty days, or by both such fine and imprisonment.

Fifth—A duplicate copy of each age and schooling certificate issued under the provisions of this act shall be kept by the county, city, or city and county superintendent issuing or authorizing the issuance of such certificates, and a report of all such certificates issued during the year shall be included in the annual report of each city superintendent of schools to the county superintendent of schools. The superintendent of schools of each county and of each city and county, shall include in his annual report to the superintendent of public instruction, a summary of all such reports and a statement of the number of all such age and schooling certificates issued by him during the year.

Sixth—No minor having an age and schooling certificate, as hereinbefore described, and no other minor under sixteen years of age, who would by law be required to attend school, shall be and remain idle and unemployed for a period longer than two weeks while the public schools are in session, but must enroll and attend school; provided, that within five days after any minor having such age and schooling certificate shall have ceased to be employed by any employer, such employer shall, in writing, notify the issuing officer that such minor is no longer employed by such employer, giving the latest correct address of such minor known to such employer; and such issuing officer shall thereupon immediately notify the attendance officer having jurisdiction in the place of such minor's residence, giving the said latest known correct address of such minor and stating that such minor is not at work.

Seventh—No minor of the age of fifteen years shall be permitted to cease school attendance, without securing an age and schooling certificate as provided in this act.

Eighth—Nothing in this act shall be construed to repeal or in any way modify the provisions of sections fourteen and sixteen of "An act regulating the employment and hours of labor of children; prohibiting the employment of minors under certain ages; prohibiting the employment of certain illiterate minors; providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing

penalties for the violation hereof," approved February 20, 1905, as amended, or the provisions of sections three and one-half and five of an act entitled "An act to be known as the child labor law, and regulating the employment, hours, kinds and conditions of labor of children; providing for the administration and enforcement of the provisions of this act by the commissioner of the bureau of labor statistics, providing penalties for the violation hereof and repealing all acts and parts of acts inconsistent herewith." [New section added May 10, 1919; Stats. 1919, p. 412.]

§ 3d. First—Register of employees under sixteen. Cancellation of permits and certificates. Every person, firm, corporation or agent, or officer of a firm or corporation, employing minors under the age of sixteen years shall keep a register containing the names and addresses of such minor employees and shall post and keep posted in a conspicuous place, in every room where such minors are employed, a written or printed notice stating the working hours per day for each day of the week required of such minors, and shall keep on file all permits and certificates required by this act for minors under the age of sixteen years. Such records and files shall be open at all times to the inspection of the school attendance and probation officers and the officers of the state bureau of labor statistics, of the superintendent of public instruction and of the state board of education.

Except as otherwise provided in this act, all certificates and permits shall be given up to such minor upon his quitting such employment. Any age or schooling certificate or permit granted under this act, shall be subject to cancellation at any time by the commissioner of the bureau of labor statistics, or by the superintendent of public instruction, or by the authority issuing such certificate, whenever such commissioner, superintendent, or the authority issuing such certificate shall find that conditions for the legal issuance of such certificate no longer exist or have never existed.

Second—Penalty for violation. Any person, firm, corporation, agent or officer of a firm or corporation that violates or omits to comply with any of the provisions of this act, or that employs or suffers or permits any minor to be employed in violation thereof, is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, for each and every offense. A failure to produce any age and schooling certificate or vacation permit to work or other permit issued under the provisions of this act or to post any notice required by this act shall be prima facie evidence of the illegal employment of any minor for whom an age and schooling certificate or permit is not produced. [New section added May 9, 1919; Stats. 1919, p. 413.]

§ 4. Attendance officers. Compensation. Certification of attendance officers. County attendance officers. The board of education of any city, or city and county shall appoint and remove at pleasure, an attendance officer and such assistant attendance officers as may be necessary for such city or city and county and the board of school trustees

of any school district having an average daily attendance of at least three hundred children, according to the official school record of the preceding school year, may appoint and remove at pleasure one attendance officer, and assistant attendance officers, and shall fix his or their compensation payable from the county or special school fund of such city, or city and county, or school district, and shall prescribe their duties not inconsistent with law, and make rules and regulations for the performance thereof; provided, that in all school districts with a daily average attendance of one thousand or more school children according to the annual school report of the last preceding school year, such attendance officer, assistant attendance officers, or deputy attendance officers, shall have been duly certificated by the county board of education for such work, such certification to be in accordance with and subject to general regulations established by the state board of education. The authority appointing such attendance officer and assistant attendance officers in such city, city and county, or school district may also appoint and remove at pleasure one or more deputy attendance officers, to serve without compensation. The board of supervisors of any county, unless provision be made otherwise by statute for paid attendance officers, upon the petition of a majority of the boards of trustees of the school districts of the county which are not provided with paid school attendance officer, shall, upon the nomination of the county superintendent of schools, appoint and remove at pleasure an attendance officer and assistant attendance officers, and shall fix his or their compensation payable from the general fund of the county, and shall, upon the recommendation of the county superintendent of schools, prescribe their duties not inconsistent with law, and make rules and regulations for the performance thereof. Such officers shall serve in such portions of the county as are not otherwise provided with paid attendance officers. The board of supervisors, upon the recommendation of the county superintendent of schools, may, in its discretion, appoint and remove at pleasure one or more persons to act as deputy attendance officer or officers, to serve without compensation. The actual, necessary, incidental traveling expenses of such attendance officer, and assistant attendance officers, and deputy attendance officers of such county, incurred in the performance of their duties under the direction of the county superintendent of schools, when sworn to and when approved by such superintendent, shall be ordered paid by such board of supervisors, out of the general fund of the county. [Amendment approved May 10, 1919; Stats. 1919, p. 408.]

§ 11a. Authority to enter place of employment. The attendance officer of any county, city and county, or school district in which any place of employment, in this act named, is situated, or the probation officer of such county, shall have the right and authority, at all times, to enter into any such place of employment for the purpose of investigating violations of the provisions of this act; provided, however, that if such attendance or probation officer is denied entrance to such place of employment, any magistrate may, upon the filing of an affidavit by such attendance or probation officer setting forth the fact that he has a good cause to believe that the provisions of this act are being violated in such place of employment, issue an order directing such attendance or probation officer to enter said place of employment for the purpose of

making such investigations. [New section approved May 16, 1919. Stats. 1919, p. 414.]

ACT 3584c.

An act to validate bonds of school districts and high school districts and to provide for the levy and collection of taxes to pay the principal and interest on such bonds.

[Approved May 4, 1917. Stats. 1917, p. 228. In effect July 27, 1917.]

§ 1. School district bonds validated. Where in any school district of any kind or class, including union school districts and joint union school districts, or high school district of any kind or class, including union high school districts and joint union high school districts, proceedings have been taken for the purpose of issuing and selling bonds of such district, for any purpose or purposes, all the acts and proceedings of the board of trustees, board of education or other governing body of such district and all the acts and proceedings of the board of supervisors of the county within which such district is situated, leading up to and including the issuance of such bonds if they have heretofore been sold, and all such acts and proceedings heretofore had although the bonds are not yet sold, are hereby legalized, ratified, confirmed and validated to all intents and purposes, and the power of such district and of the board of supervisors of the county in which such district is situated, to issue such bonds, is hereby ratified, confirmed and declared, and the bonds heretofore sold are declared to be, and the bonds hereafter sold shall be, the legal and binding obligations of and against the district having heretofore issued, or hereafter issuing, such bonds, and the faith and credit of such district is hereby pledged for the prompt payment and redemption of the principal and interest of said bonds.

§ 2. Levy of taxes to pay interest and principal. For the purpose of paying the interest on such bonds as it becomes due and the principal thereof at maturity, the assessors, treasurers, boards of supervisors, and other officers of the respective counties, shall have the same powers and shall perform the same duties as are provided by law relative to the assessment, levy, and collection of taxes, and custody of funds, for the payment of the principal and interest of bonds or school districts and high school districts of every kind or class, respectively.

§ 3. Bonds excepted. This act shall not operate to legalize any bonds which have been sold for less than par, nor to legalize any bonds the issuance of which has not received the assent of two-thirds of the qualified electors of such district, voting at an election held for the purpose of determining whether such indebtedness should be incurred, nor to legalize any bonds which mature at a date more than forty years from the time of their issuance.

ACT 3585.

An act to provide for health and development supervision in the public schools of the state of California. [Approved April 15, 1909. Stats. 1909, p. 908.]

Repealed April 21, 1919. Stats. 1919, p. 128. See ante, § 1618a, Political Code.

ACT 3586h.

An act to provide for the adoption of text-books for use in the public high schools of the state and for furnishing text-books for the use of pupils of such schools.

[Approved May 18, 1917. Stats. 1917, p. 729. In effect July 27, 1917.]

Amended 1919; Stats. 1919, p. 444.

§ 1. Text-books for use in high schools. Furnished free. Payment. The high school board of each and every high school district shall adopt text-books for use in such district from a list prescribed by the state board of education. Such list shall include text-books in such high school subjects as in the judgment of the state board of education require the use of text-books; provided, that separate classics in English and modern languages need not be listed. The high school board of each and every high school district may purchase text-books for the use of pupils enrolled in the high schools of such district, which text-books shall at all times be and remain the property of such district, to be supplied to the pupils thereof for use without charge, or at an annual rental, payable in advance, which shall not exceed three dollars for all text-books required by any pupil during any school year; provided, that after July 1, 1920, text-books shall be so supplied to pupils of the high schools without charge. Whenever a majority of the heads of families or a majority of the electors in any high school district shall petition in writing the high school board to furnish text-books free for the use of the pupils enrolled in such high school district, it shall thereafter be the duty of the high school board to furnish such text-books free for the use of such pupils. The high school board may pay for text-books furnished in accordance with the provisions of this act, out of the special fund of such high school district. All moneys collected for rental of text-books shall be deposited in the county treasury to the credit of such high school district within thirty days after collection.

§ 2. Text-books furnished free to pupils outside district. Whenever the high school board of any high school district purchases text-books for the use of pupils residing in portions of the county not included in any high school district and attending the high school of such district, and furnishes text-books free for the use of such pupils, the board may on or before August first of each year file with the county superintendent of schools of the county in which such pupils reside, a list of such pupils and an itemized statement of the amount expended for text-books for their use during the preceding school year. The county superintendent of schools shall include such amount in his estimate of the county high school fund required, and the board of supervisors shall include the amount in levying the county high school fund. Before the county superintendent of schools shall apportion any of the county high school fund on average daily attendance, he shall transfer from said fund to the fund of each of the several high school districts of the county, or draw a warrant in favor of the board of trustees of such high school district, for the amount claimed by each on account of text-books furnished free for the use of pupils residing in portions of the county not included in any high school district, and attending such high school.

§ 3. Publisher's application for listing of books. Sworn statement. All publishers desiring to offer school books for the use of pupils enrolled in the high schools of the state shall file with the state board of education at Sacramento a written application for the listing of such book or books accompanied by a fee of ten dollars for each book for which listing is applied, such sum to be deposited in the state treasury to the credit of the state board of education; also three copies of each book, together with a statement of the list price of said book as shown by the publisher's catalogue, a statement of all discounts allowed thereon when new copies of such book are purchased by or on behalf of a high school board directly from the publisher, and a statement of the lowest exchange price that will be given when old books on the same subject and of like kind and grade, but of a different series, are received in exchange; provided, that no fee shall be required to accompany the application for the listing of a book in a subject studied by less than one hundred pupils in the high schools of the state. They shall also submit a sworn statement giving the lowest net wholesale price at which such book is sold anywhere in the United States and the maximum total discount allowed thereon to any public school board anywhere in the United States. Such sworn statements shall give the lowest exchange price given anywhere in the United States where old books on the same subject and of like kind and grade, but of a different series, are received in exchange. Such sworn statement shall also include a statement that said publisher is not directly or indirectly associated or connected with any combination in restraint of trade in text-books, and that he is not and will not become a party in any way to any understanding, agreement or combination to control prices or restrict competition in the sale of text-books for use in the state of California. [Amendment approved May 9, 1919; Stats. 1919, p. 443.]

§ 4. Bond of publisher. Price at which book furnished. Uniform price. Reduction of price. Quality not to control prices. Each publisher offering one or more books for use in the high schools of the state must, after notification by the state board of education of its intention to place on the list any book or books submitted by him, and as a prerequisite for such listing, file with the state board of education a bond payable to the state of California in a sum to be determined by the state board of education, said sum for any publisher offering one or more books to be not less than one thousand dollars nor more than ten thousand dollars, the bond to be conditioned as follows: First, that the publisher will furnish said book or books offered by him and listed by the state board of education, to the high school board of any high school district in the state at the lowest net wholesale price contained in the statement filed at the time said book or books were offered, less the maximum total discount allowed thereon to any public school board according to such statement, and at the lowest exchange price given according to such statement, when old books in the same subject and of like kind and grade, but of a different series, are given in exchange, which price shall not exceed the lowest price the publisher has made for such book or books anywhere in the United States; provided, that the cost of transporting all text-books to the high school from the publisher's office or depository in California shall be paid by the high school district, or pre-

paid by the publisher and then charged to the district, as the high school board may determine; second, that he will maintain said price uniformly throughout the state of California, on his book or books, listed under the provisions of this act; third, that the publisher will reduce such price automatically to purchasers within the state of California whenever reductions are made elsewhere in the United States, so that at no time shall any book so filed and listed be sold to school authorities in California at a higher net price than is received for such book elsewhere in the United States; and that upon failure or refusal of the publisher to make such reduction all contracts for such book or books shall become null and void; fourth, that all such books offered for sale, adoption, or exchange in the state of California shall be equal in quality to those filed in the office of the state board of education, as regards paper, binding, print, illustration, subject matter, and all other particulars that may affect the value of such school books; fifth, that the publisher will not in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in text-books, and that he will not enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of school books for use in the state of California; sixth, that the publisher will maintain an office in California or designate an agent or arrange with a depository in California, to receive and handle orders for said book or books.

§ 5. Approval. Term. Such bond shall be approved by the attorney general, and shall continue in force for a period of eight years after its filing, at or before the expiration of which period a new bond shall be given, or the right to continue selling such text-books in the state of California shall be forfeited.

§ 6. List sent to principals, county superintendents, and clerks. Annual publication. The state board of education shall, within six months after the approval of such bond, send a list of such books to the principal of each high school, county superintendent of schools and the clerk of each high school board, with a statement of the list price, discounts and the exchange price of each; provided, that such lists shall not be issued oftener than twice each year; provided, further, that whenever a book is dropped from the list, such action shall not affect existing contracts for such book. The state board of education shall, on or before January 1, 1918, and on or before the first day of January of each following year, publish and send to the principal of each high school, county superintendent of schools and the clerk of each high school board, a printed copy of all such lists then in force.

§ 7. Failure of publisher to furnish books. Forfeit. If any publishers shall comply with the provisions of the foregoing sections and then fail or refuse to furnish such books to any high school board upon the terms herein provided within a reasonable time after an order therefor is filed, said board shall at once notify the state commissioner of secondary schools of such failure or refusal, and he shall at once cause an investigation of such charge to be made. If the state commissioner of secondary schools find such charge to be true, he shall at once report his finding to the state board of education, which shall notify such publisher and notify the principal of each high school and the clerk of each high school board in the state of California that such book or books shall not thereafter

be adopted or purchased by any of the public school authorities in the state. Said publishers shall forfeit and pay to the state of California the sum of one hundred dollars for each failure or refusal to furnish said book or books, to be recovered in the name of the state of California in an action to be brought by the attorney general in any proper court, the amount when collected to be paid into the treasury to the credit of the high school fund of the state of California.

§ 8. Adoption of text-books by school boards. No change for period of four years. The high school board of each high school district in the state of California shall adopt text-books for use in the schools under its control, until a complete list of text-books covering the entire course of study has been adopted. The books so adopted shall be put in actual use in such district not later than the beginning of the school year next following such adoption. A majority vote of the membership of any board shall determine which of said books prescribed by the state board of education shall be used in the schools under its control, and after such books have been selected and adopted by said board, no book shall be changed, nor any other book substituted therefor, except as otherwise provided in this act, for a period of four years after the date of its adoption, as shown by the official records of the board; provided, that any such school text-books as may be in use in the public schools of California when this act goes into effect may be continued until text-books are purchased and distributed by the high school board in accordance with the provisions of this act, but when said books are changed or other books substituted, the books adopted shall be from the list prescribed by the state board of education in pursuance of this act and shall be used for a full period of four years. [Amendment approved May 9, 1919; Stats. 1919, p. 444.]

§ 9. Text-books purchased direct from publishers. All text-books adopted as provided for in this act may be bought by the various school authorities direct from the publishers at the lowest net wholesale price less the maximum total discount thereon, as listed by the state board of education. The high school board of each and every high school district shall at a regular meeting, cause to be ascertained the number of each of such books adopted as the schools under its charge require. The clerk or secretary of each high school board may order the book so agreed upon direct from the publisher, agent, or depository in California, who, on receipt of such order, shall ship the books as directed without delay. It shall be the duty of the clerk or secretary, or other person named by the board for such purpose, to examine the books when received, and if found to be correct and in accordance with the order, a warrant payable out of the county or district high school fund for the proper amount, shall be issued and remitted to the publisher within thirty days. It shall be the duty of each high school board to make all necessary provisions and arrangements to place the books so purchased within easy reach and accessible for the use of all the pupils in the schools under its control. All orders for books under this act shall be made by a duly authorized agent of the high school board and billed by the publisher or the depository in California designated by him to the high school board.

§ 10. No emolument to be given or accepted. Sample copies. No publisher of school text-books, nor agent of such publisher, shall offer or

give any emolument, money, or other valuable thing, or any inducement, to any member of any high school board or school official or teacher connected with any of the high schools of California, for his vote, or promise to vote, or for the use of his influence for the adoption of any school text-book to be used in any of the high schools of this state, nor shall any member of any high school board or school official connected with any of the public schools of California, accept emolument, money or other valuable thing, or any other inducement, from any publisher, or agent of any publisher, for his vote or promise to vote, or for the use of his influence for the adoption of any school text-books; provided, that nothing in this section shall be construed to prevent any person, publisher, or publisher's agent from lending one sample copy of any school text-book to any member of a high school board or school official for examination of such books or books before the adoption of books, as provided for in this act, and nothing shall be construed to prevent such a member of a high school board or school official from receiving such sample copies; provided, that all copies of text-books so received shall be returned within thirty days after the adoption of text-books in the subject or subjects by the high school board.

§ 11. Penalty. Any publisher of school text-books, or agent of such publisher, or any member of any high school board or public school official in the state of California, who violates any of the provisions of this act, on conviction thereof, shall be punished as for a misdemeanor; and any member of a high school board or public school official shall, in addition, be removed from his official position.

ACT 3586i.

An act to provide for the organization and supervision of courses in physical education in the elementary, secondary and normal schools of the state, and appropriating ten thousand dollars therefor.

[Approved May 26, 1917. Stats. 1917, p. 1176. In effect July 27, 1917.]

§ 1. Courses of physical education. The board of education of each county, city and county, and city, whose duty it is to prescribe the course of study for the elementary schools of such county, city and county or city, shall prescribe suitable courses of physical education in accordance with the provisions of this act for all pupils enrolled in the day elementary schools, except pupils who may be excused from such training on account of physical disability; and the high school board of each high school district shall prescribe suitable courses of physical education in accordance with the provisions of this act for all pupils enrolled in the day high schools of such district, except pupils regularly enrolled in high school cadet companies and pupils who may be excused from such courses on account of physical disability.

§ 2. Purposes of courses. The aims and purposes of the courses of physical education established under the provisions of this act shall be as follows: (1) To develop organic vigor, provide neuromuscular training, promote bodily and mental poise, correct postural defects, secure the more advanced forms of co-ordination, strength and endurance, and to promote such desirable moral and social qualities as appreciation of the value of co-operation, self-subordination and obedience to authority, and

higher ideals, courage and wholesome interest in truly recreational activities; (2) to promote a hygienic school and home life, secure scientific supervision of the sanitation of school buildings, playgrounds and athletic fields, and the equipment thereof.

§ 3. Enforcement of courses. It shall be the duty of the superintendent of schools of every county, city and county, or city, and of every board of education, board of school trustees, or high school board, to enforce the courses of physical education prescribed by the proper authority, and to require that such physical education be given in the schools under their jurisdiction or control. All pupils enrolled in the elementary schools, except pupils excused therefrom in accordance with the provisions of this act, shall be required to attend upon such courses of physical education during periods which shall average twenty minutes in each school day, and all pupils enrolled in the secondary schools, except pupils excused therefrom in accordance with the provisions of this act, shall be required to attend upon such courses of physical education for at least two hours each week that school is in session.

§ 4. Supervisor and special teachers. When the number of pupils in any city or city and county or school district is sufficient, such city or city and county or school district shall employ a competent supervisor and such special teachers of physical education as may be necessary. The trustees of two or more contiguous elementary school districts, or the trustees of one or more elementary school districts and the high school board of the high school district in which such elementary school district or districts are situated, may by written agreement join in the employment of a competent teacher of physical education for such districts, and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned as the school board concerned may agree.

§ 5. Courses in normal schools. The state board of education, in standardizing the courses of instruction offered in the several normal schools of the state, shall prescribe a course in physical education and shall make the completion of such course a requirement for graduation.

§ 6. Duty of state board of education. It shall be the duty of the state board of education: (1) to adopt such rules and regulations as it may deem necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools in accordance with the provisions of this act; (2) to appoint a state supervisor of physical education whose duties are hereinafter defined; (3) to compile or cause to be compiled and printed, a manual in physical education for distribution to teachers in the public schools of the state.

§ 7. State supervisor of physical education. Salary. Expenses. The supervisor of physical education appointed under the provisions of this act, shall be experienced in the supervision of physical education in public schools. He shall not be subject to the provisions of any civil service law of the state. He shall exercise general supervision over the courses of physical education in elementary and secondary schools of the state; shall exercise general control over all athletic activities of the public schools; shall advise school officials, school boards and teachers in mat-

ters of physical education; shall visit and investigate the work in physical education in the public schools and shall perform such other duties as may be assigned to him by the state board of education. He shall receive a salary not exceeding three thousand six hundred dollars per annum, as fixed by the state board of education, payable at the same time and in the same manner as the salaries of other state officers are payable. He shall also receive his actual and necessary traveling expenses while on official business. The state board of education may within the limits of the appropriation hereinafter provided, employ such expert and clerical assistance as may be necessary to carry out the provisions of this act.

§ 8. Appropriation. The sum of ten thousand dollars is hereby appropriated out of any moneys belonging to the state not otherwise appropriated to defray the expenses of the state board of education in carrying out the provisions of this act, during the sixty-ninth and seventieth fiscal years.

ACT 3586j.

An act relating to the employment of janitors and employees of certain school districts.

[Approved May 17, 1917. Stats. 1917, p. 645. In effect July 27, 1917.]

§ 1. Employment of janitors and employees. In any school district situated wholly within the boundaries of a city of the first class the janitors and other employees of such school district shall be employed in the same manner and under the same conditions as teachers are employed by such district and when so employed shall be removed only for cause and after charges have been filed and heard by the board of education. All such employees who have been in the service of any such school district continuously for a period of one year prior to the effective date of this act shall be deemed to have been so employed. The board of education shall have full power to make and enforce all necessary rules and regulations to carry out these provisions.

ACT 3586k.

An act empowering the state board of education to order the closing from time to time of educational institutions during the continuance of a state of war.

[Approved May 5, 1917. Stats. 1917, p. 282. In effect immediately.]

§ 1. State board of education may close educational institutions.
Salary of teacher. During the continuance of a state of war between the United States of America and any foreign power, the state board of education, with the approval of the governor, shall have power, whenever in the opinion of a majority of its members such step is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the state, to make an order closing, for such time as may be specified therein, any or all educational institutions supported wholly or in part by the state, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such educational institutions, or any grade or

higher ideals, courage and wholesome inter-activities; (2) to promote a hygienic school supervision of the sanitation of school athletic fields, and the equipment thereof;

§ 3. Enforcement of courses. If no written contract, according to any board of education, board is no written contract, according to any enforce the courses of authority, and to require such board. In case there is neither such schools under their schedule, the total salary paid for any school year elementary schools is made shall not be less than the salary paid by the provisions of such institution for similar service during the of physical education year. It is further provided that nothing herein of physical education in each school any manner affect the amount of money apportioned to district during any school year.

Application of order. Such an order issued under the provisions hereof may be made applicable to such district, city, city and county, or counties, as may be designated in the order.

§ 10. The board of education may determine and specify therein, and may be altered, amended or repealed from time to time.

§ 1. Urgency measure. Inasmuch as the United States is now involved in war, this act is hereby determined and declared to be an urgency measure necessary for the immediate preservation of the public peace and safety, within the meaning of section one of article four of the constitution and shall take effect immediately.

ACT 3586 L.

An act to accept the provisions and benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled and approved February twenty-third, nineteen hundred seventeen, to provide for the promotion of vocational education; to create a vocational education fund and making an appropriation therefor.

[Approved May 31, 1917. Stats. 1917, p. 1387.]

§ 1. Provisions of federal vocational education act accepted. Acceptance of benefits of federal vocational education act. The people of the state of California do hereby accept the provisions of, and each and all of the funds provided by, an act passed by the senate and house of representatives of the United States of America in congress assembled, entitled, "An act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," and approved by the president February twenty-third, nineteen hundred seventeen. In accepting the benefits of said act the people of the state of California agree to comply with all of its provisions and to observe all of its requirements.

§ 2. Powers of state board of education. The state board of education is hereby designated as the state board to carry out the purposes

visions of said act, and is hereby given all necessary power to co-operate with the federal board for vocational education administration of the provisions of the federal act and of

state treasurer. Vocational education fund. The fund created by said federal act, is hereby made custodian of the fund received by the state of California under the provisions of said act. He is also hereby made custodian of all state funds in this act for the purpose of co-operating with the federal government in the promotion of vocational education. He is hereby authorized to receive and provide for the proper custody of all moneys provided under the provisions of this act and the above-mentioned federal act. It shall be the duty of the state treasurer, upon receiving any apportionment of funds from the federal government on account of the vocational education fund, to report the same immediately, with the amount thereof, to the state controller and the state board of education and deposit the same to the credit of the "vocational education fund," which fund is hereby created. Thereupon the state controller and the state treasurer shall transfer from the general fund of the state to the vocational education fund an amount which shall equal the amount apportioned to the state of California under the provisions of the federal act mentioned in this act. The moneys so transferred into the vocational education fund are hereby appropriated without reference to fiscal years for the purpose of co-operating with the federal government in promoting vocational education in this state and are exempt from the provisions of part three, title one, chapter three, article eighteen, of the Political Code, relating to the state board of control. The moneys constituting the vocational education fund shall be paid out by the state treasurer on warrants drawn by the controller as requisitioned by the state board of education in carrying out the provisions of this act, the federal act and the rules and regulations of said state board established as required by said acts.

ACT 3586m.

An act to regulate certain trade schools, and to include within the term "employment agency" certain trade schools or classes of instruction for the teaching of the whole or part of any trade, art, science, or occupation requiring special skill, and making such agencies subject to the laws and regulations relating to private employment agencies.

[Approved May 23, 1919. Stats. 1919, p. 825. In effect July 23, 1919.]

§ 1. Regulation of trade schools. Any person, firm, association, or corporation who conducts for gain any trade school or classes of instruction for the teaching in whole or in part of any trade, art, science, or occupation requiring special skill, and who, for gain or hire furnishes or agrees to furnish in connection therewith facilities or information to pupils and employers of labor whereby the labor or services of any such pupils are engaged to be employed in the trade, art, science or occupation thus taught at stipulated wages or other valuable consideration, shall be held to conduct a private employment agency and be subject to all the laws and regulations governing such agencies.

class thereof, during the continuance of a state of war; provided, however, that the annual school term shall not be reduced to less than six school months under the provisions of this act; and provided, further, that whenever any such educational institution is closed, or the opening thereof is delayed, under the provisions of this act, the salary of any teacher regularly employed shall be paid according to any written contract between the governing board of such educational institution and such teacher, or in case there is no written contract, according to any salary schedule adopted by such board. In case there is neither such contract nor salary schedule, the total salary paid for any school year in which such order is made shall not be less than the salary paid by the governing board of such institution for similar service during the preceding school year. It is further provided that nothing herein contained shall in any manner affect the amount of money apportioned to any school district during any school year.

§ 2. Application of order. Such an order issued under the provisions of section one hereof may be made applicable to such district, city, city and county, county or group of any thereof as the state board of education may determine and specify therein, and may be altered, amended or rescinded from time to time.

§ 3. Urgency measure. Inasmuch as the United States is now involved in war, this act is hereby determined and declared to be an urgency measure necessary for the immediate preservation of the public peace and safety, within the meaning of section one of article four of the constitution and shall take effect immediately.

ACT 3586 1.

An act to accept the provisions and benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled and approved February twenty-third, nineteen hundred seventeen, to provide for the promotion of vocational education; to create a vocational education fund and making an appropriation therefor.

[Approved May 31, 1917. Stats. 1917, p. 1387.]

§ 1. Provisions of federal vocational education act accepted. Acceptance of benefits of federal vocational education act. The people of the state of California do hereby accept the provisions of, and each and all of the funds provided by, an act passed by the senate and house of representatives of the United States of America in congress assembled, entitled, "An act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," and approved by the president February twenty-third, nineteen hundred seventeen. In accepting the benefits of said act the people of the state of California agree to comply with all of its provisions and to observe all of its requirements.

§ 2. Powers of state board of education. The state board of education is hereby designated as the state board to carry out the purposes

and the provisions of said act, and is hereby given all necessary power and authority to co-operate with the federal board for vocational education in the administration of the provisions of the federal act and of this act.

§ 3. Duty of state treasurer. Vocational education fund. The state treasurer, as required by said federal act, is hereby made custodian of all federal funds received by the state of California under the provisions of that act. He is also hereby made custodian of all state funds appropriated in this act for the purpose of co-operating with the federal government in the promotion of vocational education. He is hereby authorized to receive and provide for the proper custody of all moneys provided under the provisions of this act and the above-mentioned federal act. It shall be the duty of the state treasurer, upon receiving any apportionment of funds from the federal government on account of the vocational education fund, to report the same immediately, with the amount thereof, to the state controller and the state board of education and deposit the same to the credit of the "vocational education fund," which fund is hereby created. Thereupon the state controller and the state treasurer shall transfer from the general fund of the state to the vocational education fund an amount which shall equal the amount apportioned to the state of California under the provisions of the federal act mentioned in this act. The moneys so transferred into the vocational education fund are hereby appropriated without reference to fiscal years for the purpose of co-operating with the federal government in promoting vocational education in this state and are exempt from the provisions of part three, title one, chapter three, article eighteen, of the Political Code, relating to the state board of control. The moneys constituting the vocational education fund shall be paid out by the state treasurer on warrants drawn by the controller as requisitioned by the state board of education in carrying out the provisions of this act, the federal act and the rules and regulations of said state board established as required by said acts.

ACT 3586m.

An act to regulate certain trade schools, and to include within the term "employment agency" certain trade schools or classes of instruction for the teaching of the whole or part of any trade, art, science, or occupation requiring special skill, and making such agencies subject to the laws and regulations relating to private employment agencies.

[Approved May 23, 1919. Stats. 1919, p. 825. In effect July 23, 1919.]

§ 1. Regulation of trade schools. Any person, firm, association, or corporation who conducts for gain any trade school or classes of instruction for the teaching in whole or in part of any trade, art, science, or occupation requiring special skill, and who, for gain or hire furnishes or agrees to furnish in connection therewith facilities or information to pupils and employers of labor whereby the labor or services of any such pupils are engaged to be employed in the trade, art, science or occupation thus taught at stipulated wages or other valuable consideration, shall be held to conduct a private employment agency and be subject to all the laws and regulations governing such agencies.

§ 2. Application of act. Nothing contained in this act shall apply to trade schools or classes of instruction conducted by or in connection with any public school, public institution, parochial school, charitable school or institution, private business schools teaching shorthand, type-writing, bookkeeping, mechanical and other usual business subjects or trades schools connected therewith or any school employing teachers having certificates issued by the public school authorities to teach any particular trade, art, science or occupation.

ACT 3586n.

An act to require certain high school districts to provide part-time educational opportunities in civic and vocational subjects for persons under eighteen years of age, who are not in attendance upon full-time day schools, and part-time educational opportunities in citizenship for persons under twenty-one years of age who cannot adequately speak, read or write the English language; to enforce attendance upon such part-time classes where established, and providing penalties for violation of the provisions of this act.

[Approved May 27, 1919. Stats. 1919, p. 1047. In effect—see section 15.]

§ 1. High school board to maintain day part-time classes. The high school board of each high school district wherein there were enrolled, in the regular day classes of the high schools of said district during the school year next preceding, fifty or more persons living within a radius of three miles of a high school located in said district, must establish and maintain, under the provisions of section one thousand seven hundred fifty c of the Political Code, special day part-time classes which shall provide at least four sixty-minute hours of instruction per week for all persons within the district who are over fourteen and under eighteen years of age who are not in attendance upon full-time public or private day schools for four or more sixty-minute hours per week, and who are not subject to the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended. Said classes must be maintained between the hours of eight A. M. and five P. M. and must provide suitable instruction for the various individuals for whose benefit they are established.

§ 2. Special evening classes for persons not speaking English. The high school board of each high school district wherein there are living, within a radius of three miles of any high school located in said district, twenty or more persons over eighteen and under twenty-one years of age who expect to remain in the district for a period of two or more months, who are not in attendance for at least four sixty-minute hours per week upon regular full-time public or private day schools, or suitable part-time day classes such as those specified under section one of this act, and who cannot speak, read or write the English language, to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state, must establish and maintain special classes in evening schools or special evening classes under the administration of day schools, as authorized by section one thousand seven hundred fifty c of the Political Code. Said classes shall

provide instruction in citizenship for such persons for at least four sixty-minute hours per week for at least thirty-six weeks of the school year.

§ 3. Compulsory attendance upon part-time classes. Exceptions. First—All persons under eighteen years of age who are too old to be subject to the provisions of an act entitled, "An act to enforce the educational rights of children, and providing penalties for the violation of the act," approved March 24, 1903, as amended, who have not graduated from a high school maintaining a four-year course above the eighth grade of the elementary school, or who have not had an equal amount of education in a private school or by private tuition, who are not disqualified for attendance upon these classes because of their physical or mental condition, or because of personal service that must be rendered to their dependents, who reside within three miles of a suitable class maintained, either voluntarily or under the provisions of this act by a high school district, and who are not in attendance upon a public or a private full-time day school or satisfactory part-time classes maintained by other agencies, shall be, and hereby are, required to attend upon a special part-time class maintained by the high school board of the district wherein they reside, or by the high school board of an adjoining district, for not less than four sixty-minute hours per week for the regularly established annual school term; provided, that the local school authorities may accept in lieu thereof not less than one hundred forty-four hours of attendance which, beginning with the opening of the high schools of the district for the year, shall be accumulated at the rate of not less than four sixty-minute hours per week; and provided, further, that the local school authorities may, in their discretion, arrange with the parents, guardian or other person responsible for any minor for his full-time attendance upon a special class maintained for such minor at a convenient season, wherein he may secure the one hundred forty-four hours of attendance required of him under the provisions of this act. When any such parent, guardian or other person responsible for such minor agrees with the local school authorities that said minor shall attend full-time classes for any given period, such parent, guardian or other person becomes responsible for said minor's compulsory attendance upon these classes for said period.

Second—Compulsory attendance upon classes for persons unable to speak English. All persons over eighteen and under twenty-one years of age who cannot speak, read or write the English language to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state; who live within a radius of three miles of an evening class maintained by a high school district, either voluntarily or under the provisions of this act, for the instruction of such persons; who expect to remain in the district for a period of two or more months; who are not disqualified for attendance upon these classes because of their physical or mental condition, or because of personal service that must be rendered to their dependents; and who are not in attendance upon a public or private full-time day school or upon a class established under the provisions of section one of this act for such persons under eighteen years of age, shall be, and hereby are, required to attend, for at least four sixty-minute hours per

§ 2. Application of act. Nothing contained in this act shall apply to trade schools or classes of instruction conducted by or in connection with any public school, public institution, parochial school, charitable school or institution, private business schools teaching shorthand, type-writing, bookkeeping, mechanical and other usual business subjects or trades schools connected therewith or any school employing teachers having certificates issued by the public school authorities to teach any particular trade, art, science or occupation.

ACT 3586n.

An act to require certain high school districts to provide part-time educational opportunities in civic and vocational subjects for persons under eighteen years of age, who are not in attendance upon full-time day schools, and part-time educational opportunities in citizenship for persons under twenty-one years of age who cannot adequately speak, read or write the English language; to enforce attendance upon such part-time classes where established, and providing penalties for violation of the provisions of this act.

[Approved May 27, 1919. Stats. 1919, p. 1047. In effect—see section 15.]

§ 1. High school board to maintain day part-time classes. The high school board of each high school district wherein there were enrolled, in the regular day classes of the high schools of said district during the school year next preceding, fifty or more persons living within a radius of three miles of a high school located in said district, must establish and maintain, under the provisions of section one thousand seven hundred fifty c of the Political Code, special day part-time classes which shall provide at least four sixty-minute hours of instruction per week for all persons within the district who are over fourteen and under eighteen years of age who are not in attendance upon full-time public or private day schools for four or more sixty-minute hours per week, and who are not subject to the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended. Said classes must be maintained between the hours of eight A. M. and five P. M. and must provide suitable instruction for the various individuals for whose benefit they are established.

§ 2. Special evening classes for persons not speaking English. The high school board of each high school district wherein there are living, within a radius of three miles of any high school located in said district, twenty or more persons over eighteen and under twenty-one years of age who expect to remain in the district for a period of two or more months, who are not in attendance for at least four sixty-minute hours per week upon regular full-time public or private day schools, or suitable part-time day classes such as those specified under section one of this act, and who cannot speak, read or write the English language, to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state, must establish and maintain special classes in evening schools or special evening classes under the administration of day schools, as authorized by section one thousand seven hundred fifty c of the Political Code. Said classes shall

provide instruction in citizenship for such persons for at least four sixty-minute hours per week for at least thirty-six weeks of the school year.

§ 3. Compulsory attendance upon part-time classes. Exceptions. First—All persons under eighteen years of age who are too old to be subject to the provisions of an act entitled, "An act to enforce the educational rights of children, and providing penalties for the violation of the act," approved March 24, 1903, as amended, who have not graduated from a high school maintaining a four-year course above the eighth grade of the elementary school, or who have not had an equal amount of education in a private school or by private tuition, who are not disqualified for attendance upon these classes because of their physical or mental condition, or because of personal service that must be rendered to their dependents, who reside within three miles of a suitable class maintained, either voluntarily or under the provisions of this act by a high school district, and who are not in attendance upon a public or a private full-time day school or satisfactory part-time classes maintained by other agencies, shall be, and hereby are, required to attend upon a special part-time class maintained by the high school board of the district wherein they reside, or by the high school board of an adjoining district, for not less than four sixty-minute hours per week for the regularly established annual school term; provided, that the local school authorities may accept in lieu thereof not less than one hundred forty-four hours of attendance which, beginning with the opening of the high schools of the district for the year, shall be accumulated at the rate of not less than four sixty-minute hours per week; and provided, further, that the local school authorities may, in their discretion, arrange with the parents, guardian or other person responsible for any minor for his full-time attendance upon a special class maintained for such minor at a convenient season, wherein he may secure the one hundred forty-four hours of attendance required of him under the provisions of this act. When any such parent, guardian or other person responsible for such minor agrees with the local school authorities that said minor shall attend full-time classes for any given period, such parent, guardian or other person becomes responsible for said minor's compulsory attendance upon these classes for said period.

Second—Compulsory attendance upon classes for persons unable to speak English. All persons over eighteen and under twenty-one years of age who cannot speak, read or write the English language to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state; who live within a radius of three miles of an evening class maintained by a high school district, either voluntarily or under the provisions of this act, for the instruction of such persons; who expect to remain in the district for a period of two or more months; who are not disqualified for attendance upon these classes because of their physical or mental condition, or because of personal service that must be rendered to their dependents; and who are not in attendance upon a public or private full-time day school or upon a class established under the provisions of section one of this act for such persons under eighteen years of age, shall be, and hereby are, required to attend, for at least four sixty-minute hours per

week, upon a special day or evening class maintained by a high school district for persons who cannot speak, read or write the English language.

§ 4. Conduct of classes. Combined school enrollment certificate and permit to work. First—It shall be the duty of the local school authorities to provide, in so far as possible through the classes established under section one of this act, educational opportunities which shall be suitable for the different needs of the various persons attending them. In carrying out the provisions of this act:

(a) They shall establish and maintain short unit courses and give instruction in civic and vocational subjects and subjects supplementing home, farm, commercial, trade, industrial or other occupations; and they may give instruction in any elementary, secondary or other school subject.

(b) They shall provide for individual counsel and guidance in social and vocational matters for each pupil enrolled in these classes:

(c) They shall give all persons who are engaged in skilled occupations and who are enrolled in these classes opportunity to better qualify themselves for said occupations.

(d) They shall give all persons who are engaged in unskilled occupations or in occupations that do not offer educational opportunities and who are in attendance upon these classes opportunity to prepare themselves for skilled occupations or for occupations that offer opportunities for promotion or further education.

(e) They shall provide instruction in home economics subjects for those who desire and need work of this character.

(f) They shall provide instruction in oral and written English and in the duties and responsibilities of citizenship for persons enrolled in these classes who cannot speak, read or write the English language to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state.

(g) They shall not require of pupils a minimum uniform standard of proficiency in any subjects maintained in these classes, except in those subjects designed to prepare for other classes or other schools.

(h) They shall require the principal of the school to issue in his name a combined school enrollment certificate and permit to work to each person enrolled in these classes, and a duplicate of said certificate for his parents, guardian or other person having control or charge of him, and from time to time such duplicates of said certificate as are necessary for filing with his employers, together with such other blanks as may be necessary for the use of employers in reporting to the principal information concerning the employment of said person. Said certificate shall give the name, age and residence of the pupil, the name and residence of his parents, guardian or other person having control or charge of him, the time of day during which and the days on which he is in attendance upon the classes, and the character of work that he is pursuing. Said certificate shall also state any physical or other condition that should limit the employment of said pupil and shall state the date of issuance and the date of expiration. Said certificate shall be issued to persons enrolling in these classes within five days after their

enrollment. Certificates issued during the first school term shall expire five days after the opening of the next succeeding school term of the year, and certificates issued during the last term of the school year shall remain valid until five days after the opening of the first school term of the succeeding year.

Second—Instruction in citizenship. It shall be the duty of local school authorities that maintain classes under the provisions of section two of this act to provide, for persons who cannot speak, read or write the English language, to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state, instruction in such subjects and in the duties and responsibilities of citizenship.

§ 5. Parent, etc., to compel attendance of minor. Penalty. Each parent, guardian or other person having control or charge of any minor required under the provisions of section three of this act to attend special part-time classes, must compel the attendance of such minor upon the same. He must retain a copy of the certificate of school enrollment and permit to work provided for under section four of this act, and must present the same upon request of any officer of the law or other person authorized to enforce the provisions of this act.

Should any such parent, guardian or other person having control or charge of any such minor fail to perform any of the above duties, he shall be deemed guilty of a misdemeanor and, upon conviction, shall be liable, for the first offense, to a fine of not more than ten dollars or to imprisonment for not more than five days, and for each subsequent offense he shall be liable to a fine of not less than ten dollars nor more than fifty dollars, or to imprisonment for not less than five days nor more than twenty-five days, or to both such fine and imprisonment.

§ 6. Complaint against parents, etc., violating act. The high school board of any high school district wherein a minor resides who has violated section three of this act shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian or other person having control or charge of any such minor for violation of section five of this act.

If it shall appear upon such investigation that any such parent, guardian or other person having control or charge of any such minor has violated the provisions of section five of this act, it is hereby made the duty of the clerk of said board, or other person authorized by said board to bring such actions, to make and file in the proper court a criminal complaint against such parent, guardian or other person having control or charge of any such minor, charging such violation and to see that such charge is prosecuted by the proper authorities; provided, that in cities, and in cities and counties, and in school districts having an attendance officer or officers, such officer or officers shall have power, and it shall be their duty, to make and file such complaint and see that said charge is presented by the proper authorities.

§ 7. Employer of minor to require certificate. Notice to principal of employment. Time at school and at work not to exceed eight hours. The employer of any minor under eighteen years of age who is too old

to be subject to compulsory full-time school attendance under the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended, and who resides in a high school district wherein section three of this act has become operative, shall require of said minor a school enrollment certificate and permit to work issued by a high school or elementary school principal of a school in the district. Said certificate shall be the authorization of the employer to employ said minor for the period between the date of the issuance of the certificate and the date of its expiration. Under no conditions shall any person employ a minor under eighteen years of age who is too old to be subject to compulsory full-time school attendance under the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended, and who does not present such a school enrollment certificate and permit to work. The employer shall file and retain permanently said school enrollment certificate and permit to work. Within five days after the beginning of employment he shall send to the principal of the school issuing said enrollment card and permit to work a written notification of such employment. In said notification he shall briefly describe the character of the work performed by the minor and the time of day during which and the days of the week on which he is employed. Said employer shall retain and file, with the enrollment certificate and permit to work mentioned above, a copy of this notification; provided, that, except in agricultural and home-making occupations, it shall be illegal for any one or more employers to employ a minor under eighteen years of age for a greater number of hours each day than will, if added to the number of hours that he is compelled to attend school under the provisions of this act, equal eight hours. It is hereby made the duty of the principal of the school which any pupil subject to the provisions of this act attends, to add his hours of compulsory daily school attendance and employment, and should the sum of such school attendance and employment exceed eight hours for any day of the week, said principal shall give notification to this effect to any employer who may be employing any such pupil after he has already served eight hours in compulsory school attendance and at employment for any such day. Except in agricultural or home-making occupations, it shall be illegal for any employer knowingly to employ on any day a minor under eighteen years of age who is subject to the provisions of this act, and who has already served during said day eight hours of time in compulsory school attendance and at employment combined.

§ 8. Penalty for illegal employment of minor. Any person, firm, corporation, agent or officer of a firm or corporation that violates or omits to comply with any of the provisions of this act, or that employs or suffers any minor under eighteen years of age who is too old to be subject to compulsory full-time school attendance under the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended, to be employed in violation thereof, is guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by

imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment for each and every offense. Failure to produce an enrollment certificate and permit to work, such as that provided for in section four of this act, and a duplicate of the written notification of employment sent to the high school board, as provided for in section seven of this act, shall be prima facie evidence of the illegal employment of any minor whose enrollment certificate and permit to work is not produced.

§ 9. Action by school board. It shall be the duty of the clerk of the high school board, a truant officer or other person authorized by said board to bring such actions, to bring an action against any person, firm, corporation, agent or officer of a firm or corporation that employs a minor in violation of the provisions of this act.

§ 10. Settlement of controversies by school superintendent. Should any controversy arise in any high school district in this state over the question as to whether any person is exempt from the compulsory attendance features of this act, or over the question as to whether attendance on part-time classes maintained by other agencies may be accepted in lieu of attendance upon the classes contemplated by this act, the school superintendent having jurisdiction over said district shall provide for an investigation and he shall render a decision; provided, that should any of the parties to any such controversy not be satisfied with the decision of the superintendent of schools they may appeal from his decision to the superintendent of public instruction who shall provide for a further investigation, upon the findings of which he shall decide the matter; and provided, further, that no such instruction by other agencies shall be accepted in lieu of the instruction provided by part-time classes under the provisions of this act unless the necessary instruction is given in citizenship and in addition thereto such elementary and secondary school subjects as may be desired by the persons attending these classes or by their parents or guardians.

§ 11. Certificates to pupils in full-time day schools. All principals of high schools and elementary schools located in high school districts, wherein the provisions of section three of this act have become operative, shall issue to all pupils enrolled in their respective schools, who are not otherwise subject to the provisions of this act, who are too old to be subject to compulsory full-time school attendance under the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended, and who are under the age of eighteen years, a combined school enrollment certificate and permit to work, similar to that provided in subdivision first of section four of this act, but modified to meet the needs of full-time day school; and the principals of all high schools wherein reside persons under eighteen years of age who are exempt under the provisions of section three of this act shall, upon request, register such persons and shall issue to them enrollment certificates and permits to work, which shall state the causes of exemption.

§ 12. Provisions of earlier acts to prevail. Should any of the provisions of this act be in conflict with any of the provisions of an act

entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, as amended, or with any of the provisions of an act entitled "An act relating to the employment and hours of labor of children; prohibiting the employment of minors under certain ages; prohibiting the employment of certain illiterate minors; providing for the enforcement hereof by the commissioner of the bureau of labor statistics, and providing penalties for the violation hereof," approved February 20, 1903, as amended, said conflicting provisions of this act shall be null and void.

§ 13. Disposition of fines. Any fine collected under the provisions of this act shall be paid into the high school fund of the high school district wherein the minor resides.

§ 14. Saturday classes. Exemption from attendance. Any high school board may maintain special part-time classes on Saturdays, and should it appear that five or more minors residing in any high school district which maintains such classes are unable to arrange with their employers for attendance upon such classes maintained on other days and other hours, the high school board of said district must provide instruction for them on Saturday afternoons.

Should it appear that the interest of any minor would suffer if he were compelled to attend a special part-time class under the provisions of this act, the high school board of the high school district in which said minor resides may exempt him from compulsory attendance upon any such class; provided, that any such high school board may not exempt, by authority of this section, a number of minors greater than three and in addition thereto a number which shall exceed five per cent of the total number of minors subject to compulsory attendance upon part-time classes in its district under the provisions of this act.

Said board shall cause to be issued to any such exempted minor a combined school enrollment certificate and permit to work which shall contain a statement of the cause of, and the time covered by, such exemption.

§ 15. Time in effect. Minimum attendance. The compulsory attendance features of this act, the restrictions relating to the employment of minors under eighteen years of age, and all penalties relating thereto, shall become operative as follows: During the school year 1919-20 and thereafter they shall apply to all persons under twenty-one years of age who are subject to the provisions of this act and who cannot speak, read or write the English language to a degree of proficiency equal to that required for the completion of the sixth grade of the elementary schools of this state, and they shall apply also to all other persons subject to the provisions of this act who are less than sixteen years of age. During the school year 1920-21 they shall apply also to all persons subject to the provisions of this act who are less than seventeen years of age, and during the school year 1921-22 and thereafter they shall apply also to all persons subject to the provisions of this act who are less than eighteen years of age.

No high school board may be required to establish special part time classes under the provisions of this act unless there are in the district twelve or more minors under eighteen years of age who reside within

three miles of a high school in the district and who would become subject, under the provisions of this act, to compulsory attendance upon said classes.

ACT 35860.

An act to provide that the Santa Barbara State Normal School of Manual Arts and Home Economics shall hereafter be known as the Santa Barbara State Normal School, and to provide that it shall hereafter fulfill the functions of and be governed by the laws relating to the normal schools of this state. [Approved May 25, 1919. Stats. 1919, p. 1208. In effect July 25, 1919.]

ACT 3586p.

An act to authorize the transfer and expenditure of the excess of school building funds in certain cases.

[Approved May 3, 1919. Stats. 1919, p. 235. In effect immediately.]

§ 1. Transfer of school building fund to general fund authorized. Whenever the average daily attendance of pupils for the first half of the fiscal year 1918-19, in any school district in this state, shows an increase of more than one hundred per cent over the increase in average daily attendance of the fiscal year 1917-18, and it appears that the income and revenue provided for such district for the fiscal year ending June 30, 1919, will be insufficient to defray the usual current expenses of such district until such date, and there remains in the building fund of such district, created and existing under the provisions of section one thousand eight hundred thirty-eight of the Political Code, any moneys which, by reason of war-time building restrictions imposed by federal authority, or by reason of the present excessive cost of building construction resulting from war conditions, have not been expended, and which in the judgment of two-thirds or more of the board of trustees or board of education of such school district cannot be expended to the economic advantage of such school district during the school year beginning July 1, 1919, such board may, by resolution indorsed upon its minutes and adopted by the affirmative votes of not less than two-thirds of all its members, declare such moneys, or any part thereof, to be surplus moneys of such fund, and may, by a like vote, transfer such moneys or any part thereof, from such building fund to the general fund of the district, and may, thereafter, expend the amount so transferred, or so much thereof as may be necessary, in payment of the usual current expenses of such district incurred during the school year, ending with the said thirtieth day of June, 1919.

§ 2. Time of taking effect. This act, being an act to provide for the payment of the usual current expenses of the state, shall take effect immediately.

TITLE 499.**SEWERS.****ACT 3598a.**

An act validating the formation and organization and fixing the boundaries of sewer district number two, organized under the provisions

of an act of the legislature of the state of California approved May 20, 1915, "An act to provide for the divisions of municipalities in the sewer districts and for the construction of, or acquisition and maintenance of sewers therein, providing a system of district sewer bonds to pay the cost of such construction of, or acquisition and also for the payments of such bonds." [Approved May 11, 1919; Stats. 1919, p. 468. In effect July 22, 1919.

TITLE 500.

SHASTA COUNTY.

ACT 3608.

An act fixing the compensation of grand and trial jurors in counties of the twenty-eighth class.

[Approved May 28, 1917. Stats. 1917, p. 1025. In effect July 27, 1917.]

§ 1. Fees of jurors, counties of twenty-eighth class. Grand jurors or trial jurors in criminal cases in the superior court shall receive, as compensation for each day's attendance, per day three dollars, and for each mile actually traveled in attending court as a grand juror or juror at a criminal case, in the superior court in going only, per mile fifteen cents. The county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each juror, and the auditor shall draw his warrant for the amount to which each juror is entitled and the treasurer shall pay the same.

TITLE 510.

SMELTERS.

ACT 3670.

An act providing for the investigation by the state veterinarian, the secretary of the state board of health and the state commissioner of horticulture of injury to animal life and vegetation in California, caused by smelter wastes, and making an appropriation therefor. [Approved June 16, 1913. Stats. 1913, p. 1147.]

Repealed 1917; Stats. 1917, p. 280.

TITLE 513.

SOLDIERS AND SAILORS.

ACT 3693.

To provide for the burial of ex-Union soldiers, sailors and marines dying without leaving sufficient means to defray burial expenses.

[Approved March 15, 1889. Stats. 1889, p. 198.]

Amended 1901, p. 596; 1911, p. 479; 1913, pp. 17, 330; 1917, p. 749.

The amendment of 1917 follows:

§ 1. Soldiers, sailors and marines may be buried at county expense. It shall be the duty of the board of supervisors of each county in this state to designate a proper person in the county, who shall be an honorably discharged soldier, sailor or marine who shall have served in the

army or navy of the United States, whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor or marine who shall have served in the army or navy of the United States, or the widow of any such honorably discharged soldier, sailor or marine, who may hereafter die without having sufficient means to defray funeral expenses. Such burial shall not be made in any cemetery or burial ground, or any portion of such cemetery or burial ground, used exclusively for the burial of the pauper dead. The expenses of each burial shall not exceed the sum of seventy-five dollars. [Amendment approved May 19, 1917; Stats. 1917, p. 749.]

Another amendment of Section 1 of this act was passed at the same session of the legislature. It was in almost precisely the same terms as the above amendment. See Stats. 1917, p. 17.

§ 4. Record of deceased soldiers. Headstones. It shall be the duty of the clerk of the board of supervisors, upon receiving the report and statement of expenses provided for in this act, to transcribe in a book kept for that purpose, all the facts contained in such report respecting such deceased soldier, sailor, or marine, or the widow of such soldier, sailor or marine. It shall also be the duty of said clerk, upon the death and burial of any such soldier, sailor or marine, to make application to the proper authorities under the government of the United States, for a suitable headstone, as provided by act of congress and to cause the same to be placed at the head of such soldier, sailor or marine's grave, the expenses of which shall not exceed the sum of five dollars for cartage and properly setting each stone, and it shall be the duty of the board of supervisors to perpetually maintain suitably and properly each grave of any such soldier, sailor or marine whether so marked by a headstone prior to the passage of this act or subsequent thereto. The expenses thus incurred shall be audited and paid as provided in section two of this act for burial expenses. [Amendment approved May 19, 1917; Stats. 1917, p. 749.]

ACT 3693a.

An act to provide for the care of the graves of soldiers, sailors and marines of the United States of America whose remains are buried in certain cemeteries.

[Approved May 11, 1917. Stats. 1917, p. 422. In effect July 27, 1917.]

§ 1. Care of graves of soldiers, sailors and marines. Wherever in any place of burial of human remains, which is now or which may hereafter be established or organized by or under the authority of the board of supervisors of a county, or city and county, of this state, or by or under the authority of the board of trustees, city council or other governing body of a municipality in this state, as a cemetery or place of burial of human remains, there is or shall be any known grave of a former soldier, sailor or marine of the United States of America (who was not dishonorably discharged from the service of said United States), it is hereby made the duty of the trustees or other officers who are or may be hereafter vested by law with the power to manage such cemetery or place of burial, to keep such grave properly marked and identified, and free from weeds and rubbish, and to keep in decent order and repair

and free from defacement, injury and unlawful markings any tomb, monument, gravestone, wall or other appurtenance appertaining to such grave.

§ 2. Tax levy. It is hereby made the duty of such officers who are charged or who may hereafter be charged by law with the official power to raise money by taxation for maintaining any such cemetery or place of burial, to include in the tax levy for such purposes sufficient to raise the amount necessary to comply with the requirements of this act.

ACT 3697.

An act to create a state committee on soldiers' employment and readjustment to assist in securing re-employment for soldiers, sailors, marines, and others, who have served with the armed forces of the United States during the European war; to provide a state agency to co-operate with all federal, state, county and municipal officials and agencies having a like object, and to authorize said committee to aid in the expeditious allowance and payment of all allotments and allowances provided for by law for the protection of said soldiers and the maintenance of their dependents, and to make appropriations for the purposes of this act.

[Approved January 24, 1919. Stats. 1919, p. 4. In effect immediately.]

§ 1. State committee on soldiers' employment and readjustment created. There is hereby created a state committee on soldiers' employment and readjustment to consist of nine members who shall be appointed by the governor to serve at his pleasure.

§ 2. Powers and duties of committee. The state committee on soldiers' employment and readjustment shall assist in securing employment for soldiers, sailors, marines, and others, who have served with the armed forces of the United States during the European war; and shall likewise have power to co-operate with all federal, state, county and municipal officials and agencies having a like object in so dealing with such problems and in the securing of said employment for said soldiers, sailors, marines, and others, who have served with the armed forces of the United States during the European war; and to stimulate and co-ordinate public and private assistance and to encourage and develop federal, state, municipal and private industrial and constructive enterprises in the meeting of these problems; and said committee shall likewise be authorized and empowered to aid in the expeditious allowance and payment of all allotments and allowances provided for by law for the protection of said soldiers and the maintenance of their dependents.

§ 3. Activities of state council of defense transferred. This committee shall succeed to all the activities of the state council of defense, and said state council of defense is hereby authorized and instructed to deliver all of its records, files and property to said committee.

§ 4. Expenses. Members of the state committee on soldiers' employment and readjustment shall serve without pay, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duty hereunder.

§ 5. Appropriation. Term of office. For the purposes of this act fifty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated. Claims against such appropriation shall be approved by the chairman of the state committee on soldiers' employment and readjustment, and when so approved shall be audited and paid in the manner provided by law. The term of said state committee on soldiers' employment and readjustment shall expire not later than January 31, 1921, A. D.

§ 6. Emergency measure. Inasmuch as the United States military and naval forces are being demobilized, and, those entering from the state of California are suddenly returning in very great numbers to their homes, without provision for their re-employment or other readjustment to civil life, it is hereby declared that this act is an emergency measure, necessary for the immediate preservation of the public health, peace and safety, and that under the provisions of section one of article four of the state constitution an urgency exists, and this act shall take effect immediately.

ACT 3698.

An act providing for the relief by counties or cities of indigent persons who have been honorably discharged from any branch of the United States army or navy or the American Red Cross, and their families, to be administered through certain organizations organized for that purpose.

[Approved May 2, 1919. Stats. 1919, p. 275. In effect July 23, 1919.]

§ 1. County relief to indigents discharged from United States service or Red Cross. The board of supervisors of any county in the state is hereby authorized to grant financial assistance, relief and support to indigent persons who have been honorably discharged from any branch of the United States army or navy, or the American Red Cross, and who have served in any war in which the United States has been engaged, such assistance, relief and support to be administered through and by any military, naval or marine organization now existing or hereafter created for the purpose of aiding, relieving and supporting such indigent persons under the terms and conditions set forth in this act.

§ 2. Statement by organizations giving assistance. Any organization desiring to assist the persons mentioned in section one hereof, shall first file with the board of supervisors of the county in which it is operating or intending to operate, a verified statement setting forth the following matters, to wit:

1. Objects and purposes of the organization, one of which must be the purpose mentioned in section one hereof.
2. Date of organization.
3. Names and addresses of officers and relief committee.
4. Name and address of the treasurer or financial officer in charge of the receipt and disbursement of funds.
5. Number of members.
6. Financial-condition showing total assets and liabilities.

7. Statement that financial assistance for persons mentioned in section one hereof to be administered in accordance with the provisions of this act, will be asked for.

§ 3. Consideration of statement. Upon the filing of the said statement the board of supervisors shall set a day not more than ten days from the date of such filing, upon which said statement shall be considered and at least five days' notice thereof shall be given by mail to the clerk or secretary of said organization.

§ 4. Resolution of supervisors. Upon the day set, the board of supervisors shall, after hearing any evidence that may be presented, determine by resolution entered upon its minutes whether or not the said organization is qualified to carry out the provisions of this act. Such resolution shall be effective only for a period of one year and may be revoked at any time.

§ 5. Treasurer of organization to give bond. No money shall be given to any person under this act except to the treasurer or financial officer of the — organization, whose name shall be stated in subdivision four of the statement mentioned in section two hereof, and such treasurer or financial officer shall, before receiving any money hereunder file with the board of supervisors a good and sufficient bond or undertaking signed by at least two sureties, in an amount to be fixed by the board of supervisors; said bond shall inure to the benefit of the county and shall be conditioned upon the faithful and honest administration of the funds intrusted to said officer in accordance with the provisions of this act.

§ 6. Warrant for relief upon request of organization. Upon receipt of a request from any organization qualified under this act, giving the names of all persons for whom relief is desired, together with the branch of service, division, regiment and company or other unit or designation by which each of such persons may be identified, and a further statement that the circumstances of each of such persons has been personally investigated by the relief committee of such organization, and that each of such persons is in all respects worthy and entitled to relief hereunder, the board of supervisors may direct the county auditor to draw his warrant upon the county treasurer for the amount specified therein, or a less amount, and such warrant shall be delivered to the treasurer or financial officer of said organization.

§ 7. Money not to be used for overhead expenses. All money paid out by any county under this act shall be used by the organization receiving it exclusively for the relief of persons mentioned in section one hereof and no part of it shall ever be used for administration or overhead expenses; provided, however, that the indigent and dependent widow, minor child, father or mother of any of said persons may be granted relief by said organization out of said money; provided, further, that the necessary expenses, not to exceed seventy-five dollars for burial or cremation of any deceased person mentioned in section one hereof, may be paid out of such money.

§ 8. Money taken from general fund or raised by tax levy. The money necessary to carry out the provisions of this act may be taken

from the general fund of the county, or the board of supervisors in its discretion may levy a special tax not to exceed one-half cent on the one hundred dollars of the assessed valuation of all property within the county to carry out said purposes.

§ 9. Assistance by city. Any municipal corporation may extend assistance to any organization under this act, and in such case all proceedings required to be had before the board of supervisors of the county shall be had before the legislative body of such city, and the words "board of supervisors," "county," "county auditor" and "county treasurer" wherever used in this act shall be deemed to mean "legislative body," "city," "city auditor" and "city treasurer" respectively.

TITLE 526.

STATE.

ACT 3796a.

An act authorizing suits against the state concerning certain real property and regulating procedure therein.

[Approved May 14, 1917. Stats. 1917, p. 435. In effect July 27, 1917.]

§ 1. Suits against state to quiet title authorized. In all cases where the state of California has apparently acquired some right, title or interest, or the right to acquire some title or interest in or to real property in this state by virtue of an act entitled "An act relating to the rights, powers and disabilities of aliens and of certain companies, associations and corporations with respect to property in this state, providing for escheats in certain cases, prescribing the procedure therein, and repealing all acts or parts of acts inconsistent or in conflict therewith," approved May 19, 1913, and no proceedings have been instituted in regard thereto, as provided in said act, any person or persons claiming to own any such real property in fee, which claim is based upon a right existing prior to the said nineteenth day of May, A. D. 1913, is and are authorized to bring suit against the state of California in any court of competent jurisdiction in said state, within one year from the date upon which this act takes effect, to quiet title to the said real property or any portion thereof, and to prosecute the same to final judgment. The rules of practice in civil cases relating to suits to quiet title shall apply to such suits as may be brought under this authorization except as otherwise provided. If judgment be given against the state in such suits, no costs can be recovered from the state.

§ 2. Service of summons. Service of summons in such suits shall be made on the governor and attorney general of the state. It shall be the duty of the attorney general to defend in all such suits.

§ 3. Judgment. In all such cases judgment shall not be entered by default but proceedings shall be had as provided in section seven hundred fifty-one of the Code of Civil Procedure of the state of California, and the judgment when entered shall have the same force and effect against the state of California as in said section provided against other defendants.

ACT 3798f.-

An act authorizing suits against the state of California concerning real property purchased under the provisions of an act entitled "An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California," approved March 30, 1868, and of an act entitled "An act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California,' approved March 30, 1868," approved April 1, 1870, and of an act entitled "An act supplementary to and amendatory of an act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California,' approved March 30, 1868; also, an act approved April 1, 1870," approved March 30, 1874.

[Approved April 4, 1919. Stats. 1919, p. 32. In effect July 22, 1919.]

§ 1. Suits to quiet title to salt marsh and tide lands. Deed lost or not recorded. In all cases where the state of California has sold any salt marsh and tide lands under the provisions of the following-named acts or of any of them, to wit: "An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California," approved March 30, 1868, and an act entitled "An act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California,' approved March 30, 1868," approved April 1, 1870, and an act entitled "An act supplementary to and amendatory of an act supplementary to and amendatory of an act entitled 'An act to survey and dispose of certain salt marsh and tide lands belonging to the state of California,' approved March 30, 1868; also, an act approved April 1, 1870," approved March 30, 1874, to any person or persons and the person or persons purchasing said lands has paid all of the installments required to be paid by him or them on the purchase price thereof prior to the enactment of an act entitled "An act to abolish the state board of tide-land commissioners; and to repeal sections three hundred sixty-five and six hundred ninety-eight of the Political Code," approved February 4, 1876, and where no deed was ever executed and delivered to such purchaser or purchasers conveying to him or them the lands so purchased, or where such deed, if delivered, has been lost by such purchaser or purchasers or has never been recorded, the person or persons so purchasing said lands, or his or their successor or successors in interest, is and are hereby authorized to bring suit against the state of California in any court of said state of competent jurisdiction to quiet title to said land, or to any portion thereof, and to prosecute the same to final judgment. The rules of practice in civil cases relating to suits to quiet title shall apply to such suits as may be brought under this authorization, except as herein otherwise provided. If judgment be given against the state in any such suit, no costs can be recovered from the state thereunder.

§ 2. Contents of complaint. The complaint filed in any suit brought under the provisions of this act shall contain a statement of the time, place and conditions of sale of the lands concerning which title is sought

to be quieted, together with a statement of all moneys paid under the terms of said sale and the date of such payments.

§ 3. Limit of action. Any such suits to quiet title shall be commenced within one year after this act takes effect.

§ 4. Attorney general to defend. Service of summons in such suits shall be made on the governor and surveyor-general. It shall be the duty of the attorney general to represent the state in all such suits.

TITLE 529.

STATE COMMISSION MARKET.

See post, Title 534a, State Market Commission.

ACT 3807.

An act to provide for the creation of the state commission market, and the organization thereof, to carry on the business of receiving from the producers thereof the agricultural, fishery, dairy and farm products of the state of California and selling and disposing of such products on commission, creating the "state commission market fund" and appropriating money therefor. [Approved June 10, 1915. Stats. 1915, p. 1390.]

Repealed 1917; Stats. 1917, p. 1669. See post, Act 3847.

TITLE 530.

STATE ENGINEERING.

ACT 3812.

An act to create for the state of California a department of engineering, to provide for the appointment of the officers and employees thereof, defining its powers and prescribing the duties of said department, its officers and employees, to provide the compensation of such officers and employees, to make an appropriation for the salaries and other expenses for the remainder of the fifty-eighth fiscal year and making certain acts a felony and repealing an act entitled "An act creating a commissioner of public works, defining his duties and powers and fixing his compensation," approved February 9, 1900, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to create a department of highways for the state of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year," approved April 1, 1897; also repealing an act entitled "An act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the pur-

poses of this act," approved March 17, 1897, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March 24, 1893, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to create the office of Lake Tahoe wagon road commissioner, providing the term of office and compensation of such commissioner, defining his duties, and making an appropriation for the salary and expenditures provided for and authorized by this act," approved April 1, 1897, and all acts or parts of acts amendatory thereof.

[Approved March 11, 1907. Stats. 1907, p. 215.]

Amended 1909, p. 558; 1911, p. 823; 1915, pp. 630, 898; 1917, pp. 541, 690.

The amendments of 1917 follow:

§ 1. Department of engineering created. California highway commission. A department of and for the state of California to be known as the department of engineering is hereby created, to consist of an advisory board composed of the governor as ex-officio member and chairman of said board, the state engineer, who shall be the chief executive officer of the department, the general superintendent of state hospitals, the chairman of the state board of harbor commissioners of San Francisco, and three other members to be appointed by the governor, which said three appointive members shall hereafter in this act be designated as the appointed members of said advisory board. Said three appointed members shall compose a subdivision of said department of engineering designated as the California highway commission. The said department, its officers and employees, shall have and exercise the powers and duties hereinafter set forth and specified, and such as are or may be hereafter provided by law. [Amendment approved May 18, 1917; Stats. 1917, p. 692.]

§ 1½. Consulting board. Meetings. Reports. [Repealed May 18, 1917; Stats. 1917, p. 692.]

§ 2. Head of department. Upon this act becoming effective the governor shall appoint a competent civil engineer as the head of the department of engineering, and such person shall be known as the state engineer. The state engineer shall devote his entire time to the services of the state and shall not actively engage in any other pursuit while serving as such state official. He shall have charge of all the engineering and structural work of the department. [Amendment approved May 15, 1917; Stats. 1917, p. 543.]

§ 6. Employees, engineering department. The department of engineering, by and through the state engineer, shall have power to appoint two assistant engineers, a secretary, one state architect, one assistant state architect, a general superintendent for the architectural division, one mechanical engineer, one architectural designer, one structural engineer, an auditor, one electrical engineer, one estimator, one specification writer, one engineer's draftsman, three architectural draftsmen, two clerks, two stenographers, a blue-print pressman, a janitor, and such

additional assistance as the advisory board may, in its judgment, deem necessary, and to fix their salaries and compensation, which officers and appointees shall hold office at the pleasure of the appointive power, and who must be confirmed by the advisory board before proceeding with their duties. Such officers and employees shall devote their entire time to the service of the department. [Amendment approved May 15, 1917; Stats. 1917, p. 543.]

§ 9. Control of state highways. Expenditures. Power to obtain rights of way. Powers of state engineer assumed by highway commission. Highway engineering. The department of engineering shall take and have full possession and control of all roads and highways which have been declared and adopted state roads and state highways and all state roads and state highways which may hereafter be acquired and constructed. All expenditures by the state for highway purposes, except as otherwise hereafter provided by law, shall be under the full charge of the department of engineering, and all moneys appropriated for such purpose shall be made payable upon the proper demand of said department when approved and audited by the state board of control. The department of engineering, in the name of the people of the state of California, shall have the power to obtain or condemn necessary rights of way for any authorized state highway or for the change of any existing state highway or for any road placed under the department's charge by law unless otherwise provided. It shall have power to alter or change the route of a road and shall do all things necessary, and obtain all tools and implements required to properly care for and manage the roads under the charge of the department. Whenever, under any statutes of this state, the performance of any duty or obligation is imposed upon the department of highways, the same shall be assumed by, and the performance of the same shall devolve upon, the department of engineering. The said California highway commission shall forthwith assume and have and exercise all of the powers and duties of the state engineer relating to state roads and state highways and other roads and highways heretofore by law conferred or imposed upon said state engineer, and the said state engineer shall immediately relinquish and transfer to the said California highway commission all funds, papers, maps, records and other documents of the department of engineering relating to the roads and highways of the state and thereafter the state engineer shall have no further duty, power or responsibility with regard to roads and highways, save only such as shall devolve upon him as a member of the advisory board of the department of engineering. Said California highway commission shall have the supervision and direction of all state roads and state highways now existing and the improvement, maintenance, repair and protection thereof, and have charge of and perform all other duties relating to state roads and state highways which may be imposed upon said commission by said advisory board. The highway engineer shall be the chief executive officer of the California highway commission and shall perform such duties as may be imposed upon him by the California highway commission which are not in conflict with any duties which may be placed upon him by said advisory board. [Amendment approved May 18, 1917; Stats. 1917, p. 692.]

§ 10. Duties of highway commission. Act for road districts, etc. Biennial reports. The California highway commission, in addition to such other duties as may be imposed upon such commission by law, shall—

(a) Make such investigations as will put at the service of the state the most approved methods of highway improvement;

(b) Compile statistics relative to the public highways of counties and municipalities;

(c) If deemed expedient by said commission and at the expense of the applicants, either in whole or in part, as determined by said commission, said county, road or boulevard district or division and municipal authorities, upon request of such county, road or boulevard district or division and municipal authorities, in establishing grades and road drainage systems and advise with them as to the construction, improvement and maintenance of highways and bridges.

(d) If deemed expedient by said commission and at the expense of the applicants, either in whole or in part, as determined by said commission, cause plans, specifications and estimates to be prepared for the repair and improvement of highways and bridges, and in its discretion, also act as the consulting engineer for any county, road or boulevard district or division, or municipal authorities, when requested to do so by the county, road or boulevard district or division or municipal authorities; and said commission may, in its discretion, and upon the request of the governing board of any county, permanent road division, road or boulevard district or division, accept the funds of any such political subdivision for deposit in the state treasury, said funds to be deposited in such state fund or funds as said commission may designate, and the state department of engineering shall use and expend the funds so deposited for the construction of bridges, roads or boulevards situated within such political subdivision, in accordance with the plans and specifications and other terms as are mutually agreed upon by said commission, on behalf of the state of California, and such governing board; provided, however, that any bridge, road or boulevard constructed under the provisions of this section by and under the jurisdiction of said state department of engineering shall revert to the original jurisdiction and control immediately upon the completion thereof, unless such bridge, road or boulevard shall, in the opinion of said commission, be and constitute an integral part of the state highway system as contemplated by the state highways act and the state highways act of 1915 or as otherwise provided by law; and, further, the governing board of any county, permanent road division, or road or boulevard district or division may pay into the state treasury, as provided herein, for the purposes hereof, any funds under its jurisdiction and control subject to use for bridge road or boulevard purposes, created by tax levy or issuance of the bonds of any such political subdivision or otherwise.

(e) Investigate and determine upon the various methods of road construction adapted to the different sections of the state, as to the best methods of construction and maintenance of highways and bridges, and make such experiments in relation thereto from time to time as said commission deems expedient.

(f) Aid at all times in promoting highway improvement throughout the state.

(g) Have the power to call upon any state, county or municipal official to furnish said commission with any information contained in his office which relates to, or is in any way necessary to, the proper performance of the work of said department of engineering, and it is hereby made the duty of such officials to furnish such information without cost.

(h) Prepare biennial reports relating to road and highway work which shall be incorporated by the state engineer in his biennial reports which he is required by law to submit to the governor at least thirty days before each session of the legislature. [Amendment approved May 18, 1917; Stats. 1917, p. 692.]

§ 13. Co-operative work with United States government. All co-operative engineering work now existing or to be engaged in by the state with the United States government shall be placed under the department of engineering. All plans, estimates and specifications shall be approved by the state engineer except that in the case of road and highway work all plans, estimates and specifications shall be approved by the California highway commission, and the advisory board shall have full power to determine the kind, quality and extent of such work under co-operation with said government before entering into agreement with said government for such work. All unexpended moneys provided for by law on the aforesaid co-operative basis shall be expressly placed under the full control of the department of engineering and the state controller shall transfer such funds to the credit of the said department. Hereafter plans, estimates and specifications for such work shall be filed in the office of said department. All moneys received by the state treasurer from the United States government under project agreements relating to federal aid road work shall be credited by the state controller to such fund or funds as the state department of engineering shall designate. [Amendment approved May 18, 1917; Stats. 1917, p. 694.]

§ 16. Biennial report of state engineer. The state engineer shall prepare biennial reports which shall be submitted to the governor at least thirty days before each session of the legislature. Said report shall embrace the work and investigations of the department under his charge for the previous two years, together with such recommendations for changes in the laws affecting the department as he may deem advisable. It shall be the duty of the state printer to print all reports, bulletins or other matter and furnish any other necessary illustrations or diagram therefor as the department may deem necessary, all of which shall, however, be subject to the approval of the state board of examiners. [Amendment approved May 18, 1917; Stats. 1917, p. 695.]

§ 17. Salaries. Bond. The highway engineer shall receive not to exceed the sum of ten thousand dollars per annum; the state engineer shall receive the sum of five thousand dollars per annum; each assistant engineer shall receive the sum of three thousand dollars per annum; the secretary shall receive the sum of three thousand dollars per annum; the state architect shall receive the sum of four thousand eight hundred dollars per annum; the assistant state architect shall receive the sum of three thousand dollars per annum; the general superintendent for the architectural division shall receive the sum of three thousand dollars per annum; the mechanical engineer shall receive the sum of two thou-

sand seven hundred dollars per annum; the architectural designer shall receive the sum of two thousand seven hundred dollars per annum; the structural engineer shall receive the sum of two thousand four hundred dollars per annum; the auditor shall receive the sum of two thousand four hundred dollars per annum; the electrical engineer shall receive the sum of two thousand one hundred dollars per annum; the estimator shall receive the sum of two thousand one hundred dollars per annum; the specification writer shall receive the sum of two thousand one hundred dollars per annum; the engineer's draftsman shall receive the sum of two thousand dollars per annum; two architectural draftsmen shall receive the sum of two thousand one hundred dollars per annum, each; one architectural draftsman shall receive the sum of one thousand eight hundred dollars per annum; two clerks shall receive the sum of one thousand eight hundred dollars each, per annum; two stenographers shall receive the sum of one thousand five hundred dollars each, per annum; the blue-print pressman shall receive the sum of one thousand five hundred dollars per annum; the janitor shall receive the sum of nine hundred dollars per annum. Such salaries shall be paid at the same time and in the same manner as are the salaries of other state officers. The highway engineer shall furnish the state with a bond in the sum of twenty thousand dollars; the two assistant engineers and the state architect shall each furnish the state with a bond in the sum of ten thousand dollars; and the secretary shall furnish the state with a bond in the sum of fifteen thousand dollars, for the faithful performance of their duties. Such bonds must be approved by the governor of the state of California, and filed in the office of the secretary of state. Each of the three appointed members of the advisory board shall receive the sum of three thousand six hundred dollars per annum. Each and every one of the above-mentioned officers shall take the oath of office as prescribed for other state officers. The members of the advisory board, the state engineer and other officers and employees of the department of engineering shall be allowed their necessary traveling expenses while engaged in the discharge of their duties within the state. Every employee of the department of engineering who is intrusted with moneys belonging to the state and who is not already required by law to furnish an official bond shall file a bond if the said department shall so require in such an amount as the department shall deem to be expedient with two sufficient sureties thereon or with a surety company of recognized standing for the faithful performance of his trust, which bond must be approved by the state board of control and filed with the state treasurer. The premium or charge for every such bond, if given by a surety company, shall be paid by said department out of the particular fund under its control, from which fund the moneys are withdrawn and placed in the custody of the bonded employee or out of that fund to which the services of such employee directly pertain. [Amendment approved May 13, 1917; Stats. 1917, p. 543.]

ACT 3818b.

An act to appropriate money to be expended by and under the direction of the department of engineering for the purpose of rectifying and improving the channels of the Sacramento, San Joaquin and Feather rivers and such other waters of the state as the department

of engineering may determine; improving the navigability of such waters and acquiring land for necessary rights of way therefor; making surveys, investigations and report upon the feasibility of canalizing the rivers of the state and constructing canals for navigation, and making surveys, investigations and plans for flood control; the examination and supervision of dams; the investigation of rainfall, snowfall and runoff affecting navigation and flood control; and giving the department of engineering authority over dams, making it unlawful to construct or maintain dams in a dangerous condition and providing penalties for violations of the act and directing who shall prosecute such violations.

[Approved May 14, 1917. Stats. 1917, p. 516. In effect July 27, 1917.]

§ 1. Appropriation: improving Sacramento, San Joaquin and Feather rivers. The sum of one hundred fifty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to be expended by the department of engineering for the purpose of rectifying and improving the channels of Sacramento, San Joaquin and Feather rivers, and such other waters of the state as the department of engineering may determine, improving the navigability of such waters, acquiring land for necessary rights of way for such improvements; making surveys, investigations and reports upon the feasibility of canalizing the rivers of the state and constructing navigable canals, making surveys, investigations and plans for flood control upon any stream, the flood waters of which may injure or menace lands in the state of California, including the examination and supervision of dams, and investigation of rainfall, snowfall and runoff affecting or tending to affect navigation or flood control upon any of the streams of the state; provided, however, that before any expenditure shall be made or contracts awarded by said department for construction work to be done affecting navigable waters, the plans therefor shall be approved by the proper officers of the government of the United States having charge of river work in California.

§ 2. Dams under authority of department of engineering. (a) All dams in the state of California, other than those for impounding mining debris constructed under the authority of the California debris commission, or dams constructed by a municipal corporation maintaining a department of engineering, shall be under the authority of the state department of engineering, and the department shall exercise supervision over any dam, the failure of which would endanger life or property, and shall have power to prescribe and enforce compliance with measures for making such dams safe against failure; provided, that this section shall not apply to any dam which is part of a "water system" as defined in section two of the public utilities act of this state, and nothing in this act shall be construed to limit the jurisdiction of the railroad commission over such dams.

(b) **Approval of plans.** It shall be unlawful for any person, firm, corporation or district to construct, maintain or operate any dam known to be unsafe, or which if the destruction or failure thereof would endanger life or property; or to construct, reconstruct, repair or improve, maintain or operate any dam which is or would be ten feet or more in height

or which will impound water or other fluid to the amount of three million gallons unless the plans, specifications and construction thereof shall have been approved in writing by the state department of engineering.

(c) **Penalty.** Any person, firm, corporation or district who shall violate the provisions of this section is subject to a penalty of not less than five hundred nor more than two thousand dollars for each and every offense. Each day that such violation of the provisions of this section shall continue shall be deemed and considered a separate and distinct offense.

(d) **Permitting work contrary to plans felony.** Any person acting for himself as owner, or as director, officer, agent or employee of any firm, corporation or district engaged in the construction, reconstruction, improvement or repair of any dam, the plans and specifications of which have been approved by the department of engineering, or any contractor, or agent or employee of such contractor, who shall knowingly permit work to be executed thereon contrary to the plans and specifications approved as aforesaid, or any inspector or employee of the department of engineering who shall have knowledge of such work being done and fail to immediately notify the department of engineering thereof, is guilty of a felony and subject to the penalty of confinement in the state penitentiary for not less than one nor more than five years.

(e) **Duty of district attorney.** Upon the complaint of the department of engineering any district attorney is hereby authorized and directed to prosecute violations of the provisions of this section.

§ 3. Audit. All expenditures hereunder for rights of way, labor, materials and machinery, or in payment, in whole or in part, of any contract shall, before being paid, be audited by the state board of control, as provided by law.

§ 4. When available. Of the money herein appropriated fifty thousand dollars shall become available immediately upon this act becoming effective and the remaining one hundred thousand dollars shall become available on the first day of July, 1918.

ACT 3818c.

An act to provide for the accomplishment of the work of the direct improvement of the navigation of the Sacramento, San Joaquin and Feather rivers of the state of California, by controlling the floods, removing the debris and continuing the improvement of the Sacramento river, California, in accordance with the plans of the California debris commission contained in the report of said commission submitted August 10, 1910, and transmitted to the speaker of the house of representatives of the United States by the secretary of war on June 27, 1911, and printed in house of representatives document number eighty-one of the first session of the sixty-second United States congress, as modified by the report of said commission submitted February 8, 1913, approved by the chief of engineers of the United States army and the board of engineers for rivers and harbors and printed in rivers and harbors committee document number five, sixty-third United States congress, first session, in so far as said plan provides for the rectification and enlargement of river channels and the construction of weirs; and making an appropriation

for such work; and providing for the continuance of such work as provided by section two of an act of the congress of the United States entitled "An act to provide for the control of the floods of the Mississippi river and of the Sacramento river, California, and for other purposes," approved March 1, 1917.

[Approved May 15, 1917. Stats. 1917, p. 536. In effect July 1, 1917.]

§ 1. Appropriation: flood control. The sum of five hundred thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, which shall be available July 1, 1917, for controlling the floods, removing the debris and continuing the improvement of the Sacramento river, California, in accordance with the plans of the California debris commission contained in the report of said commission submitted August 10, 1910, and transmitted to the speaker of the house of representatives of the United States by the secretary of war on June 27, 1911, and printed in house of representatives document number eighty-one of the first session of the sixty-second United States congress, as modified by the report of said commission submitted February 8, 1913, approved by the chief of engineers of the United States army and the board of engineers for rivers and harbors and printed in Rivers and Harbors Committee Document Number Five, Sixty-third United States Congress, First Session, in so far as said plan provides for the rectification and enlargement of river channels and the construction of weirs.

§ 2. Condition. The appropriation made by section one of this act is made in compliance with the provisions of section two of that certain act of congress of the United States entitled "An act to provide for the control of the floods of the Mississippi river and of the Sacramento river, California, and for other purposes," approved March 1, 1917, and shall be paid to the treasurer of the United States whenever a like sum of five hundred thousand dollars shall have been appropriated or authorized to be appropriated by the congress of the United States, conditional on the payment of an equal amount by the state of California, for the prosecution of said work pursuant to section two of said act of congress.

§ 3. Expended by California debris commission. The money hereby appropriated, when paid to the treasurer of the United States, shall be expended under the direction of the California debris commission and in such manner as it may require or approve, and as provided in section two of said act of congress; and none of the money so appropriated shall be expended in the purchase of or payment for any right of way, easement or land acquired for the purposes of said improvement.

§ 4. Controller's warrant. The controller of the state of California is hereby authorized and directed, upon request of the governor, to draw his warrant or warrants on the state treasurer in favor of the treasurer of the United States for the amount hereby appropriated, and the state controller is hereby directed to pay the same.

§ 5. In case less sum appropriated by congress. If the congress of the United States shall not appropriate the full sum of five hundred thousand dollars for the prosecution of said work in accordance with

section two of said act of congress, as hereinbefore referred to, but shall appropriate a less sum or sums from time to time for said purpose, then the said sum hereby appropriated shall become available and be paid over to the treasurer of the United States, for said purpose as hereinbefore provided, in such sum or sums from time to time as may equal the sum or sums so appropriated or authorized to be appropriated by congress.

ACT 3818d.

An act to provide for the accomplishment of the work of the direct improvement of the navigation of the Sacramento, San Joaquin and Feather rivers of the state of California, by controlling the floods, removing the debris and continuing the improvement of the Sacramento river, California, in accordance with the plans of the California debris commission contained in the report of said commission submitted August 10, 1910, and transmitted to the speaker of the house of representatives of the United States by the secretary of war on June 27, 1911, and printed in house of representatives document number eighty-one of the first session of the sixty-second United States congress, as modified by the report of said commission submitted February 8, 1913, approved by the chief of engineers of the United States army and the board of engineers for rivers and harbors and printed in rivers and harbors committee document number five, sixty-third United States congress, first session, in so far as said plan provides for the rectification and enlargement of river channels and the construction of weirs; and making an appropriation for such work; and providing for the continuance of such work as provided by section two of an act of the congress of the United States entitled "An act to provide for the control of the floods of the Mississippi river and of the Sacramento river, California, and for other purposes," approved March 1, 1917. [Approved May 22, 1919. Stats. 1919, p. 851.]

This act appropriated five hundred thousand dollars for the purpose indicated.

ACT 3818e.

An act to appropriate money to be expended by and under the direction of the department of engineering for the purpose of rectifying and improving the channels of the Sacramento, San Joaquin and Feather rivers and such other waters of the state as the department of engineering may determine; improving the navigability of such waters and acquiring land for necessary rights of way therefor; making surveys, investigations and report upon the feasibility of canalizing the rivers of the state and constructing canals for navigation, and making surveys, investigations and plans for flood control; the examination and supervision of dams and the investigation of rainfall, snowfall, runoff, and stream flow affecting navigation, flood control or irrigation and preventing and repairing damage in certain cases. [Approved May 22, 1919. Stats. 1919, p. 856. In effect July 22, 1919.]

This act appropriated one hundred seventy-five thousand dollars for the purpose indicated.

TITLE 532a.**STATE LAND SETTLEMENT BOARD.****ACT 3822.**

An act creating a state land settlement board and defining its powers and duties and making an appropriation in aid of its operations.

[Approved June 1, 1917. Stats. 1917, p. 1566. In effect July 31, 1917.]

Amended 1919; Stats. 1919, p. 838.

§ 1. Importance of land settlement. The legislature believes that land settlement is a problem of great importance to the welfare of all the people of the state of California and for that reason through this particular act endeavors to improve the general economic and social conditions of agricultural settlers within the state and of the people of the state in general.

§ 2. Object of act. State land settlement board created. Officers. Compensation. Co-operation with United States government. The object of this act is to provide employment and rural homes for soldiers, sailors, marines and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in allied armies against the central powers and have been repatriated, and who have been honorably discharged, to promote closer agricultural settlement, to assist deserving and qualified persons to acquire small improved farms, to demonstrate the value of adequate capital and organized direction in subdividing and preparing agricultural land for settlement, and to provide homes for farm laborers.

To carry out the objects herein stated, there is hereby created a state land settlement board to consist of five members appointed by the governor to hold office for a term of four years and until their successors have been appointed and shall have qualified; provided, however, that of the members first appointed two shall be appointed to hold office until the first day in January, 1918, one until the first day in January, 1919, one until the first day in January, 1920, and one until the first day in January, 1921.

The governor shall designate one of the members as chairman of the board and director of land settlement. The secretary may or may not be a member of the board. The board shall appoint such expert, technical, and clerical assistance as may prove necessary, and shall define their duties. It shall fix the salaries of all employees, with the approval of the state board of control.

The four members of the board shall receive a per diem for each meeting attended, and the chairman shall receive a salary, said per diem and salary to be fixed by the state board of control with the approval of the governor. The members shall also receive their actual necessary traveling expenses in the discharge of their duties.

The said land settlement board shall have power to co-operate with and to contract with the duly authorized representatives of the United States government in carrying out the provisions of this act. [Amendment approved May 23, 1919; Stats. 1919, p. 839.]

§ 3. Body corporate. Quorum. The state land settlement board hereinafter called the board, shall constitute a body corporate with the right on behalf of the state to hold property, receive and request donations, sue and be sued, and all other rights provided by the constitution and laws of the state of California as belonging to bodies corporate.

Three members of the board shall constitute a quorum and such quorum may exercise all the power and authority conferred on the board by this act.

§ 4. Agricultural lands to be acquired and sold. For the purposes of this act, the board may acquire on behalf of the state by purchase, gift or the exercise of the power of eminent domain, all lands, water rights and other property needed for the purposes hereof, and may take title in trust and shall without delay improve, subdivide and sell such land, water rights and other property with appurtenances and rights to approved bona fide settlers; the board shall have the authority to set aside for town-site purposes a suitable area purchased under the provisions of this act and to subdivide such area and sell or lease the same for cash, in lots of such size, and with such restrictions as to resale, as they shall deem best; and provided, further, that the board shall have authority to set aside and dedicate to public use such area or areas as it may deem desirable for roads, schoolhouses, churches, or other public purposes. [Amendment approved May 23, 1919; Stats. 1919, p. 839.]

§ 5. Purchase of private lands. Whenever the board believes that private land should be purchased for settlement under this act, it shall give notice by publication in one or more newspapers of general circulation in this state, setting forth approximately the area and character of the land desired and the conditions that shall govern the proposed purchase, and inviting owners of land willing to enter into a contract of sale on the conditions proposed to submit such land for inspection. [Amendment approved May 23, 1919; Stats. 1919, p. 840.]

§ 6. Inspection of tracts. Within thirty days thereafter the board shall direct an officer or officers in its employ, or one or more persons who may at its request be designated by the dean of the college of agriculture of the University of California, to inspect and report on all tracts of land suitable for closer settlement which are so submitted.

§ 7. Report of inspection. The board shall give not less than one week's notice of the approximate date when tracts submitted will be inspected and every report of such inspection shall as far as practicable specify the—

- (a) Situation and brief description thereof;
- (b) Extent and situation of land comprising so much of any tract as it is proposed to acquire;
- (c) Names and addresses of the owners thereof;
- (d) Character of water rights;
- (e) Nature of improvements;
- (f) Crops being grown on land;
- (g) Appraisalment of value of land, water rights and improvements.

§ 8. Decision. On receiving the reports on all of the land examined the board shall decide which of the areas is best suited to the purposes of this act. Before so deciding the board may examine the land, or it may employ one or more competent valuers to fix the productive value of the land and report the same in writing; the owner or his agent may give evidence as to its value.

§ 9. Purchase. If from the evidence submitted or from the results of its personal inspection, the board is satisfied that one or more of the tracts submitted are suited to intensive, closer settlement and can be acquired at a reasonable price, it shall submit to the governor its report, giving the reasons for recommending the purchase, and on the approval of the governor the board shall be authorized to purchase the same; provided, that before such purchase is made, the attorney general shall approve the title of such lands and any water rights appurtenant thereto, and the state water commission shall certify in writing as to the sufficiency of any water rights to be conveyed. [Amendment approved May 23, 1919; Stats. 1919, p. 840.]

§ 10. Control by board until moneys advanced repaid. All sales to settlers of land under this act shall be made under such terms and conditions as shall give to the board full control of any subdivisions thereof until all moneys advanced by the state for the purchase, improvement, or equipment of such subdivisions are fully repaid, together with interest thereon as herein provided. [Amendment approved May 23, 1919; Stats. 1919, p. 840.]

§ 11. Subdivision. Immediately upon taking possession of any land purchased as above, and after deducting any areas to be set aside for town sites or public purposes in accordance with section four of this act, the board shall subdivide it into areas suitable for farms and farm laborer's allotments, and lay out, and where necessary, construct roads, ditches, and drains for giving access to and insuring the proper cultivation of the several farms and allotments. The board, prior to disposing of it to settlers, or at any time after such land has been disposed of, but not after the end of the fifth year from the commencement of the term of the settler's purchase contract, may—

(a) **Improvement of land.** Prepare all or any part of such land for irrigation and cultivation;

(b) **Same.** Seed, plant, or fence such land, and cause dwelling-houses and outbuildings to be erected on any farm allotment or make any other improvements not specified above necessary to render the allotment habitable and productive in advance of or after settlement, the total cost to the board of such dwellings, outbuildings, and improvements not to exceed one thousand five hundred (\$1500) dollars on any one farm allotment;

(c) **Same.** Cause cottages to be erected on any farm laborer's allotment and provide a domestic water supply, the combined cost to the board of the cottage and water supply not to exceed eight hundred (\$800) dollars on any one farm laborer's allotment;

(d) **Loans.** Make loans to approved settlers on the security of permanent improvements, stock and farm implements, such loans to be secured by mortgage or mortgages, deed or deeds of trust on such permanent improvements, stock or farm implements, and the total amount of any such loan, together with money spent by the board on improvements as above specified, not to exceed three thousand dollars on any one farm allotment, or two thousand dollars on any one farm laborer's allotment. [Amendment approved May 23, 1919; Stats. 1919, p. 840.]

§ 12. Irrigation works. Authority is hereby granted to the board, where deemed desirable, to operate and maintain any irrigation works constructed to serve any lands purchased and sold under the provisions of this act. All moneys received in tolls or charges for the operation and maintenance of any works or for any water supplied therefrom, shall be deposited in the land settlement fund created by this act and shall become available for the payment of any costs, expenses, or other charges authorized in this act to be paid from said land settlement fund.

§ 13. Lease. After the purchase of land by the board under the provisions of this act and before its disposal to approved bona fide applicants the board shall have authority to lease such land or a part thereof on bonded or secured lease on such terms as it shall deem fit.

§ 14. Allotments. Notice of opening for settlement. Right to reject applications. Sale of allotments. Subdivisions or amalgamation of allotments. Sale of areas not suitable for allotments. Lands disposed of under this act, other than lands set aside for town sites or public purposes, shall be sold either as farm allotments, each of which shall have a value not exceeding, without improvements, fifteen thousand dollars, or as farm laborers' allotments, each of which shall have a value not exceeding, without improvements, one thousand dollars. Before any part of an area is thrown open for settlement there shall be public notice thereof once a week for four weeks in one or more daily newspapers of general circulation in the state, setting forth the number and size of farm allotments or farm laborer's allotments, or both, the prices at which they are offered for sale, the minimum amount of capital a settler will be required to have, the mode of payment, the amount of cash payment required, and such other particulars as the board may think proper and specifying a definite period within which applications therefor shall be filed with the board on forms provided by the board. The board shall have the right in its uncontrolled discretion to reject any or all applications it may see fit and may readvertise as aforesaid as often as it sees fit until it receives and accepts such number of applications as it may deem necessary.

If no applications satisfactory to the board are received for any farm allotment or farm laborer's allotment following such advertising, the board at any time prior to readvertising, may sell any such farm allotment or farm laborer's allotment at the prices at which they were so offered for sale, without the necessity of readvertising.

The board shall also have the power in dealing with any such farm allotments or farm laborer's allotments for which there has been no such application satisfactory to the board, to subdivide or amalgamate

any one or more of such allotments as it may see fit, and fix the prices thereon, provided that the limitations of fifteen thousand dollars for a farm allotment and one thousand dollars for the farm laborer's allotment, as in this section set forth, are not violated. Such subdivision or amalgamation may be had without the necessity of readvertising.

The board may also sell at public auction, under such conditions of sale and notice thereof as the board may prescribe, any areas which the board may determine are not suitable for farm allotments or farm laborer's allotments, whether or not included in any subdivision into farm allotments or farm laborer's allotments; provided, that if such area has been included in such a farm allotment or farm laborer's allotment, then such sale at public auction can be made only after a failure to receive any application satisfactory to the board after the advertising thereof, as required by the terms of this section. [Amendment approved May 23, 1919; Stats. 1919, p. 841.]

§ 15. Who may apply. Limit. Fitness to cultivate. Co-operation with other public agencies. Preference to soldiers, sailors, etc. Any citizen of the United States, or any person who has declared his intention of becoming a citizen of the United States, and who is not the holder of agricultural land or of possessory rights thereto to the value of fifteen thousand dollars, and who by this purchase would not become the holder of agricultural land or of possessory rights thereto exceeding such value, and who is prepared to enter within six months upon actual occupation of the land acquired, may apply for and become the purchaser of either a farm allotment or a farm laborer's allotment; provided, that no more than one farm allotment or more than one farm laborer's allotment shall be sold to any one person; provided, further, that no applicant shall be approved who shall not satisfy the board as to his or her fitness successfully to cultivate and develop the allotment applied for.

The board may, in offering for sale farm allotments or farm laborer's allotments, co-operate or contract with the duly authorized representatives of the United States government and other public corporations or agencies generally. The board is hereby authorized to perform all acts necessary to co-operate fully with the agencies of the United States engaged in work of similar character, and with similar boards and agencies of other states. In any such sales made in co-operation with such representatives or agencies of the United States government, preference must be given to soldiers, sailors, marines and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in allied armies against the central powers, and have been repatriated, and who have been honorably discharged. The board may likewise, whether or not acting in co-operation with the duly authorized representatives of the United States government, give such preference to any of such citizens of California, who as soldiers, sailors, marines and others have served with the armed forces of the United States, as in this section described. [Amendment approved May 23, 1919; Stats. 1919, p. 842.]

§ 16. Applications considered. Within ten days after the final date set for receiving applications for either farm allotments or farm laborer's

allotments the board shall meet to consider the applications, and may request applicants to appear in person; provided, that the board shall have the power and the uncontrolled discretion to reject any or all applications.

§ 17. Selling prices. The selling prices of the several allotments into which lands purchased under this act are subdivided, other than those set aside for town site and public purposes, shall be fixed by the board, so as to render such allotments as nearly as possible equally attractive, and calculated to return to the state the original cost of the land, together with a sufficient sum added thereto to cover all expenses and costs of surveying, improving, subdividing, and selling such lands, including the payment of interest, and all costs of engineering, superintendence, and administration, including the cost of operating any works built, directly chargeable to such land, and also the price of so much land as shall on subdivision be used for roads and other public purposes, and also such sum as shall be deemed necessary to meet unforeseen contingencies.

§ 18. Contract of purchase. Cash deposit. Loan from federal farm loan bank. Balance paid in amortizing payments. Every approved applicant shall enter into a contract of purchase with the board, which contract shall among other things provide that the purchaser shall pay as a cash deposit a sum equal to five per cent of the sale price of the allotment and in addition not less than ten per cent of the cost of any improvements made thereon, and such applicant shall, if required by the board, enter into an agreement to apply for a loan from the federal land bank under provisions of the federal farm loan act for an amount to be fixed by the board, and shall pay to the board the amount of any loan so made as a partial payment on such land and improvements. The balance due on the land shall be paid in amortizing payments extending over a period to be fixed by the board, not exceeding forty years, together with interest thereon at the rate of five per cent per annum. The amount due on improvements shall be paid in amortizing payments extending over a period to be fixed by the board not exceeding twenty years, together with interest thereon at the rate of five per cent per annum. The repayment of loans made on livestock or implements shall extend over a period to be fixed by the board not exceeding five years; provided, however, in each case, that the settler shall have the right, on any installment date, to pay any or all installments still remaining unpaid. [Amendment approved May 23, 1919; Stats. 1919, p. 843.]

§ 19. Calculation of installments. The number and amount of yearly or half yearly installments of principal and interest to be paid to the board under contracts of purchase shall be calculated according to any table adopted or approved by the federal farm loan board.

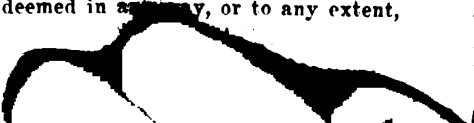
§ 20. Cultivation of land. Insurance. Insurance in name of board. Every contract entered into between the board and an approved purchaser shall contain among other things provisions that the purchaser shall cultivate the land in a manner to be approved by the board and shall keep in good order and repair all buildings, fences, and other

permanent improvements situated on his allotment, reasonable wear and tear and damage by fire excepted. Each settler shall, if required, insure and keep insured against fire all buildings on his allotment, the policies therefor to be made out in favor of the board and to be in such amount or amounts and in such insurance companies as may be prescribed by the board.

The board shall have power in its own name to insure and keep insured against fire all buildings or other improvements on any of the lands under the control of the board, and any contract of insurance heretofore made by the board is hereby ratified and confirmed. The board shall likewise have the power in any contract of purchase under which the board purchases lands as authorized in this act, to provide for the return by the board to the owner so selling to the state of any insurance premiums or taxes which may have been paid on said property by such owner, or for which such owner may have become obligated to pay, and any such agreement or contract of purchase heretofore made by the board is hereby ratified and confirmed. [Amendment approved May 23, 1919; Stats. 1919, p. 843.]

§ 21. Consent to transfer allotment. No allotment sold under the provisions of this act shall be transferred, assigned, mortgaged, or sublet in whole or in part, without the consent of the board given in writing, until the settler has paid for his farm allotment or farm laborer's allotment in full and complied with all of the terms and conditions of his contract of purchase. [Amendment approved May 23, 1919; Stats. 1919, p. 844.]

§ 22. Failure to comply with contract terms. Security. Sale of forfeited land. In the event of a failure of a settler to comply with any of the terms of his contract of purchase and agreement with the board, the state and the board shall have the right at its option to cancel the said contract of purchase and agreement and thereupon shall be released from all obligation in law or equity to convey the property and the settler shall forfeit all right thereto and all payments theretofore made shall be deemed to be rental paid for occupancy. The board may require of the settler such mortgage or deed of trust or other instrument as may be necessary under the terms and conditions of the contract of purchase in order to adequately protect and secure the board. There may be included in such contract of purchase, mortgage, deed of trust or other instrument any conditions with reference to sale of the property or reconveyance back to the board or notice of such sale or reconveyance as may in the discretion of the board be required to be so included in such contract of purchase, mortgage, deed of trust or other instrument, in order to so adequately protect the said board in the premises; and any such contracts of purchase, mortgages, deeds of trust or other instruments heretofore executed are hereby confirmed. The failure of the board or of the state to exercise any option to cancel, or other privilege under the contract of purchase for any default shall not be deemed as a waiver of the right to exercise the option to cancel or other privilege under the contract of purchase for any default thereafter on the settler's part. But no forfeiture so occasioned by default on the part of the settler shall be deemed in any way, or to any extent,



to impair the lien and security of the mortgage or trust instrument securing any loan that it may have made as in this act provided. The board shall have the right and power to enter into a contract of purchase for the sale and disposition of any land forfeited as above provided, because of default on the part of a settler, and this right may be exercised indefinitely without the necessity of advertising. [New section approved May 23, 1919; Stats. 1919, p. 845.]

There was no section 22 in the original Act.

§ 23. Residence. Actual residence on any allotment sold under the provisions of this act shall commence within six months from the date of the approval of the application and shall continue for at least eight months in each calendar year for at least ten years from the date of the approval of the said application, unless prevented by illness or some other cause satisfactory to the board; provided, that in case any farm allotment disposed of under this act is returned to and resold by the state, the time of residence of the preceding purchaser may in the discretion of the board be credited to the subsequent purchaser.

§ 24. Condemnation of water rights and rights of way. Appropriation of water. The power of eminent domain shall be exercised by the state at the request of the board for the condemnation of water rights and rights of way for roads, canals, ditches, dams, and reservoirs necessary or desirable for carrying out the provisions of this act, and on request of the board the attorney general shall bring the necessary and appropriate proceedings authorized by law for such condemnation of said water rights or rights of way, and the cost of all water rights or rights of way so condemned shall be paid out of the land settlement fund hereinafter provided for. The board shall have full authority to appropriate water under the laws of the state when such appropriation is necessary or desirable for carrying out the purposes of this act.

§ 25. Appropriation. "Land settlement fund." Administrative expenses. For the purpose of carrying out the provisions of this act the sum of two hundred sixty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated. Of this amount, the sum of two hundred fifty thousand dollars shall constitute a revolving fund to be known as the "land settlement fund," which is calculated to be returned to the state with interest at the rate of four per cent per annum within a period of fifty years from the date of the passage of this act, on the daily balances representing the amounts drawn out of such fund and thus depleting the fund to an amount less than said sum of two hundred fifty thousand dollars, which said daily balances shall be so calculated only on the amounts so drawn out of such fund, from the date of the passage of this act. The remaining ten thousand dollars shall constitute a fund available for the payment of administrative expenses alone until such time as other moneys are available for such purpose from the sales of land as provided for in this act. [Amendment approved May 23, 1919; Stats. 1919, p. 844.]

§ 26. Advances by board of control. The state board of control is hereby authorized to provide for advances of money to the board needed to meet contingent expenses to such an amount, not exceeding five thousand dollars as the said board of control shall deem necessary.

§ 27. Money paid for lands, etc. The money paid by settlers on lands, improvements, or in the repayment of advances, shall be deposited in the land settlement fund and be available under the same conditions as the original appropriation. [Amendment approved May 23, 1919; Stats. 1919, p. 844.]

§ 28. Rules and regulations. The board shall have authority to make all needed rules and regulations for carrying out the provisions of this act. [Amendment approved May 23, 1919; Stats. 1919, p. 844.]

§ 29. Investigation of land settlement conditions. Annual report of board. The board is hereby authorized to investigate land settlement conditions in California and elsewhere and to submit recommendations for such legislation as may be deemed by it necessary or desirable,

The board shall render an annual report to the governor and a copy thereof to the secretary of the interior, which report shall be filed and printed as required by sections three hundred thirty-two, three hundred thirty-three, three hundred thirty-four, three hundred thirty-six and three hundred thirty-seven of the Political Code, with the exception that they shall be so filed and printed annually instead of biennially, as provided in said sections. [Amendment approved May 23, 1919; Stats. 1919, p. 844.]

§ 30. Stats. 1915, p. 475, repealed. The act of the legislature entitled "An act providing for the appointment of a commission to investigate and report at the forty-second session of the legislature relative to the adoption of a system of land colonization and rural credits and making an appropriation therefor," approved May 17, 1915, is hereby repealed.

§ 31. Title. This act may be known and cited as the "land settlement act."

The amendatory act of 1919 also contained the following provision:

§ 17. Appropriation. For the purpose of carrying out the provisions of this act and of the act amended by this act, the sum of one million dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, which sum of one million dollars is calculated to be returned to the state within a period of fifty years from the date of this appropriation of one million dollars going into effect, with interest at the rate of four per cent per annum on the daily balances representing the amounts drawn out of such appropriation, and thus depleting the appropriation to an amount less than said sum of one million dollars. The state controller is hereby authorized and directed to draw warrants upon such funds from time to time upon requisition of the board approved by the state board of control, and the state treasurer is hereby authorized and directed to pay such warrants. [Amendment approved May 23, 1919; Stats. 1919, p. 845.]

ACT 3823.

An act to provide for the issuance and sale of state bonds to create a fund to carry out the objects of an act entitled "An act creating a state land settlement board and defining its powers and duties

and making an appropriation in aid of its operations," approved June 1, 1917, and any and all acts amendatory thereof or supplemental thereto; to create a sinking fund for the payment of said bonds; to define the duties of said officers in relation thereto; to appropriate money for the expense of printing and advertising the sale of said bonds; and to provide for the submission of this act to a vote of the people.

[Approved May 27, 1919. Stats. 1919, p. 1182. In effect—See sections 8, 9.]

§ 1. Bonds for land settlement fund. Limit of issue. When payable. Life of bonds. For the purpose of providing a fund for the payment of the indebtedness hereby authorized to be incurred to carry out the objects and to be expended in accordance with the provisions of an act entitled, "An act creating a state land settlement board and defining its powers and duties and making an appropriation in aid of its operations," approved June 1, 1917, and any and all acts amendatory thereof or supplemental thereto, the object of which act is to provide employment and rural homes for soldiers, sailors, marines and others who have served with the armed forces of the United States in the European wars or other wars of the United States, including former American citizens in allied armies against the central powers and have been repatriated, and who have been honorably discharged, to promote closer agricultural settlement, to assist deserving and qualified persons to acquire small improved farms, to demonstrate the value of adequate capital and organized direction in subdividing and preparing agricultural land for settlement and to provide homes for farm laborers, the state treasurer shall, immediately, after the issuance of the proclamation of the governor provided for in section ten hereof, prepare thirty-two thousand suitable bonds in the denominations as hereinafter specified. The whole issue of said bonds shall not exceed the sum of ten million dollars and said bonds shall bear interest at the rate of four and one-half per cent per annum from the date of issuance thereof, and both principal and interest shall be payable in gold coin of the present standard of value, and they shall be payable at the office of the state treasurer or at the office of any duly authorized agent of the state treasurer at the times and in the manner following, to wit:

The first eight hundred of said bonds aggregating two hundred fifty thousand dollars shall be due and payable on the second day of January, 1931, and eight hundred of said bonds, aggregating two hundred fifty thousand dollars in consecutive numerical order shall be due and payable on the second day of January in each and every year thereafter until and including the second day of January, 1971. In each lot of eight hundred bonds there shall be one hundred one thousand dollar bonds, two hundred five hundred dollar bonds and five hundred one hundred dollar bonds. Said bonds shall bear date the second day of January, A. D. 1921. The interest accruing on such of said bonds as are sold, shall be due and payable at the office of the state treasurer on the second day of July and on the second day of January of each year after the sale of the same; provided, that the first payment of interest shall be made on the second day of January, 1922, on so many of said bonds as may have been heretofore sold.

At the expiration of fifty years from the date of said bonds, all bonds sold shall cease to bear interest and likewise all bonds redeemed shall cease to bear interest as in this act provided, and the said state treasurer shall call in, forthwith pay and cancel the same out of the moneys in the land settlement sinking fund provided for in this act, and he shall on the first Monday of January, 1971, also cancel and destroy all bonds not theretofore sold. All bonds issued shall bear the signature of the governor and the lithographed counter-signature of the controller and shall be indorsed by the state treasurer either by original signature or by signature stamp adopted for this particular bond issue and the said bonds shall be signed, countersigned and indorsed by the officers who are in office on the second day of January, 1921, and each of said bonds shall have the seal of the state stamped thereon. The said bonds signed, countersigned and indorsed and sealed as herein provided when sold shall be and constitute a valid and binding obligation upon the state of California, though the sale thereof be made at a date or dates after the present signing, countersigning and indorsing, or any or either of them, shall have ceased to be the incumbents of such office or offices. Each bond shall contain a clause giving the date upon which it is subject to redemption in accordance with the provisions of this act and that interest will cease upon such date.

§ 2. Interest coupons. Interest coupons shall be attached to each of said bonds, so that such coupons may be removed without injury to, or mutilation of the bond. Said coupons shall be consecutively numbered, and shall bear the lithographed signature of the state treasurer who shall be in office on the second day of January, 1921. But no interest on any of said bonds shall be paid for any time which may intervene between the date of any of said bonds and the issue and sale thereof to a purchaser, unless such accrued interest shall have been, by the purchaser of said bond, paid to the state at the time of such sale.

§ 3. Expenses of bond issue. The sum of ten thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to pay the expenses that may be incurred by the state treasurer in having said bonds prepared and advertising their sale. Said amount shall be refunded to the general fund of the state treasury out of the land settlement fund in accordance with the provisions of this act on controller's warrant duly drawn for that purpose.

§ 4. Sale of bonds. Notice of sale. Use of proceeds of sale. When the bonds authorized to be issued under this act shall be duly executed, they shall be by the state treasurer sold at public auction to the highest bidder for cash, in such parcels and numbers as the said treasurer shall be directed by the governor of the state, under seal thereof, after a resolution requesting such sale shall have been adopted by the state land settlement board and approved by the governor of the state; but said treasurer must reject any and all bids for said bonds, or for any of them, which shall be below the par value of said bonds so offered plus the interest which has accrued thereon between the date of sale and the last preceding interest maturity date; and with the approval of the governor, he may from time to time, by public announcement at the place and time fixed for the sale, continue

such sale, as to the whole of the bonds offered, or any part thereof offered, to such time and place as he may select. Before offering any of said bonds for sale the said treasurer shall detach therefrom all coupons which have matured or will mature before the day fixed for such sale.

Due notice of the time and place of sale of all bonds must be given by said treasurer by publication in one newspaper published in the city and county of San Francisco and also by publication in one newspaper published in the city of Oakland and by publication in one newspaper published in the city of Los Angeles and by publication in one newspaper published in the city of Sacramento once a week during four weeks prior to such sale. In addition to the notice last above provided for, the state treasurer may give such further notice as he may deem advisable, but the expense and cost of such additional notice shall not exceed the sum of five hundred dollars for each sale so advertised. The proceeds of the sale of such bonds except such amount as may have been paid as accrued interest thereon shall be forthwith paid over by said treasurer into the treasury to the credit of the land settlement fund and must be used exclusively to provide employment and rural homes for soldiers, sailors, marines and others who have served with the armed forces of the United States in the European war or other wars of the United States, including former American citizens who served in allied armies against the Central Powers and have been repatriated, and who have been honorably discharged, to promote closer agricultural settlement, to assist deserving and qualified persons to acquire small improved farms, to demonstrate the value of adequate capital and organized direction in subdividing and preparing agricultural land for settlement, and to provide homes for farm laborers, in accordance with the provisions of an act entitled "An act creating a state land settlement board and defining its powers and duties and making appropriation in aid of its operations," approved June 1, 1917, and any and all acts amendatory thereof or supplemental thereto; provided, that upon demand of the governor the said land settlement board must pay over to the general fund of the state from the proceeds of the sale of bonds all or any part of any money which has heretofore or may be hereafter appropriated and advanced out of the general fund of the state treasurer for the use of the state land settlement board. The amount that shall have been paid at the sale of said bonds as accrued interest on the bonds sold shall be, by the said treasurer, immediately after such sale, paid into the treasury of the state and placed in the land settlement sinking fund.

§ 5. "Land settlement sinking fund." For the payment of the principal and interest of said bonds a sinking fund, to be known and designated as the "land settlement sinking fund" shall be, and the same is hereby created as follows, to wit: The state treasurer, after the second day of January, 1931, shall, on the first day of each and every month thereafter, after the sale of said bonds, take from the land settlement fund such sum as, multiplied by the time in months, the bonds then sold and outstanding have to run, will equal the principal of the bonds sold and outstanding at the time said treasurer shall so take said sum from said land settlement fund, less the amount theretofore taken

therefrom for said purpose; and he shall place the sum in the land settlement sinking fund created by this act. Said state treasurer shall, on controller's warrants duly drawn for that purpose, employ the moneys in said sinking fund in the purchase of bonds of the United States, or of the state of California, or of the several counties or municipalities of the state of California, which said bonds shall be kept in a proper receptacle, appropriately labeled; but he must keep always on hand a sufficient amount of money in said sinking fund with which to pay the interest and principal on such of the state bonds herein provided to be issued as may have theretofore been sold. And to provide means for the payment of interest on the bonds that may be sold and outstanding, said treasurer shall monthly take from the land settlement fund, and pay into said land settlement fund, an amount equal to the monthly interest then due on all bonds then sold, delivered and outstanding.

After the payment of all said bonds, the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the land settlement fund. At the maturity of said state bonds, said treasurer shall sell the United States or other bonds then in said sinking fund, at governing market rates, after advertising the sale thereof in the manner hereinbefore provided for the sale of bonds hereby authorized to be issued, and shall use the proceeds for the payment of such bonds as become due and payable, and at the maturity of said bonds outstanding shall pay and redeem said matured outstanding bonds out of said moneys in said fund in extinguishment of said bonds on controller's warrants duly drawn for that purpose.

§ 6. Records and annual report to governor. The state controller and the state treasurer shall keep full and particular account and record of all their proceedings under this act, and they shall transmit to the governor an abstract of all such proceedings thereunder, with an annual report, to be by the governor laid before the legislature biennially; and all books and papers pertaining to the matter provided for in this act shall at all times be open to the inspection of any party interested, or the governor, or the attorney general, or a committee of either branch of the legislature, or a joint committee of both, or any citizen of the state.

§ 7. Payment of interest. It shall be the duty of the state treasurer to pay the interest of said bonds, when the same falls due, out of the sinking fund provided for in this act, on controller's warrants duly drawn for that purpose.

§ 8. Time in effect. This act, if adopted by the people, shall take effect on the fifteenth day of November, 1920, as to all its provisions except those relating to and necessary for its submission to the people, and for returning, canvassing, and proclaiming the votes, and as to said excepted provisions this act shall take effect immediately.

§ 9. Election for ratification of act. This act shall be submitted to the people of the state of California for their ratification at the next general election, to be holden in the month of November, 1920, and all ballots at said election shall have printed thereon and at the end

thereof, the words, "For the California soldiers' land settlement act of 1919," and in the same square under said words the following in brier type: "This act provides for preferential land settlement loans to those who served this country or its allies in the recent world's war or other wars of the United States." In the square immediately below the square containing such words, there shall be printed on said ballot the words: "Against the California soldiers land settlement act of 1919" and immediately below said words "Against the California soldiers land settlement act of 1919" in brier type shall be printed "This act provides for preferential land settlement loans to those who served this country or its allies in the recent world's war or other wars in the United States." Opposite the words "For the California soldiers land settlement act of 1919" and "Against the California soldiers land settlement act of 1919," there shall be left space in which the voters may make or stamp a cross to indicate whether they vote for or against said act, and those voting for said act shall do so by placing a cross opposite the words "For the California soldiers land settlement act of 1919" and all those voting against the said act shall do so by placing a cross opposite the words "Against the California soldiers land settlement act of 1919." The governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation calling for said general election.

§ 10. Canvass of votes. The votes cast for or against this act shall be counted, returned and canvassed and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appear that said act shall have received a majority of all the votes cast for and against it at said election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrevocable until the principal and interest of the liabilities herein created shall be paid and discharged, and the governor shall make proclamation thereof; but if a majority of the votes cast as aforesaid are against this act then the same shall be and become void.

§ 11. Publication of act preceding election. It shall be the duty of the secretary of state in accordance with law to have this act published in at least one newspaper in each county, or city and county, if one be published therein, throughout this state, for three months next preceding the general election to be held in the month of November, 1920, the costs of publication shall be paid out of the general fund, on controller's warrants duly drawn for that purpose and shall be refunded to the general fund out of the land settlement fund in accordance with this act

§ 12. Title. This act may be known and cited as the "California soldiers land settlement act of 1919."

§ 13. Repealed. All acts and parts of acts in conflict with the provisions of this act are hereby repealed

TITLE 533.**STATE LANDS.****ACT 3834a.**

An act for the relief of purchasers of school lands.

[Approved June 3, 1913. Stats. 1913, p. 376.]

Amended 1917; Stats. 1917, p. 62.

The amendment of 1917 follows:

§ 1. **Relief of school land purchasers.** When application has been made to purchase lands from this state and payment of twenty per cent of the purchase price has been made to the treasurer of the proper county for the same and a certificate of purchase was issued on or after May 1, 1911, to the applicant therefor, and such applicant has failed to pay the interest on the unpaid balance of the purchase price of such land, said certificate shall be in full force and effect; provided, all interest due on the balance of the purchase price is paid to the proper county treasurer on or before December 31, 1917, together with a penalty of ten per centum of the amount of all interest on the unpaid portion of the purchase price of said lands for each year that the annual interest on the balance of the purchase price of said lands has not been paid since the date of the issuance of the certificate of purchase; and provided, further, that the lands described in said certificate of purchase are open to entry and sale under any law of this state at the time this act shall take effect.

TITLE 534a.**STATE MARKET COMMISSION.****ACT 3847.**

An act to provide for the creation of the "state market commission" and the organization thereof; to define its other duties and powers; to create the position of state market director; to define his duties and powers; to create the state market commission fund, and a revolving fund; and repealing that act known as "state commission market act," approved June 10, 1915, chapter seven hundred thirteen of the statutes of 1915, and all other acts and parts of acts in conflict with the provisions of this act.

[Approved June 1, 1917. Stats. 1917, p. 1669.]

[Amended 1919; Stats. 1919, p. 264.]

§ 1. **"State market commission" created. Purposes.** There is hereby created the "state market commission," a state organization for the following purposes, to wit:

First—To act as adviser for producers and distributors when requested, assisting them in economical and efficient distribution of any such products at fair prices.

Second—To gather and disseminate impartial information concerning supply, demand, prevailing prices and commercial movements, including common and cold storage of any such products.

Third—To promote, assist and encourage the organization and operation of co-operative and other associations and organizations for improv-

ing the relations and services among producers, distributors and consumers of any such products, and to protect and conserve the interests of the producers and consignors of such products.

Fourth—To foster and encourage co-operation between producers and distributors of any such products, in the interest of the general public.

Fifth—To foster and encourage the standardizing, grading, inspection, labeling, handling, storage and sale of any such products.

Sixth—To act as a mediator or arbitrator, when invited by both parties, in any controversy or issue, that may arise between producers and distributors of any such products.

Seventh—To certify, for the protection of owners, buyers or creditors, when so requested, warehouse receipts for any such products, verifying quantities and qualities thereof, and to charge for such service fees sufficient to make the service at least self-supporting.

Eighth—To issue labels bearing the seal of the state market commission on request of the producer, packer, canner or distributor, for any such products, for which state labels have not otherwise been authorized by law, under such rules and regulations as the director may deem necessary and to charge for such labels such fees as in the judgment of the state market director may be proper.

Ninth—To act on behalf of the consumers of any such products in conserving and protecting their interests in every practicable way.

Tenth—To improve, broaden and extend in every practicable way, the distribution and sale of any such California products throughout the markets of the world.

Eleventh—To promote in the interest of the producer, the distributor, and consumer, economical and efficient distribution and marketing of all or any agricultural, fishery, dairy and farm products produced, grown, raised, caught, manufactured or processed within the state of California.

It shall be within the province of the state market director, hereinafter provided for, to determine and decide, when, where and to what extent, existing conditions render it necessary or advisable to carry out any or all the purposes of this act and he is herewith granted power and authority to carry out any or all of said purposes.

§ 2. Title of act. Terms defined. This act shall be known as the "state market commission act."

The following terms used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

The "commission" shall be the state market commission.

The "director" shall be the state market director himself personally or his duly appointed and authorized representative.

The word "products" shall refer to the agricultural, fishery, dairy and farm products produced, grown, raised, caught, manufactured or processed within the state of California.

The term "organizations of producers and distributors" shall include all corporations, societies, associations and organizations of producers or of producers and distributors, or of distributors, co-operative or otherwise, formed for the purpose of facilitating the marketing of any such products.

A "person" shall be understood to include individuals, partnerships, associations and corporations or their agents or employees.

When the singular is used the plural is also included. Whenever the masculine is used, the feminine and neuter are included.

§ 3. State market director. Secretary. The state market commission shall consist of a governing body of one person, to be known as the state market director, hereinafter referred to as the director, who shall be appointed by the governor of the state of California, and of a secretary to be appointed by the state market director, as hereinafter provided, and these two shall perform the duties and exercise the powers of the state market commission and shall administer the provisions hereof, administer oaths, certify to all official acts, and do all proper acts to carry out any and all of the purposes hereof.

§ 4. Power of director. The director is hereby vested with full power, authority and jurisdiction to do and perform any and all things which are necessary or convenient in the exercise of any power, authority or jurisdiction designated and conferred upon him under this act.

§ 5. Bureau of correspondence. The commission shall have a bureau of correspondence for gathering and disseminating information on all subjects relating to the marketing of California products, and may issue bulletins thereon, and by every practicable means keep the producers informed of the supply and demand and at what market their products can best be handled.

§ 6. Term of director. Removal. The director shall hold office at the pleasure of the governor and his annual salary shall be five thousand dollars. The legislature by a two-thirds vote may remove the director for misconduct, neglect of duty or incompetency. [Amendment approved April 30, 1919; Stats. 1919, p. 264.]

§ 7. Term of secretary. Salary. The state market commission shall have a secretary who shall be appointed by the director and hold office at his pleasure, and shall perform such duties as he may prescribe. The annual salary of the secretary shall be three thousand six hundred dollars.

§ 8. Seal. The state market commission shall have a seal bearing the inscription "state market commission of California," which seal shall be affixed to all such instruments as the director shall require.

§ 9. Salaries. The salaries of the director and secretary shall be paid to them in the same manner as are the salaries of other state officers.

The salary or compensation of all other persons holding office or employment under the director shall be fixed by the director and shall be paid monthly from the state market commission fund, as hereinafter provided, and after being approved by the director upon claims therefor to be audited by the state board of control.

All expenses incurred by the director pursuant to the provisions of this act, including actual and necessary traveling expenses, and other disbursements of the director, his officers and employees, incurred while on business of the commission shall be paid from the state market commission fund in the same manner, except as provided for in section twelve of this act.

§ 10. Whole time devoted to duties. The director shall not engage in any other line of business during his term of office, but shall devote his whole time, attention and ability to the duties of his office. The director shall not hold or own any stock or other interest whatsoever in any produce commission business.

§ 11. "State market commission" fund. There is hereby created a fund to be known as the "state market commission fund." All fees, charges and costs collected by said commission under this act shall be paid into the treasury of the state to the credit of such fund. All appropriations made by this act or any subsequent act for the use of the state market commission, shall be placed to the credit of such fund. All expenses of whatsoever nature, incurred by the commission under the provisions of this act, shall be paid from the state market commission fund, after being approved by the director, upon claims therefor to be audited by the board of control except as provided for in section fourteen a of this act.

§ 12. Revolving fund. A revolving fund of two hundred fifty dollars shall be established by the board of control for expenses of the state market commission, other than salaries, rent and other regular expenses, and the director may expend such revolving fund without first procuring the authority of the board of control, but shall file vouchers monthly with the board of control covering such disbursement.

§ 13. Annual report. The director shall make and submit to the governor, on or before the first day of December of each year, a report containing a full and complete account of the transactions and proceedings of the state market commission for the preceding fiscal year, together with such other facts, suggestions and recommendations as may be deemed of value to the people of the state.

§ 14. Bond. The director, before entering upon the duties of his office, shall make and execute to the people of the state of California an official bond in the sum of five thousand dollars, for the faithful performance of the duties of his office. The director may require of the officers and employees such bonds for the faithful performance of their duties as in his judgment may be necessary.

§ 15. Investigation of products held in storage. The director may make pertinent investigations concerning the aggregate amount of products held in common and cold storage. In connection with any such investigation, the director shall have the right to inspect only the pertinent books and records of common or cold-storage warehouses for the purpose of determining and publishing aggregate amounts of products held in storage, and the director is hereby empowered to issue subpoenas for the attendance of witnesses and the production of pertinent books, papers, accounts, documents and testimony in any such investigation.

§ 16. Moneys transferred. Any and all moneys in the state treasury to the credit of and any moneys due the state commission market fund under the authority of the act creating the state commission market fund, approved June 10, 1915, shall be transferred to the credit of the state market commission fund, created by this act.

§ 17. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason declared to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 18. Stats. 1915, p. 1390, repealed. That certain act entitled "An act to provide for the creation of the state commission market, and the organization thereof, to carry on the business of receiving from the producers thereof the agricultural, fishery, dairy and farm products of the state of California and selling and disposing of such products on commission, creating the 'state commission market fund' and appropriating money therefor," approved June 10, 1915, and known as the "state commission market act," chapter seven hundred thirteen of the statutes of 1915, and all other acts and parts of acts in conflict with this act are hereby repealed.

ACT 3848.

An act to empower the state market director of California to regulate and control the business of buying and selling fresh fish; to regulate the destruction of food fish; to create a state fish exchange; to license those engaged in marketing fish; to create a state fish exchange fund and a revolving fund; to provide penalties for violations of this act; to investigate and report on the fish industry; and to promote the sale of fish.

[Approved June 1, 1917. Stats. 1917, p. 1673.]

§ 1. Title. This act shall be known as the "state fish exchange act."

§ 2. Purpose. It is hereby declared that it is the purpose of this act to bring about an increased consumption of fresh fish by the people of California, to enable them to obtain the same at reasonable prices, and to empower the state market director to regulate and control the business of buying and selling fresh fish, to regulate the destruction of food fish, to create a state fish exchange, to license those engaged in marketing fresh fish, to create a state fish exchange fund, to provide penalties for violations of this act, to investigate and report on the fish industry, and to promote the sale of fish.

§ 3. Terms construed. The following terms used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

The "state market director" shall be understood to be himself personally or his duly appointed and authorized representative. A "person" shall be deemed to include individuals, partnerships, associations and corporations or their agents or employees. A "retail dealer," "peddler," or "huckster," is one engaged in the business of selling fresh food fish direct to the consumer. A "wholesale dealer" is one who sells fresh food fish to hotels, restaurants, railroads, steamships, hospitals, institutions and all others than the consumer, and especially to retail dealers for resale. A "fish buyer" or "fish broker" is one engaged in the busi-

ness of buying or selling fresh food fish for the owner or consignee, or who, without an established place of business, buys from the fishermen for the purpose of reselling to others than the consumer. "Market fishermen" are individuals engaged in the business of catching fish under licenses issued by the state fish and game commission authorizing them to do so. When the singular is used, the plural is also included; whenever the masculine is used, the feminine and neuter are included.

§ 4. Title to fish in state. It is hereby declared that the ownership and title to all fish found in the waters under the jurisdiction of the state are in the state of California; no such fish shall be caught, taken or killed in any manner or at any time except that the person so catching, taking or killing or having the same in his possession, irrespective of the manner in which they were obtained, shall by such act or possession thereby consent that the title to such fish shall be and remain in the state of California for the purpose of regulating and controlling the use and disposition of same after such catching, taking or killing. except that the title to such fish legally taken shall vest in the person so taking or possessing them, subject to the restrictions and provisions of law. All fish found in the possession of a person within the state of California shall be presumed to have been taken under the jurisdiction of the state.

§ 5. Fish business regulated by state market director. (a) The state market director is hereby vested with jurisdiction to regulate and control the business of buying and selling and otherwise disposing of fresh food fish caught in the waters under the jurisdiction of the state, and the business of buying, selling and disposing of such fresh food fish may not be carried on except in accordance with the provisions of this act.

(b) **State markets.** The state market director is hereby vested with jurisdiction to open and conduct where, when, and for so long as he deems it advisable, state markets for the buying and selling of fresh food fish, and to rent, lease or purchase plants and equipment necessary for the same, and to use so much of the funds placed at the disposal of the state market director by the act creating the state commission market, approved June 10, 1915, or in the event of the repeal of said act, by the state market commission act, as may be required in establishing and conducting said markets.

(c) **Additional powers of state market director.** The state market director is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred under this act.

§ 6. Maximum prices. (a) The state market director shall, when and where and for so long as he deems it advisable, establish maximum prices to be paid or charged in any particular locality, for food fish of any or all varieties intended for human consumption in its fresh condition, caught in the waters under the jurisdiction of the state:

First—To be paid to those engaged in catching such fish for sale.

Second—To be paid to those engaged in the wholesale fish business.

Third—To be charged to the consumer by retail fish dealers, peddlers or hucksters; and said prices shall be such as will allow, in the judg-

ment of the state market director, a reasonable compensation or profit to those engaged in the catching or selling of such fish.

(b) **Changes in prices.** The state market director may, at his discretion, from time to time make such changes or withdrawals in the prices authorized in section six (a) hereof, as he may deem necessary.

(c) **Unlawful to charge more than lawful price.** It shall be unlawful for any person engaged in the business of selling fresh food fish in a particular locality to charge more than the maximum prices authorized for such locality, as provided in section six (a) hereof. Any violation of the provisions of this paragraph, after receipt of notice of maximum prices established in accordance with the provisions of section six (a) of this act, shall be good and sufficient ground for the suspension or revocation by the state market director in his discretion of any license issued under the authority of this act.

(d) **Advice on maximum prices.** In the exercise of powers under this act, the state market director may confer with parties interested with a view of securing their advice and counsel as to maximum prices to be paid and charged.

§ 7. Consent to destruction or diversion of fish. It shall be unlawful for anyone to destroy, or cause or permit to be destroyed any food fish in excess of fifty pounds within one day of twenty-four hours or to divert, or cause or permit to be diverted any food fish to any use other than human consumption, without having first obtained the written consent of the state market director to such destruction or diversion. Consent to such destruction or diversion shall be given only where the applicant establishes to the satisfaction of the state market director that such destruction or diversion is not for the purpose of influencing prices and that reasonable efforts have been made to induce its consumption by the public. Nothing in this section shall be construed to apply:

Fish excepted. First—To the use of food fish by fishermen as bait in the customary manner; and,

Second—To any individual market fisherman who is unable to sell for human consumption fish he has caught and who within forty-eight hours after the destruction or diversion of said fish shall report to the state market director the number of pounds and varieties of fish and how disposed of. The deposit in the United States mail of a written statement of said facts, properly addressed to the state market director and stamped, shall be accepted as a sufficient report.

Third—To food fish in the possession of canners, curers or packers and which are not suitable for their use and which in consequence are destroyed or diverted to use other than human consumption; provided, that within forty-eight hours after the destruction or diversion of any such fish, the person responsible therefor shall report to the state market director the number of pounds and varieties of fish, reason for destruction or diversion and how disposed of. The deposit in the United States mail of a written statement of said facts, properly addressed to the state market director, shall be accepted as a sufficient report.

§ 8. When excessive supply of fish reaches market. In the event of a supply of fresh food fish reaching any market, which supply in the judgment of the state market director is excessive or abnormal:

(a) It shall be the duty of the state market director, in his discretion, to use every means at his command to induce its consumption by the public, including reduction in prices thereon and increased publicity, as hereinafter provided for.

(b) It shall be obligatory on the part of market fishermen and wholesale fish dealers, who find themselves possessed of an excessive supply, to notify the state market director of the fact, and failure to give such notice shall be sufficient grounds for the suspension for a period not exceeding one month, in the discretion of the state market director, of any license issued under the authority of this act.

(c) The state market director may at his option, use the moneys of the state fish exchange fund hereinafter provided for, in purchasing any part or all of an excess of food fish over the amount that can be sold through ordinary channels, and to place same in cold storage, and to resell same to any or all buyers, and any loss or profit in such transactions shall be charged or credited to the state fish exchange fund.

§ 9. License fees. Wholesale fish dealers. Payable in advance. If sales greater or less than amount on which fee based. Every person, individual, partnership, association or corporation, other than market fishermen, engaged in the business of buying and selling fish for consumption in its fresh condition, shall pay to the state a semi-annual license fee, as follows:

First—All retail dealers, dealing exclusively in fish, crustaceans and mollusks, ten dollars.

Second—All retail dealers, handling fish in connection with a retail business, owned by them, in other products than crustaceans and mollusks, and all peddlers and hucksters, five dollars.

Third—All fish brokers and all fish buyers, fifty dollars.

Fourth—All fishermen's organizations selling the catch of their members or agents selling the catch of such fishermen's organizations, fifty dollars.

Fifth—All salesmen or agents representing wholesale fish dealers located outside the state, fifty dollars.

Sixth—All wholesale fish dealers, on the basis of their gross receipts from the sale of fresh food fish, including their sales at branch houses, as follows:

When gross receipts for six months are:

Not in excess of twenty-five thousand dollars, fifty dollars.

Between twenty-five thousand dollars and fifty thousand dollars, seventy-five dollars.

Between fifty thousand dollars and one hundred thousand dollars, one hundred dollars.

Between one hundred thousand dollars and two hundred thousand dollars, one hundred fifty dollars.

Between two hundred thousand dollars and three hundred thousand dollars, two hundred dollars.

More than three hundred thousand dollars, two hundred fifty dollars.

Seventh—All branch houses of wholesale dealers—that is, wholesale dealers operating more than one wholesale establishment—for each branch house, five dollars.

Fees payable by wholesale dealers under paragraph six of this section, as above, shall be due and payable in advance, and shall be based on the applicant's sworn statement as to his gross receipts from the sale of

food fish sold for human consumption in its fresh condition, using the corresponding period of the preceding year as a basis. If the applicant did no wholesale business during said corresponding period, a license shall be issued upon payment of a fee of fifty dollars and the execution of a good and satisfactory bond by the applicant to the state market director, guaranteeing the payment of such additional amount as will make the total payable on his actual business during such period equal to the license fee fixed in said paragraph six of this section. If the amount of actual sales of any such dealer for any semi-annual period, for which he has paid license fees in advance, shall be greater or less than the amount on which such license fee was based, he shall at the end of such period, be charged with and shall pay to the state such additional amount as would be due on the basis of actual sales as set forth in paragraph six hereof, if the amount of actual sales be greater than the amount on which license fee was paid; or if the actual sales be less than such amount for any such semi-annual period, he shall, at the end thereof, be credited with the difference between the license fee paid in advance and the fee that would have been due on the basis of actual sales as set forth in paragraph six hereof; but such credit shall be made only on further license fees that may be payable by any such dealer.

§ 10. When payable. For portion of period. License for each place of business. All licenses provided for in this act shall be paid in advance and shall terminate with December thirty-first and June thirtieth, whichever date may first follow the date of issue. A proportionate charge shall be made, according to the number of months covered, for licenses issued for a portion of the semi-annual period, but in no case shall the fee be less than one-half of the semi-annual fee, excepting those issued to wholesale dealers as hereinabove provided in section nine of this act. A separate license shall be required for each place of business from persons owning or operating more than one establishment, except that the sale of fish from a vehicle by the holder of an exclusive retail fish dealer's license shall not require a peddler's license. Persons doing both a wholesale and retail business shall be required to take out both wholesale and retail licenses unless the total receipts of any such person amount to less than ten thousand dollars per annum, and any such person having total receipts of less than ten thousand dollars per annum shall be considered a retail dealer for licenses hereunder.

§ 11. Application. All licenses provided for in this act shall be issued by the state fish exchange hereinafter provided for, upon written application accompanied by proper fee, together with a certificate from the local health authorities, or other satisfactory assurance to the effect that the state and local rules and regulations as to equipment and sanitary conditions have been complied with.

§ 12. Licenses prepared by state controller. The state controller shall prepare suitable license blanks, of the form and class designated by the state market director, which shall purport to license the holder to deal in fish. They shall be numbered consecutively, commencing with one, and shall provide spaces in which to insert the name of the person to whom issued, his business address, and the period covered. The con-

troller shall deliver all licenses to the state market director, who shall thereupon sign and issue them in accordance with the terms of this act.

§ 13. License transferred or assigned. Any license may be transferred or assigned by the holder thereof upon payment of a transfer fee of five dollars; provided, notice shall be given in writing to the state fish exchange, hereinafter provided for, within ten days of such transfer or assignment. In such cases the original license shall be returned to the state fish exchange and canceled and a new license issued in lieu thereof for the unexpired portion of the original license, on payment of the fee named. If notice of transfer or assignment be not given, the license shall be invalid for any other person than the original licensee.

§ 14. Duplicate license. In the event of a license issued under the authority of this act being lost or accidentally destroyed, a duplicate license may be issued by the state fish exchange, hereinafter provided for, upon payment of a fee of five dollars.

§ 15. Display of license. Every license shall be conspicuously displayed in the place of business for which it is issued, or upon request must be shown by any licensee having no established place of business.

§ 16. "State fish exchange" created. To carry out the provisions of this act, there is hereby created a "state fish exchange" as a department of the state commission market, created by chapter seven hundred thirteen of the statutes of nineteen hundred fifteen, approved June 10, 1915, and of the state market commission created by the "state market commission act." The state fish exchange shall have a secretary who shall execute a bond to the people of the state of California in the sum of ten thousand dollars for the faithful performance of his duties. The state market director shall have authority, subject to the state civil service act, to appoint all employees of the state fish exchange necessary to carry out the provisions of this act and shall fix their compensation.

§ 17. Rules and regulations. The state market director shall establish and enforce rules and regulations necessary for the proper carrying out of the provisions of this act, and shall print and distribute the same to all persons applying therefor without charge.

§ 18. "State fish exchange fund." There is hereby created a fund to be known as the "state fish exchange fund." On or before the tenth day of each month, the state fish exchange shall remit to the state treasury all moneys collected by said exchange under this act, during the preceding month. All such remittances shall be placed to the credit of the state fish exchange fund and said fund shall be kept separate and apart from other state moneys. All expenses of whatsoever nature incurred by said exchange pursuant to the provisions of this act, including the actual and necessary traveling and other expenses of its employees incurred while on business of the exchange and including the premium and charge for bonds given by surety companies for employees of the exchange when required by the state market director or by the provisions hereof, shall be paid from the said fund, after approval by the state market director, upon claims to be audited by the state board of control, except as provided in section nineteen of this act.

§ 19. Revolving fund. A revolving fund of five hundred dollars shall be established by the state board of control out of the state fish exchange fund for expenses of the state fish exchange, other than salaries, rent and other regular expenses, and the state market director may expend such revolving fund without first procuring the authority of the board of control, but shall file vouchers therefor monthly with the board of control.

§ 20. Payments to state market commission fund. A sum equaling five per cent of the gross receipts of the state fish exchange shall be paid out of the state fish exchange fund, monthly, to the credit of the state commission market fund or in the event of the repeal of the act creating the state market commission fund, approved June 10, 1915, to the state market commission fund as a commission on the business of the state fish exchange, for services rendered it by the state market director.

§ 21. Educational and publicity campaigns. Any surplus over and above the expenditures of the state fish exchange in the state fish exchange fund shall be expended by said exchange, under the direction of the state market director, in educational and publicity campaigns for the purposes of increasing the consumption of fresh food fish, and of enabling the public to obtain fish at reasonable prices.

§ 22. Fish exempted. Nothing in this act shall be construed as applying to fish bought or sold for canning, curing or packing; or as requiring the payment of license fees by canners, curers, or packers of fish; or to fish caught by other than market fishermen; or to fish sold direct by fishermen to private consumers; or to fish caught in waters within the state privately owned, or to crustaceans or mollusks except that provisions of section seven as to destruction or diversion of food fish shall be of general application.

§ 23. License suspended or revoked. Any license issued under the authority of this act may be suspended or revoked by the state market director in his discretion, as herein provided, or upon evidence that the holder thereof has been or is a violator of the provisions of section six of this act, authorizing the fixing of maximum prices on fish, or of the fish and game laws of the state, as evidenced by conviction in any court of competent jurisdiction; or any such license may be suspended in the discretion of the state market director for a period not to exceed thirty days for any violation of the rules and regulations provided for in section seventeen. Such suspension or revocation shall be made only after due notice of such intention has been given the offender and an opportunity given him to rebut the charge at a formal hearing by the state market director, at which hearing the accused shall be entitled to be represented by attorney.

§ 24. Statement of fish caught. The state market director may require from any person engaged in marketing fish a written statement as to the amount and varieties of fish caught, or on hand, or sold by said person. Failure to furnish such statement on demand shall be good and sufficient grounds for the suspension of license issued under the provisions of this act, at the discretion of the state market director, for a period not exceeding thirty days.

§ 25. **Seal.** The state fish exchange shall have a seal bearing the inscription "state fish exchange, state of California, seal," which seal shall be affixed to all instruments, including licenses, issued under the provisions of this act.

§ 26. **Investigations.** (a) The state market director may make investigations concerning all matters relating to the provisions of this act. In connection therewith he shall have the right to inspect the books and records of any person engaged in marketing fish, and the state market director is hereby empowered to hear complaints, administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state.

(b) **Subpoenas.** The superior court in and for the county, or city and county, in which any inquiry, investigation or proceeding may be held by the state market director, shall have power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpoena issued by the state market director. The court upon petition of the state market director shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the state market director. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the state market director, the court shall thereupon enter an order that said witness appear before the state market director at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court.

§ 27. **Penalty.** Any violation of the provisions of section seven of this act as to destruction or diversion of food fish, of section nine as to licenses required, or of section ten as to license regulations, or of section fifteen requiring licenses to be displayed or shown, shall be a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment.

§ 28. **Suits commenced, when.** All prosecutions or suits brought under this act shall be commenced within six months from the time such offense was committed.

§ 29. **Annual report.** The state market director shall make and submit to the governor, on or before the first day of December of each year, a report containing a full and complete account of the transactions and proceedings of the state fish exchange, for the preceding fiscal year, together with such facts, suggestions and recommendations as may be deemed of value to the people of the state.

§ 30. **Constitutionality.** If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such

decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 31. **Repealed.** All acts and parts of acts in conflict with this act are hereby repealed.

TITLE 537.

STATE PURCHASING DEPARTMENT.

ACT 3868.

An act to create a state purchasing department, to define the authority, powers, and duties thereof; to provide for the appointment of and to define the authority, powers, and duties and to fix the compensation of the officers and employees thereof, and to appropriate money for the support of said department; and to repeal all acts or parts of acts in conflict with the provisions of this act.

[Approved May 15, 1915. Stats. 1915, p. 508.]

[Amended 1919, Stats. 1919, p. 279.]

The amendment of 1919 follows:

§ 3. **Warehouses.** The state purchasing agent shall have the power and authority, subject to the approval of the state board of control, to maintain warehouses, and to rent or lease, or construct the same, and to issue such rules and regulations as may be necessary for the proper and economical conduct of the business of the state purchasing department.

The state purchasing agent is hereby authorized to insure, in the name of the state, any goods or merchandise belonging to the state which may be stored in any warehouse or storage depot not under exclusive state control, in an amount sufficient to indemnify the state against loss or damage by fire. The premium for such insurance shall be paid out of the revolving fund created for the use of the state purchasing department and the expense thereof shall be prorated and added to the price of the goods or merchandise, when shipped, and billed to the various institutions and departments of the state to which the same are supplied. [Amendment approved May 2, 1919; Stats. 1919, p. 279.]

§ 5. **Claims.** Every valid claim on account of such contracts and purchases negotiated by the state purchasing agent shall be audited and paid from the appropriations or funds against which the contract and purchase estimates or requisitions were allowed as provided in section four hereof upon the sworn statement of the executive officer of the department, commission or board, or of the business manager of the institution or of the state official for whose benefit the appropriations or funds are made available, to the effect that the services have been rendered and the supplies delivered in accordance with the contract and the law, together with the sworn statement of the state purchasing department as to the correctness of the claim. Such sworn statements after approval by the state board of control, shall be full and sufficient

authority for the controller to draw his warrant and the treasurer to pay the same against said appropriations or funds. Said executive officer, business manager or state official must immediately upon the proper rendition of services or delivery of supplies or both, transmit the invoice or demand for payment of the same together with his sworn statement to the office of the state purchasing department. No such claim on account of such contracts and purchases shall require the signature of any officer or officers other than those mentioned in this section, any other act or regulation to the contrary notwithstanding, and no contrary provision contained in any law hereafter enacted shall be deemed to contravene the provisions hereof unless the direction is accompanied by a special provision exempting it from the operation of this section; provided, however, that no claim shall be audited against or paid from any appropriation or fund unless an estimate or requisition for the same is approved in accordance with section four of this act. [Amendment approved May 2, 1919; Stats. 1919, p. 279.]

§ 6. Assistants. Bond of assistants. Deputy to succeed in case of death, etc. The state purchasing agent shall have the power to appoint one deputy state purchasing agent at an annual salary of three thousand dollars, who shall be a civil executive officer, one state testing engineer at an annual salary of two thousand seven hundred dollars, and to appoint and fix the salaries of three assistant state purchasing agents, subject to the approval of the state board of control. The state purchasing agent shall also have power, with the approval of the state board of control, to appoint and fix the compensation of such additional employees as the proper and economical conduct of the state purchasing department may demand.

The deputy and each subordinate of the department who has personal supervision and control of any warehouse or storage depot wherein merchandise or goods belonging to the state are stored, shall execute to the people of the state a bond in the penal sum of five thousand dollars, the premium of which shall be paid by the state as are the premiums upon the bonds of state officers.

In the event of the death, resignation, removal from office, or disqualification of the state purchasing agent, the deputy shall become the acting state purchasing agent, and shall serve as such until a state purchasing agent shall be appointed and qualified according to law. [Amendment approved May 2, 1919; Stats. 1919, p. 280.]

TITLE 541a.

STEAM BOILERS.

ACT 3890.

An act to provide for the periodical inspection of steam boilers, with certain exceptions, operated in this state; requiring a permit, to be issued by the industrial accident commission, for the operation of such boilers; making it a misdemeanor to operate such boilers without such permit; and allowing an injunction against such operation without such permit where dangerous to the life or safety of employees; providing for a hearing before the industrial accident commission prior to refusal of a permit; providing for the determi-

nation of competency of inspectors making such inspections and requiring reports of inspections; and prescribing maximum fees for such inspections.

[Approved May 9, 1917. Stats. 1917, p. 297. In effect July 27, 1917.]

§ 1. Permit required to operate steam boiler. Violation. Injunction restraining operation. No steam boiler, unless exempted in the following section, shall be operated in the state of California unless there shall have been issued for the operation of such boiler a permit as hereinafter provided, and unless such permit shall remain in full force and effect. Such permit must be posted under glass in a conspicuous place on or near the boiler covered by it. The violation of this section by any person owning or having the custody, management or operation of such boiler without such permit shall be a misdemeanor and the operation of such boiler without such permit shall constitute a separate offense for each day that it shall be so operated; provided, that no prosecution shall be maintained where the issuance or renewal of such permit shall have been requested and shall remain unacted upon. If the operation of such boiler without such permit shall constitute a serious menace to the lives or safety of persons employed about it, the industrial accident commission, a commissioner or any safety inspector thereof, or any person affected thereby, may apply to the superior court of the county in which such boiler is situated for an injunction restraining the operation of said boiler until such condition shall be corrected or such permit secured. The certification of the industrial accident commission that no permit exists for the operation of such boiler, and the affidavit of any such inspector that its operation constitutes a menace to the life or safety of any person or persons employed about it, shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

§ 2. Boilers exempt. The following boilers are exempt from the provisions of this act:

(1) Boilers under the jurisdiction or inspection of the United States government, and all other boilers operated by employers not subject to the workmen's compensation, insurance and safety act of 1917, and acts amendatory thereof.

(2) Boilers of twelve horse-power or less, on which the pressure does not exceed fifteen pounds per square inch.

(3) Automobile boilers and boilers on road motor vehicles.

§ 3. Inspection of steam boilers. Hearing. Temporary permits. The industrial accident commission shall cause to be inspected, internally and externally, not less frequently than once in each year, every steam boiler subject to the provisions of this act. If such boiler be found upon such inspection to be in a safe condition for operation, a permit shall be issued by the commission for its operation for not longer than one year, which shall be the permit referred to in section one of this act. If any such inspection shall show such boiler to be in an unsafe or dangerous condition, the commission, or a commissioner, may issue a preliminary order requiring such repairs or alterations to be made to such boiler as may be necessary to render it safe, and may order the use of such boiler discontinued until such repairs or alterations are

made or such dangerous or unsafe conditions are remedied. Unless such preliminary order be complied with, a hearing before the commission, a commissioner or referee of such commission, shall be allowed, upon request, at which the owner, operator or other person in charge of said boiler shall have opportunity to appear and show cause why he should not comply with said order. If it shall thereafter appear to the commission that such boiler is unsafe and that the requirements contained in such preliminary order should be complied with, or that other things should be done to make said boiler safe, the commission may order or confirm the withholding of the permit to operate said boiler, and may make such requirements as it deems proper for the repair or alteration of said boiler, or the correction of such dangerous and unsafe conditions. Such order may thereafter be reheard by the commission, or reviewed by the courts, in the manner specified by the workmen's compensation, insurance and safety act of 1917 for safety orders, and not otherwise. It may also, in its discretion, issue and renew temporary permits for not to exceed thirty days each, pending the making of replacements or repairs. Nothing contained in this act shall be construed to limit the authority of the commission to prescribe or enforce general or special safety orders.

§ 4. Who may inspect. Certificate of competency. The commission may cause the inspection herein provided for to be made either by its safety inspectors or by any qualified boiler inspector employed by any county, city and county, city, or insurance company, or by any boiler inspector employed by any person or corporation for the purpose of testing his own boilers only; provided, that such persons making inspections other than such safety inspectors shall first secure from the said industrial accident commission a certificate of competency to make such inspections. The industrial accident commission is hereby vested with full power and authority to determine the competency of any applicants for such certificate, either by examination or by other satisfactory proof of qualifications. The commission may rescind at any time, upon good cause being shown therefor, any certificate of competency issued by it to a boiler inspector, or may at any time, upon good cause being shown therefor, and after notice and an opportunity to be heard, revoke any permit to operate such steam boiler.

§ 5. Fees. The industrial accident commission shall fix and collect fees for the inspection of steam boilers covered by this act, not exceeding two dollars and fifty cents for each external inspection and seven dollars and fifty cents for each internal inspection per annum. Such fees must be paid before the issuance of any permit to operate the said boiler. No fee shall be charged by the industrial accident commission where an inspection, as herein provided, has been made by an inspector holding a certificate of competency from said commission and employed by any county, city and county, city, insurance company, or by any person or corporation for the purpose of testing his own boilers only. All fees collected by the commission under this act shall be paid into the accident prevention fund.

§ 6. Report of inspection. Every inspector so certified shall forward to the commission on the forms provided by it, within twenty-one days

after such inspection is made, a report of such inspection, in default of which the certificate of competency may be canceled.

TITLE 547.**STREETS.****ACT 3927.**

An act to provide for laying out, opening, extending, widening, straightening, or closing up in whole or in part any street, square, lane, alley, court or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

[Approved March 6, 1889. Stats. 1889, p. 70.]

Amended 1909, p. 1034; 1913, p. 376; 1919, p. 464.

The amendment of 1919 follows:

§ 22. Procedure when boundaries of districts of lands affect whole city. If the city council deem it proper that the boundaries of the districts of lands to be affected and assessed to pay the whole or any portion of the damages, cost and expenses of any work or improvement under this act, shall include the whole city, then the commissioners appointed shall proceed in a summary manner to purchase the lands to be taken or condemned from the owners and claimants thereof. If said commissioners and the owners and claimants cannot agree upon the price to be paid for said lands, they shall proceed to view and value the same, and shall thereupon make a summary report to the city council. Upon final confirmation of the report, the city council, if there be not sufficient money available in the city treasury, shall cause the whole or any such portion of the cost and expenses of the contemplated public improvement to be assessed upon the whole of the taxable property of said city, and to be included in and form part of the next general assessment-roll of said city, and with like effect in all respects as if the same formed a part of the city, state and county taxes; and when the same shall have been collected the said city council shall cause the land required to be paid for or the value thereof tendered, and the said contemplated public improvement to be forthwith made and completed. All the provisions of the preceding sections not in conflict with this section shall be applicable thereto. [Amendment approved May 8, 1919; Stats. 1919, p. 464.]

ACT 3928.

An act to provide for the laying out, opening, extending, widening, or straightening, in whole or in part, of public streets, squares, lanes, alleys, courts, and places, within municipalities, for the condemnation of property necessary or convenient for such purposes, and for the establishment of assessment districts and the assessment of property therein to pay the expense of such improvement.

[Approved March 24, 1903. Stats. 1903, p. 376.]

Amended 1909, p. 1035; 1911, pp. 855, 894; 1913, p. 429; 1919, p. 1046.

The amendment of 1919 follows:

§ 2. Declaration of intention. City may pay percentage. Before ordering any improvement to be made which is authorized by section one of this act, the city council shall pass an ordinance declaring its intention to do so, describing the improvement and the land necessary or convenient to be taken therefor, and specifying the boundaries of the district to be benefited by said improvement and to be assessed to pay the expense thereof and to be known as the assessment district. Said city council may, in its discretion, order and declare that the whole, or any percentage, of the expense of said improvement be paid out of the treasury of the municipality from such fund as the council may designate, in which case it shall be so stated in said ordinance of intention. [Amendment approved May 25, 1919; Stats. 1919, p. 1046.]

ACT 3930.

An act to provide for work done upon streets, lanes, alleys, courts, places and sidewalks and for the construction of sewers within municipalities.

[Approved March 18, 1885. Stats. 1885, p. 147.]

Amended 1887, p. 148; 1889, p. 157; 1891, pp. 116, 196, 461; 1893, pp. 33, 89, 172; 1899, p. 23; 1903, p. 88; 1905, pp. 15, 63; 1907, pp. 126, 1000; 1909, pp. 31, 399, 1017; 1911, pp. 626, 849; 1913, pp. 353, 402; 1915, p. 1400; 1919, p. 480.

The amendment of 1919 follows:

§ 61. Bond for labor and material. Lien for materials furnished. Every contractor, person, company or corporation including contracting owners, to whom is awarded any contract for street work under this act, shall, before executing the said contract, file with the superintendent of streets a good and sufficient bond, approved by the mayor, in a sum not less than one-half of the total amount payable by the terms of said contract; such bond shall be executed by the principal and at least two sureties, who shall qualify for double the sum specified in said bond, and shall be made to inure to the benefit of any and all persons, companies, or corporations who perform labor on, or furnish materials to be used in the said work of improvement, and shall provide that if the contractor, person, company, or corporation to whom said contract was awarded fails to pay for any materials so furnished for the said work of improvement, or for any work or labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in said bond. Any laborer, materialman, person, company, or corporation, furnishing materials to be used in the performance of said work specified in said contract, or who performed work or labor upon the said improvement, whose claim has not been paid by the said contractor, company or corporation, who executed the said contract, shall severally have a first lien upon and against the assessment, any partial assessment, any reassessment, and any bonds which may be issued to represent any assessment or reassessment. Such laborers, or materialmen may, at any time prior to thirty days after the recording of the assessment for said work, file with the superintendent of streets a verified statement of his or its claim, together with a statement that

the same, or some part thereof, has not been paid. At any time within ninety days after the filing of such claim the person, company, or corporation filing the same or their assigns, may commence an action either to enforce the aforesaid lien, or on said bond, for the recovery of the amount due on said claim, together with the costs incurred in said action, and a reasonable attorney fee, to be fixed by the court, for the prosecution thereof. [Amendment approved May 8, 1919; Stats. 1919, p. 481.]

ACT 3932.

An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvements within municipalities, and also for the payment of such bonds.

[Approved February 27, 1893. Stats. 1893, p. 33.]

Amended 1899, p. 40; 1911, p. 1201; 1913, pp. 351, 845; 1917, p. 160.

The amendment of 1917 follows:

§ 4. Street superintendent to certify unpaid assessments. Sufficient description of land. Street improvement bonds. After the full expiration of thirty days from the date of the warrant, or if an appeal be taken to the city council, or an extension of time be granted the contractor in which to make his return as provided in section ten of said street work act, then five days after the final decision of said city council, or the expiration of the extension, or after the full expiration of thirty days from the recording of a reassessment in the event that such be made, and after the street superintendent shall have recorded the return, and in the event that a reassessment is ordered, after all previous payments have been credited on the reassessment, the street superintendent shall make and certify to the city treasurer a complete list of all assessments unpaid, which amount to twenty-five dollars or over upon any assessment or diagram number; and said treasurer shall thereupon make out, sign and issue to the contractor, or his assigns, payee of the warrant and assessment, a separate bond, representing upon each lot or parcel of land upon said list the total amount of the assessments or reassessments as the case may be, against the same as thereon shown. And if said lot or parcel of land is described upon said assessment and diagram by its number or block, or both, upon the official map of said municipality, or upon any map on file in the office of the county recorder of the county in which said municipality is situated, then it shall be in said bond a sufficient description of said lot or parcel of land to designate it by said number or block, or both, as it appears on said official or recorded map. Said bond shall be substantially in the following form:

STREET IMPROVEMENT BOND.

Series (designating it) in the city (or other form of municipality) of _____ (naming it).

\$ —

No. —.

Under and by virtue of an act of the legislature of the state of California (title of said act), I, out of the fund for the above designated

street improvement bonds, series —, will pay to —, or order, the sum of — dollars, (\$—), with interest at the rate of — per cent per annum, all as hereinafter specified, and at the office of the treasurer of the — of —, state of California.

This bond is issued to represent the cost of certain street work upon — in the — of —, as the same is more fully described in assessment No. —, issued by the street superintendent of said —, after acceptance of said work, and recorded in his office (or if there has been a reassessment then the reference shall be to such reassessment). Its amount is the amount assessed in said assessment (or reassessment if such be made) against the lot or parcel of land numbered therein, and in the diagram attached thereto, as No. —, and which now remains unpaid, but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit:

That certain lot or parcel of land in said — of — county of — and state of California, described as follows:

This bond is payable exclusively from said fund and neither the municipality nor any officer thereof is to be holden for payment otherwise for its principal or interest. The term of this bond is — years from the second day of January next succeeding its date, and at the expiration of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date an even annual proportion of its whole amount is due and payable upon presentation of the coupon therefor until the whole is paid (or if said bonds are to extend over a period exceeding ten years from their date, insert in place of the last statement the following: But on the second day of January of each of the last ten years of the term of this bond an even one-tenth part of the whole amount of the principal of said bond shall be due and payable upon presentation of the coupon therefor), with all accrued interest at the rate of — per centum per annum. The interest is payable semi-annually, to wit: on the second days of January and July in each year hereafter, upon presentation of the coupons therefor, the first of which is for the interest from date to the next second day of —, and thereafter the interest coupons are for semi-annual interest. Should default be made in the annual payment upon the principal, or in any payment of interest, by the owner of said lot or parcel of land, or anyone in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law.

At said — of —, this — day of —, in the year one thousand nine hundred —.

City treasurer of the — of —.

In case the amount of the unpaid assessment or reassessment upon any lot or parcel of land shall be less than twenty-five dollars, then the same shall be collected as is provided in said street work act. If any person, or his authorized agent, shall at any time before the issuance of the bond for said assessment or reassessment upon his lot or parcel of land present to the city treasurer his affidavit made before a com-

petent officer, that he is the owner of a lot or parcel of land in said list, accompanied by the certificate of a searcher of records that he is such owner of record, and shall with such affidavit and certificate notify said treasurer in writing that he desires no bond to be issued for the assessment upon said lot or parcel of land, then no such bond shall be issued therefor and the payee of the warrant, or his assigns, shall retain his right for enforcing collection of said assessment or reassessment as if said lot or parcel of land had not been so listed by the street superintendent. The bonds so issued by said treasurer shall be payable to the party to whom they issue, or order, and shall be serial bonds, as is hereinbefore described, and shall bear interest at the rate specified in the resolution of intention to do said work. They shall have annual coupons attached thereto, payable in annual order on the second day of January in each year after the date of the bonds until all are paid, or if the term of said bonds be more than ten years, then said coupons shall be payable on the second day of January of each of the last ten years of the term of the bonds; and each coupon shall be for an even annual proportion of the principal of the bond. They shall have semi-annual interest coupons thereto attached, the first of which shall be payable upon the second day of January or July, as the case may be, next after its date, and shall be for the interest accrued at that time, and the rest of which shall be for the semi-annual interest accruing from the second day of January or July, as the case may be. The owner of, or any person interested in, any lot or parcel of land upon which a bond has been issued, under the terms of this act, may at any time pay off such bond and discharge his land from the lien of the assessment, by paying to the city treasurer for the holder of such bond the amount then unpaid on the principal sum thereof, and all interest thereon which has accrued and is unpaid, together with the semi-annual installment of interest which will next become due thereafter, and in addition thereto, interest for six months at the rate specified in the bond upon the unpaid amount of the principal. The treasurer shall thereupon make an entry upon his bond register that such bond has been paid in full. When all the coupons of principal and interest are paid or the bond is surrendered or satisfied, the city treasurer shall report the fact to the street superintendent, who shall forthwith indorse the same on the margin of the record of the assessment to the credit of which the same is paid. The assessment upon which a bond is issued shall be a first lien upon the property affected thereby until the bond issued for the payment thereof and the accrued interest thereon shall be fully paid. Said bonds by their issuance shall be conclusive evidence of the regularity of all proceedings leading up thereto under said street work act and under this act, and of the validity of said lien. [Amendment approved April 24, 1917; Stats. 1917, p. 160.]

ACT 3932a.

An act to provide for the issuance of improvement bonds to represent and be secured by certain assessments made for the cost of certain work and improvements made in and upon streets, avenues, lanes, alleys, courts, places and sidewalks within municipalities and upon property and rights of way owned by municipalities, to provide for

the collection of such assessments, the sale of the property affected thereby and for the payment of the bonds so issued.

[Approved June 11, 1915. Stats. 1915, p. 1441.]

Amended 1917; Stats. 1917, p. 209.

§ 3. Bonds payable when and where. Interest. Redemption fund Register. Said bonds shall be issued in series and an even annual proportion of the aggregate principal sum thereof shall be payable on the second day of July every year succeeding the first nine months after their date, until the whole is paid, and the said bonds shall bear interest at a rate of not to exceed eight per cent per annum from the date of filing with the clerk of the street superintendent's list of unpaid assessments, on all sums unpaid, until the whole of said principal sum and interest are paid, which interest shall be payable semi-annually by coupon, on the second days of January and July, respectively of each year; provided, that the first payment of interest shall not come due till six months before the maturity of the first series of bonds. The final series or installment of said bonds shall mature and be payable on a date which shall not exceed fourteen years from the second day of July next succeeding nine months from their date. Said bonds and interest shall be paid at the office of the city treasurer of said municipality who shall keep a redemption fund designated by the name of said bonds, into which he shall place all sums received by him from the collection of the assessments made for the payment of the cost of the work or improvements upon which the said bonds are issued, and of the interest and penalties thereon and from which fund he shall disburse and pay the said bonds and the interest due thereon upon presentation of the proper bonds and coupons; and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said city treasurer shall keep a register in his office which shall show the series, number, date, amount, rate of interest, and last known holder of each bond, and the number and amount of each coupon of interest paid by him, and shall cancel and file each bond and coupon so paid. [Amendment approved May 4, 1917; Stats. 1917, p. 209.]

§ 4. Resolution of intention. When said city council shall determine that serial bonds shall be issued hereunder to represent the expense of any proposed work or improvement under said street work act it shall so declare in the resolution of intention to do said work and shall specify the rate of interest which they shall bear. The like description of said bonds shall be inserted in the resolution ordering the work, in the resolution of award and in all notices of said proceedings required by said act to be either posted or published, and also a like notice shall be entered in any warrant issued by the superintendent of streets to the contractor. Said bond declaration may be substantially in the following form: "Notice is hereby given that serial bonds to represent unpaid assessments, and bear interest at the rate of — per cent per annum, will be issued hereunder in the manner provided by the improvement bond act of 1915, the last installment of which bonds shall mature — years from the second day of July next succeeding nine months from their date." [Amendment approved May 4, 1917; Stats. 1917, p. 210.]

§ 5. Street superintendent to file list of unpaid assessments. Notice of hearing. Objections. Advertisement for bids. Award to highest

bidder. After the full expiration of thirty (30) days from the date of the warrant, or if an appeal be taken to the city council as provided in said street work act, then five (5) days after the final decision of said council, and after the street superintendent shall have recorded the return, the street superintendent shall make and file with the clerk of the city council a complete list of all assessments unpaid, upon any assessment or diagram number. Said clerk shall then give notice of the filing of said list and of a time, to be therein fixed by said clerk, when interested persons may appear before the city council and show cause why bonds should not be issued upon the security of the unpaid assessments shown on said list, which time shall be that of some regular meeting of said council. Such notice shall be posted for not less than five days on or near the council chamber door and be published twice in a newspaper published in such city, if there be any, the first of which publications shall be not less than five days before the time fixed for such hearing. Reference shall therein be made to the resolution of intention and the date of its passage for a description of the work therein mentioned and no other description thereof shall be necessary. The council shall hear any objection presented and shall pass upon the same and shall thereupon determine the assessments which are unpaid and the aggregate amount of same. It may adjourn the hearing from time to time. Its decision shall be final. The city council shall then prescribe the denominations of such bonds, which shall be in convenient amounts not necessarily equal, and shall provide for issuance of same in annual series. Said bonds must be sold at a time to be fixed by the council, and to the highest bidder therefor, but for not less than par and accrued interest, and the proceeds of the sale shall be deposited in the city treasury. Before selling said bonds, or any part thereof, the city council must advertise for bids therefor, by publication once a week for at least two weeks in some newspaper of general circulation published in the city, or if there is no such newspaper published in the city then by notice of sale, posted for at least two weeks on or near the council chamber door of said city. If satisfactory bids are received the bonds offered for sale must be awarded to the highest bidder. If no such bids are received or the council determines that the bids received are not satisfactory as to price or responsibility of the bidders the council may reject all bids received, if any, and either readvertise or deliver said bonds to the contractor in satisfaction of the sum due him upon his assessment and warrant. From the proceeds of any sale of said bonds, there shall be paid to such contractor the balance due him upon his assessment and warrant including interest upon the principal amount thereof at the rate specified in said bond declaration computed from the date of filing of said unpaid assessment list, and the surplus of such proceeds shall be credited to the redemption fund for the payment of such bonds. The cost of such publications shall be paid from such redemption fund. [Amendment approved May 4, 1917; Stats. 1917, p. 211.]

§ 6. Form of bond. Said bonds shall each be substantially in the following form:

IMPROVEMENT BOND.

City (or other form of municipality) of (naming it).

§ —

No. —

Under and by virtue of the act of the legislature of the state of California, entitled (title of this act) the — of — (a municipal corporation) will on the second day of July, 19—, out of the redemption fund for the payment of the bonds issued upon the assessments made for the work upon and improvements on certain streets (or on — street, or in improvement district No. —, or on certain rights of way owned by, or by other suitable description), more fully described in the certain resolution of intention passed by the city council (or other board) of said municipality on the — day of —, 19—, pay to bearer, the sum of — dollars (\$—) with interest thereon from the — day of —, 19— at the rate of — per cent per annum, all as is hereinafter specified, and at the office of the treasurer of said municipality.

This bond is one of several annual series of bonds of like date, tenor and effect, but differing in amounts and maturities, issued by said municipality under said act for the purpose of providing means for paying for the work and improvements described in said resolution of intention, and is secured by the moneys in said redemption fund and by the unpaid assessments made for the payment of said work, and, including principal and interest, is payable exclusively out of said fund.

The interest is payable semi-annually, to wit: On the second days of January and July in each year hereafter, upon presentation of the proper coupons therefor; provided, that the first of said coupons is for the interest to the second day of January, 19—, and thereafter the interest coupons are for the semi-annual interest.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there is not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity interest thereon will run until maturity.

This bond may be redeemed and paid in advance of maturity upon the second day of July in any year by giving the notice provided in said act.

In witness whereof, said — of — has caused this bond to be signed by the treasurer of said — and by its clerk and has caused its clerk to affix thereto its corporate seal all on the — day of —, 19—.

Treasurer.

(Seal)

Clerk.

[Amendment approved May 4, 1917; Stats, 1917, p. 212.]

§ 7. The coupons affixed to said bonds shall be signed by the treasurer, and the city council may by order provided in its discretion for the use upon said coupons of an engraved, printed or lithographed signature of the treasurer in place of a signature by hand. The bonds shall have semi-annual coupons attached thereto, the first of which shall be payable upon the second day of January next before the maturity of

the first series of bonds coming due, and shall be for the interest accrued at that time. [Amendment approved May 4, 1917; Stats. 1917, p. 213.]

§ 12. Assessments payable in installments. Sale of land on default of payment. Purchase by city. State to purchase when. Such unpaid assessments shall be payable in annual series, corresponding in number to the number of series of bonds issued and an even annual proportion of each assessment shall be payable in each year preceding the date of maturity of each of the several series of bonds so issued. Such annual proportion of each assessment coming due in any year, together with the annual interest on such assessment, shall in turn be payable in annual or semi-annual installments according as the general municipal taxes of such city on real property are payable in annual or semi-annual installments, and such installments and said annual interest shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as to the general municipal taxes on real property of said city. Upon default in payment, the lands securing such installments and assessments shall be sold in the same manner in which real property in such city is sold, for the nonpayment of general municipal taxes, and be subject to redemption in the same manner as such real property is redeemed from such delinquent sale, and upon failure of redemption shall in like manner pass to the purchaser. The city may be the purchaser at any delinquent sale in like manner in which it becomes or may become the purchaser of property sold for nonpayment of the general municipal property tax, and in the event of its so becoming the purchaser shall pay and transfer into said redemption fund the amount of the delinquent assessment and of the delinquent interest thereon upon which said sale is made. In cases where the municipal property tax is collected by county or city and county officials and sales for nonpayment of such taxes are made to the state, the state shall be the purchaser at any such sale hereunder, but shall hold the title acquired at such sale upon behalf of the city and shall account to the city for any moneys received upon redemption or from the sale of such property, the city for the purposes of this act being deemed the real purchaser. In other cases where under the law, the city is not always the purchaser at sales for delinquent municipal taxes, the city shall become such purchaser at any delinquent sale hereunder where there is no other purchaser. In the event of there being no available funds in the treasury with which to make such payment, the tax collector shall delay the entry of the certificate of sale until such funds are available, making demand in the meantime upon the city council that a suitable amount be included in the next tax levy for the purpose of providing funds with which to make such payment; provided, however, that the period of redemption from such tax sale shall not be extended thereby nor the rights or privileges of the property owner be thereby in any wise affected. In the event of such purchase being made by the city and of any succeeding installment of such assessment or of such interest not being paid in any future year, the property shall not be sold unless there has previously been a redemption from such sale or unless under the law it is being then sold for delinquent taxes. The city shall nevertheless from time to time when due pay and transfer into said redemption

fund the amount of any such future delinquent assessment and interest pending redemption, and no redemption shall be made until any such subsequent payments, with interest and penalties, shall also be paid. [Amendment approved May 4, 1917; Stats. 1917, p. 213.]

ACT 3936b.

An act to provide for local improvements in or upon streets, avenues, lanes, alleys, courts, places, public ways, property, or rights of way within or belonging to municipalities, and providing for the issuance and payment of bonds to represent assessments levied for such improvements.

[Approved May 16, 1919. Stats. 1919, p. 527. In effect July 22, 1919.]

§ 1. Municipality empowered to do work on streets, etc. Definitions. All streets, avenues, lanes, alleys, places, or courts in the municipalities of this state, now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and be held to be open public streets, lanes, alleys, places, or courts, for the purpose of this act; and the city council of any municipality is hereby empowered to establish and change the grades of said streets, lanes, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in section two of this act, under the proceedings hereinafter described.

The word "street," as used in this act, shall be deemed, and is hereby declared, to include avenues, highways, lanes, alleys, crossings, or intersections, courts and places, which have been dedicated and accepted according to law or in common and undisputed use by the public for a period of not less than five years next preceding; and the term "main street" means such actually opened street or streets as bound a block; and the word "blocks," whether regular or irregular, means such blocks as are bounded by main streets, or partially by a boundary line of the city.

§ 2. Work which may be ordered done. Different kinds of work in one proceeding. "City council." Whenever the public interest or convenience may require, the city council is hereby authorized and empowered to order the whole or any portion or portions, either in length or width of any one or more of the streets, avenues, lanes, alleys, courts, places, public ways, property, or rights of way, of any such city graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized, or remacadamized, graveled or regraveled, piled or repiled, capped or recapped, oiled or reoiled; and to order the construction or reconstruction therein of sidewalks, crosswalks, culverts, bridges, gutters, curbs, steps, parkings and parkways; sewers, ditches, drains, conduits and channels for sanitary and drainage purposes or either or both thereof, with outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, and other appurtenances; pipes, hydrants and appliances for fire protection, or for the service of water for domestic or sanitary uses; viaducts, conduits and subways, breakwaters, levees, bulkheads and walls of rock or other material; tunnels or subterranean avenues for public travel; poles, posts, wires, pipes, conduits, lamps and other suitable or necessary appliances for the purpose of lighting said streets.

avenues, lanes, alleys, courts, places or public ways; the planting of trees thereon, and any work which shall be deemed necessary to improve the whole or any portion of such streets, avenues, sidewalks, lanes, alleys, courts, places, or public ways or property or rights of way, of such city.

The city council may include in one proceeding and order, any of the different kinds of work mentioned in this act, and may include such work on any number of streets, property and rights of way, or any portion thereof, contiguous or otherwise, in one proceeding or one contract, or both, and may except therefrom any of said work already done to the official grade, and which may be in good condition and repair.

The term "city council" is hereby declared to include any body or board, which, under the law, is the legislative department of the government of any city.

§ 3. Resolution. Before ordering any work done or improvement made, which is authorized by section two of this act, the city council shall pass a resolution referring the proposed work to the city engineer, if there be one, and, if not, to some civil engineer employed by them for the purpose and named in the resolution, instructing him to make them a report in writing containing his recommendations as to the best method of doing said work or making said improvement, together with the following:

Report of engineer. (a) A statement of the nature of the proposed work or improvement, with plans and specifications therefor;

(b) A description of the district or districts which, in his opinion, would be benefited by the proposed work or improvement and should be assessed to pay the cost thereof, excepting and excluding therefrom any lot or portions of said district or districts which would not be benefited by the proposed work. Said district or districts, may be described by the exterior boundaries thereof or by giving the numbers of the lots and blocks, according to the official or recorded map or maps, or by any other method which will clearly indicate the lots and lands intended to be included therein;

(c) An estimate of the cost of said improvement;

(d) The assessed value of all the real property included within said district or districts and proposed to be assessed for the work, exclusive of buildings or other improvements, according to the last equalized assessment-roll used for purposes of taxation by said city;

(e) A plat showing said district or districts and the subdivisions of property therein, as shown by the last equalized assessment-roll.

The engineer may submit a number of districts, which, according to his estimate, would be benefited in different degrees by the proposed improvement, in which case he shall specify the proportion of benefit which each district would receive.

§ 4. Adoption of report. Resolution of intention. Where cost paid in part by municipality. Property omitted from assessment. Upon receipt of the report from the engineer, the city council shall consider and act upon the same, and may adopt the report as submitted or as they may modify the same. After adoption, the city council shall pass

a resolution of intention, briefly describing the proposed work or improvement, referring to the plans and specifications therefor, and briefly describing the district or districts which would be benefited by and assessed for the proposed work or improvement, and the proportion of benefit said district or districts would derive therefrom. The resolution shall contain a declaration to the effect that serial bonds, bearing interest at a rate therein to be determined, but not to exceed six per cent per annum, will be issued to represent the unpaid assessments. The resolution shall also contain a notice of the day, hour, and place, when and where any persons having any objections to the proposed work or improvement may appear before the city council and show cause, if any they have, why the proposed work or improvement should not be carried out in accordance with said resolution, which time shall not be less than fifteen nor more than forty days from the day of the passage of said resolution.

The city council may, in its discretion, order, that any part of the cost and expenses of any of the work mentioned in this act be paid out of the treasury of the municipality from such fund as the council may designate, in which case it shall be so stated in the resolution of intention.

Whenever a part of such cost and expenses is so ordered to be paid, the superintendent of streets, in making up the assessment heretofore provided for such cost and expenses, shall first deduct from the whole cost and expenses such part thereof as has been so ordered to be paid out of the municipal treasury, and shall assess the remainder of said cost and expenses proportionately upon the lots and lands liable to be assessed for such work, and in the manner hereinafter provided.

Whenever any lot, piece or parcel of land belonging to the United States, or to the state of California, or any lot, piece or parcel of land belonging to any county, city, public agent, mandatory of the government, school board, educational, penal or reform institution, or institution for the feeble-minded or the insane, and being in use in the performance of any public function, shall be included within the district or districts declared by the city council in its resolution of intention to be the district or districts to be assessed to pay the cost and expenses thereof, said city council may, in the resolution of intention, declare that said lots, pieces or parcels of land, or any of them, shall be omitted from the assessment thereafter to be made to cover the cost and expenses of said work or improvement, in which case the total cost and expenses shall be assessed on the remaining lots and lands in the assessment district or districts; provided, that such part of the cost and expenses may be paid out of the municipal treasury as hereinbefore provided.

§ 5. Grade established. Objections to grade. The council may, in the resolution of intention, by reference to the plans and specifications or otherwise, fix and establish the grade at which the work is to be done, which grade so fixed and established may be either the first establishment of such grade or the changing of an existing official grade.

In such case the plans adopted for the proposed work shall show the existing official grade, if any, and the grade at which the proposed work is to be done.

In the event the proposed work is to be done at a grade other than an existing official grade, the resolution of intention and the notices of improvement shall recite the fact and refer to the plans and specifications for further particulars as to such proposed grade.

Any property owner whose property is to be assessed to pay the costs and expenses of the proposed improvement, may at the time fixed in the resolution of intention for the hearing of objections to the proposed work or improvement, appear before the city council and make objections to the grade so established or changed in said resolution of intention.

Failure to make such objections shall be deemed to be a waiver of all objections to such grade, and shall operate as a waiver of all claims for damages and shall constitute a bar to any subsequent action looking either to the prevention of the work or the recovery of damages or compensation on account of the performance of the work to such grade.

§ 6. Publication and posting of resolution of intention. The city clerk shall cause said resolution of intention to be published twice in one or more daily or weekly newspapers published and circulated within said city. The street superintendent shall cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution, briefly describing the district or districts to be benefited and assessed, and containing an announcement that serial bonds, bearing interest at a rate not to exceed six per cent per annum, will be issued to represent the unpaid assessments. Said notices shall be headed "notice of improvement," in letters of not less than one inch in length; and shall, in legible characters, state the fact of the passage of the resolution of intention, its date, and briefly, the work or improvement proposed, and shall refer to the resolution of intention for further particulars. Said notices shall also contain a notice of the day, hour, and place fixed for hearing objections as above mentioned.

§ 7. Notice to property owners. The city clerk shall, immediately upon the passage of said resolution of intention, mail, postage prepaid, to each property owner whose property is to be assessed to pay the cost and expenses of said work and improvement, at his last known address as the same appears upon the tax-rolls of said city, or when no address so appears, to the general delivery of the United States post-office in said city, a postal card containing a notice which shall be in substantially the following form (filling blanks):

"You are hereby notified that on the — day of — the city council of the city of —, California, passed a resolution of intention providing for the improvement of — street between — street and — street. You are hereby referred to the said resolution for further particulars. Properly belonging to you is to be assessed for this improvement.

— —, City clerk."

If any lots or parcels of land in the assessment district or districts be assessed to "unknown owners" on the tax-rolls of said city, no postal cards containing such notice need be mailed to the owners thereof.

The city clerk shall, upon the completion of the mailing of said postal cards, file in his office an affidavit setting forth the time and manner of the compliance with this requirement; provided, that the failure of the city clerk to mail said cards, or the failure of the property owners to receive the same shall in no wise affect the validity of the proceedings or prevent the city council from acquiring jurisdiction to order the work.

§ 8. Bids. The city council shall cause notice of said work inviting sealed proposals or bids for doing the work and referring to the plans and specifications on file, to be published twice in a daily or weekly newspaper, published and circulated in said city, and provide that the same will be received and opened on the same day, hour, and place fixed for hearing objections as aforementioned. All proposals or bids offered shall be accompanied by a check payable to the city, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal.

§ 9. Objections against work. Opening of bids. Hearing of objections. At any time not later than the hour set for receiving proposals and hearing objections to the proposed work or improvement, any owner of property liable to be assessed for said work or improvement may make written protests or objections against the work or improvement or against the district or districts, to be assessed, or both, or make any objection of any character to said work. Said objections or protests must be delivered to the clerk of the city council prior to the hour set for the hearing, and no other protests or objections shall be considered by said council.

At the time fixed for said hearing and the opening of bids as aforementioned, the city council shall first cause all the bids received to be publicly opened and publicly declared, after which the same shall be temporarily laid upon the table while the council proceeds to hear and consider objections, if any there be. The council may continue the hearing from time to time and postpone final consideration of the proposals or bids submitted. The decision of the council on all protests or objections shall be final and conclusive; provided, that where the council finds that the objections or protests filed have been made by a majority of the property owners of the district, or of all the districts if there be more than one district, and that they are also the owners of more than one-half of the area of the property within the district or districts to be assessed for the proposed work or improvement, no further proceedings shall be taken for a period of six months from the date of the finding of the council as to the sufficiency of the protest.

If no protests or objections in writing have been delivered to the clerk up to the hour set for the hearing, or if protests have been heard and overruled, thereupon the city council shall be deemed to have acquired jurisdiction to order the work and award the contract.

Nothing herein contained shall be deemed to prevent the council from sustaining any objection filed, or to abandon the proceedings for the work or improvement prior to the awarding of the contract.

§ 10. Award of contract. The city council may reject any and all proposals or bids should it deem this for the public good, and also the

bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder on the plans and specifications selected at the prices named in his bid. No contract shall be awarded on any proceeding, if more than one year has elapsed since the passage of the resolution of intention for such proceeding, but in such case a new proceeding will have to be instituted. If the bids are rejected or no bids received, the city council may within six months thereafter readvertise for and receive proposals or bids for the performance of the work as in the first instance, without further proceedings. The checks accompanying the accepted proposals or bids shall be held by the city clerk until the contract for doing said work has been entered into, but if said bidder fails, neglects or refuses to enter into the contract to perform said work or improvement, as hereinafter provided, then the certified check accompanying his bid and the amount therein mentioned shall be forfeited to said city and shall be collected by it and paid into the general fund.

§ 11. Failure of bidder to enter into contract. If the original bidder neglects, fails or refuses to enter into the contract within fifteen days after the same has been awarded to him, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and award the contract for said work to the lowest regular responsible bidder. Should no bids be received in response to this second call, the council may again advertise for and receive bids under the same proceedings, at any time within six months from the time set for the last reception of bids, and let the contract to the then lowest bidder, and such delay shall in no way affect the validity of any of the proceedings, unless such delay is contrary to the provisions of section ten hereof.

§ 12. Bond of contractor. "Incidental expenses." All contractors shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the superintendent of streets of said city, with two or more sureties, payable to such city, in a sum equal to twenty-five per cent of the contract price, conditioned for the faithful performance of the contract; and the sureties shall justify before any person competent to administer an oath in double the amount mentioned in said bond, over and above all statutory exemptions. Before being entitled to a contract, the bidder to whom the award was made, must advance to the superintendent of streets, for payment by him, all incidental expenses already incurred by the city for said work or improvements. In case the work is abandoned by the city before the letting of the contract, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury.

The term "incidental expenses" as used in this act, shall include the compensation of the city engineer, or street superintendent, for work done by him; also, the cost of printing, advertising, posting and mailing, legal expenses incurred and the compensation of the person appointed by the superintendent of streets to take charge of and superintend or inspect any of the work. All demands for incidental expenses

mentioned in this subdivision shall be presented to the street superintendent by itemized bill, duly verified by oath of the demandant.

§ 13. Bond of contractor to protect persons furnishing materials or labor. Every contractor, person, company, or corporation to whom is awarded any contract under this act, shall, before executing said contract, file with the superintendent of streets a good and sufficient bond, approved by the mayor, or other chief executive, in a sum not less than one-half of the total amount payable by the terms of said contract; such bond shall be executed by the principal and at least two sureties, who shall qualify for double the sum specified in said bond, and said bond shall be made to inure to the benefit of any and all persons, companies, or corporations who perform labor on, or furnish materials to be used in the said work or improvement, and shall provide that if the contractor, person, company, or corporation to whom said contract was awarded fails to pay for any materials so furnished for the said work or improvement, or for any work or labor done thereon of any kind, then the sureties will pay the same, to an amount not exceeding the sum specified in said bond. Any materialman, person, company, or corporation, furnishing materials to be used in the performance of said work specified in said contract, or who performed work or labor upon the said improvement, whose claim has not been paid by the said contractor, company or corporation, to whom the said contract was awarded, may, within sixty days from the time said improvement is completed, file with the superintendent of streets a verified statement of his or its claim, together with a statement that the same, or some part thereof, has not been paid, whereupon the amount of said claim shall be withheld from payment for a period of ninety days or until settled. Within ninety days after the filing of such claim, the person, company, or corporation, filing the same or their assigns must commence an action on said bond for the recovery of the amount due thereon.

§ 14. Power of superintendent of streets. Time in which work must be done. Payments during work. The superintendent of streets is hereby authorized in his official capacity to make all written contracts, and receive all bonds authorized by this act, and to do any other act, either express or implied, that pertains to the street department under this act.

Said contract shall contain an express notice that, in no case, except where it is otherwise provided by law or the city charter will the city or any officer thereof be liable for any portion of the expense or for any delinquency of persons or property assessed.

The superintendent of streets shall fix the time for the commencement of the work, which shall not be more than fifteen days from the date of the contract, and for the completion thereof; and the work shall be prosecuted with diligence from day to day thereafter to completion. He may extend the time so fixed from time to time, under the direction of the city council. All applications for such extensions must be in writing and be filed in his office before the expiration of the original time fixed in the contract, or of the time theretofore granted by extension, as the case may be. The work must be done in accordance with the plans and specifications and under the direction and to

the satisfaction of the street superintendent; provided, however, the city council may, by resolution provide that the work shall be done under the supervision and to the satisfaction of the city engineer instead of the street superintendent.

Nothing herein contained, will be deemed to prohibit the city council from making payments to the contractor from time to time as the work progresses.

§ 15. Assessment of property. Notice that payments are due. After the contractor has fulfilled his contract to the satisfaction of the street superintendent or city engineer, as the case may be, such officer shall make an assessment on the lots and lands within the district or districts to cover the sum due for the work performed and specified in the contract, including all incidental expenses, excluding therefrom any lot or portion of said district or districts which have heretofore been declared not to be benefited by the work or improvement, which assessments shall be in proportion to the assessed value of all the real property in the district or districts liable to assessment therefor, exclusive of improvements, in the proportional amount of benefit which each district will derive from the proposed work, as provided in section three hereof. Such assessment shall be filed by the street superintendent with the tax collector of said city.

Upon satisfactory completion of the work, the street superintendent or city engineer, as the case may be, shall cause a notice of such completion to be published twice in a daily or weekly newspaper published and circulated in said city, notifying all owners of real property within the said district or districts that assessments to pay for the cost of said work and improvement will be due and payable at the office of the tax collector within thirty days from the date of the first publication of said notice, and that unless said assessments are paid on or before said date (stating the time), serial bonds will be issued to represent such unpaid assessments, as aforestated in section four hereof.

§ 16. Action to contest validity of assessment. Any action to contest the validity of an assessment levied under the provisions of this act, or of any proceeding of the city council, or any act of any municipal officer under the provisions of this act, must be commenced within sixty days after the adoption by the city council of the resolution awarding the contract, or within sixty days after the commission or omission of the act complained of, as the case may be; and any appeal taken from a final judgment in such action shall be perfected within sixty days after the entry thereof.

§ 17. Notice of unpaid assessments. Bonds. Identifying number for proceeding. Manner of payment. Denomination. Interest. After the full expiration of thirty days from the date of the first publication of the notice mentioned in section fifteen hereof, the tax collector shall make and file with the clerk of the city council a complete list of all assessments unpaid, together with an identifying number of each lot and block, according to the engineer's plat, and the assessed value thereof. The city council shall then cause bonds to be issued for the amount of the aggregate of the unpaid assessments.

For the purposes of identification and recordation each proceeding taken under this act shall be given a different identifying number, and the property assessed therefor shall be known as "local improvement district number —," specifying the number thereof. The city council shall prescribe the denominations of said bonds, which shall be in convenient amounts not necessarily equal. Said bonds shall be dated the thirty-first day after the first publication of said notice aforementioned.

The city council shall prescribe the form of said bonds, and of the interest coupons attached thereto. Said bonds shall be payable in the following manner:

A part, to be determined by the city council, which shall not be less than one-twentieth part of the whole amount of such indebtedness, shall be payable each and every year, on a day and date, and at a place to be fixed by said council and designated in such bonds, together with the interest on all sums unpaid on such date, until the whole of said indebtedness shall have been paid.

The bonds shall be issued in such denomination as said council may determine, except that no bond shall be of a greater denomination than one thousand dollars, and shall be payable on the day and at the place fixed in such bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of six per centum per annum, and shall be paid semi-annually; said bonds shall be signed by the chief executive of the municipality, or by such other officer thereof as the city council shall, by resolution adopted by a two-thirds vote of all its members, authorize and designate for that purpose, and also signed by the treasurer thereof, and shall be countersigned by the city clerk. The interest coupons on said bonds shall be numbered consecutively, and signed by the treasurer of such municipality or by his engraved or lithographed signature. In case any officer whose signature or counter-signature appears on the bonds or coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or counter-signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until the delivery of the bonds.

§ 18. Form of bond. Said bonds shall be conclusive evidence of the validity of all proceedings leading up to their issuance.

They shall be substantially in the following form:

\$ —.

No. —.

IMPROVEMENT BOND.

City (or town) of —.

Under and by virtue of the act of the legislature of the state of California, known as the local improvement act of 1919, the — of — of said state, will pay to the bearer, out of the fund hereinafter designated, at the office of the treasurer of said — on the — day of —, 19—, — dollars, in gold coin of the United States of America, with interest thereon in like gold coin, at the rate of — per cent per annum, payable semi-annually on the — day of — and — of each year from the date hereof, upon presentation and surrender of the proper interest coupons hereto attached, as they respectively become due.

This bond is issued pursuant to the constitution and statutes of the state of California, and to the ordinances, resolutions, and proceedings of said — duly adopted and taken. It is one of a series of bonds of like date and effect issued in behalf of improvement district number —, of said —, and is payable out of the redemption fund provided for said improvement district, exclusively.

It is hereby certified, recited and declared that all the acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this bond have existed, happened and been performed in time, form and manner as required by law, and that provision has been made as required by the provisions of said act for the collection of an assessment to pay the interest on this bond as it falls due and also provisions to constitute a sinking fund for the payment of the principal of this bond on or before maturity.

In witness whereof, said — of — has caused this bond to be executed, under its corporate seal, signed by its chief executive and treasurer, and countersigned by its clerk and has caused the interest coupons hereto attached to be signed by the engraved or lithographed signature of its treasurer, and this bond to be dated the — day of —, 19—.

Countersigned.

_____,
Clerk of the — of —.

_____,
Mayor (or other title).

_____,
Treasurer of the — of —.

§ 19. Registration of bonds. Said bonds may be surrendered by the holder to the treasurer for registration in accordance with the provisions of any law applicable to the registration of the municipal bonds of the city, and thereafter the principal and interest thereon shall be paid to the proper registered owner thereof.

§ 20. Sale of bonds. Assessment to pay principal and interest. The city council may issue and sell the bonds, of such district, authorized as hereinabove provided, at not less than par value, and all the proceeds of the sale of such bonds shall be placed in the treasury of such municipality to the credit of the proper district fund and shall be applied exclusively to the work or improvement for which the contract was awarded.

If all bids for said bonds are rejected or if no bids are received, the council shall authorize the city treasurer to deliver said bonds to the contractor, in which case such delivery shall constitute full satisfaction of the sum due him on said contract.

The city council shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, exclusive, however, of any assessments on improvements, levy and collect an assessment each year on the property in such district or districts sufficient to pay the interest on such bonds for that year, and such portion of the principal thereof as will become due before the time for making the next general tax levy; each annual assessment for the payment of the in-

terest and principal shall be based on the assessed value of each respective parcel or lot, at the time the work or improvement was ordered, and in the degree of benefits received, as shown on the assessment list hereinbefore mentioned. Said assessments when levied and collected shall be paid into the treasury of said city and be used for the payment of the principal and interest of such bonds and for no other purpose.

§ 21. Delinquent assessments. Sale of property. Action to collect delinquent tax. The said assessments shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties after delinquency as the general municipal taxes on real property. Upon default in payment, the lands securing such assessments shall be sold in the same manner in which real property in such city is sold, for the nonpayment of general municipal taxes, and be subject to redemption in the same manner as such real property is redeemed from such delinquent sale, and upon failure or redemption shall in like manner pass to the purchaser. The city may be the purchaser at any delinquent sale in like manner in which it becomes or may become the purchaser of property sold for nonpayment of the general municipal property tax, and in the event of its so becoming the purchaser shall pay and transfer into said redemption fund the amount of the delinquent assessments. In cases where the municipal property tax is collected by the county or city and county officials, and sales for nonpayment of such taxes are made to the state, the state shall be the purchaser at any such sale, but shall hold the title acquired at such sale upon behalf of the city and shall account to the city for any moneys received upon redemption or from the sale of such property, the city for such purposes of this act being deemed the real purchaser. In other cases where under the law, the city is not always the purchaser at sales for delinquent municipal taxes, the city shall become such purchaser at any delinquent sale hereunder where there is no such purchaser; provided, that the city council may, in its discretion, order certain lots or lands not to be sold, and order and direct the city attorney to commence an action in the name of the city against the owner or owners of such lots or lands so delinquent, to recover the amount of such delinquent tax, together with the interest thereon, and for costs of suit and a penalty of twenty-five per cent on the amount of such delinquent assessment.

All the owners of property delinquent as aforesaid may be joined as defendants in one action; provided, however, the complaint in such case shall set forth the amount due on each lot or parcel of land separately assessed, together with the name of the owner or owners thereof.

§ 22. Special tax to pay for lands purchased. The city council may, at the time of fixing the annual tax rate and levying the taxes to be collected for general municipal purposes, levy a special tax upon the taxable property in the city for the purpose of paying for the lands purchased or to be purchased at such tax sales, but not to exceed ten cents on each one hundred dollars of assessable property. Such special tax shall be in addition to all other taxes levied for municipal purposes, and shall be computed, entered and collected in the same manner, and by the same persons, and at the same time and with the like penalties

as other municipal taxes of said city. In the event of a surplus remaining in the redemption fund after payment of all said bonds and the interest thereon, the same shall first be applied to repayment to said city of any special taxes so levied, less its recovery on the lands purchased at delinquent sale, and also of any costs incurred by it hereunder.

§ 23. Deed for land sold. In the event of sale by the tax collector of any lot or parcel of land for nonpayment of any assessment thereon levied pursuant to the provisions of this act, then any certificate of such sale and deed issued pursuant thereto, shall be prima facie evidence of the regularity of all proceedings theretofore had, and such deed shall constitute a conveyance to the grantee of the absolute title to the lots or lands described therein, free of all encumbrances, except the lien for other state, county and municipal taxes.

§ 24. Payment of unpaid assessment. After bonds have been issued as herein provided, any interested property owner may release his property and pay up the unpaid assessment against the same by depositing with the city treasurer the total unpaid balance of his assessment due, together with the total amount of the interest which would become due semi-annually on his proportion of the assessment, in which case the treasurer shall deposit such payments into the fund provided for the redemption of said bonds, and the city clerk shall record the release of such property on the records of his office.

§ 25. "Owner." The person owing the fee, or the person in whom, on the day the proceeding or action is commenced, appears the legal title to the lots and lands, by deeds duly recorded in the county recorder's office, or the person in possession of the land, lots, or portions of lots or building under claim, or exercising acts of ownership over the same for himself, or as the executor, administrator, or guardian of the owner, shall be regarded, treated, and deemed to be the "owner" (for the purpose of this act), according to the intent and meaning of that word as used in this act. And in case of property leased, the possession of the tenant or lessee holding and occupying under such persons shall be deemed to be the possession of such owner.

§ 26. Title. Alternate system. This act shall be known and may be referred to as the "local improvement act of 1919." It shall in no wise affect any other existing acts relating to street work or local improvements within municipalities, but is intended to and does provide an alternate system of proceedings for public improvements, and it shall be discretionary with the legislative body of any municipality to proceed in making such improvement either under the provisions of this act or under the provisions of other said acts.

ACT 3937.

An act to provide for work in and upon streets, avenues, lanes, alleys, courts, places and sidewalks, within municipalities and upon property and rights of way, owned by municipalities and for establishing and changing the grades of any such streets, avenues, lanes, alleys, courts, places and sidewalks, and providing for the issuance and payment of street improvement bonds to represent said assess-

ments for the cost thereof, and providing a method for the payment of such bonds.

[Approved April 7, 1911. Stats. 1911, p. 730.]

Amended 1913, pp. 57, 78, 356, 540; 1915, p. 1464; 1919, pp. 479, 554.

The amendment of 1919 follows:

§ 19. Bond for labor and material. Lien for materials furnished.

Every contractor, person, company or corporation, including contracting owners, to whom is awarded any contract for street work under this act, shall, before executing the said contract, file with the superintendent of streets a good and sufficient bond, approved by the mayor, in a sum not less than one-half of the total amount payable by the terms of said contract; such bond shall be executed by the principal and at least two sureties, who shall qualify for double the sum specified in said bond, and shall be made to inure to the benefit of any and all persons, companies, or corporations who perform labor on, or furnish materials to be used in the said work of improvement, and shall provide that if the contractor, person, company, or corporation to whom said contract was awarded fails to pay for any materials so furnished for the said work of improvement, or for any work or labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in said bond. Any laborer, materialman, person, company or corporation, furnishing materials to be used in the performance of said work specified in said contract, or who performed work or labor upon the said improvement, whose claim has not been paid by the said contractor, company or corporation, who executed the said contract, shall severally have a first lien upon and against the assessment, any partial assessment, any reassessment, and any bonds which may be issued to represent any assessment or reassessment. Such laborers, or materialmen may, at any time prior to thirty days after the recording of the assessment for said work, file with the superintendent of streets, a verified statement of his or its claim, together with a statement that the same, or some part thereof, has not been paid. At any time within ninety days after the filing of such claim, the persons, company, or corporation, filing the same or their assigns, may commence an action either to enforce the aforesaid lien, or on said bond, for the recovery of the amount due on said claim, together with the costs incurred in said action, and a reasonable attorneys fee to be fixed by the court; for the prosecution thereof. [Amendment approved May 10, 1919; Stats. 1919, p. 480.]

§ 68. Notice of delinquency of bond. Owner may pay before sale.

Upon the application of the holder of any bond that is now or shall hereafter become delinquent as hereinbefore provided, the said city treasurer shall publish twice in a newspaper of general circulation, to be designated by him, published in the city where his office is situated, a notice of which must contain the date, number and series of the delinquent bond, a description of the property mentioned in said bond, the amount due thereon, and a statement that unless the amount of said bond and the interest due thereon, together with penalties and the cost of publication of such notice are paid, the real property described in

said bond will be sold at public auction on a day to be therein fixed, which shall not be less than fifteen nor more than thirty days from the day of the first publication of said notice, and the place of such sale, which must be the office of the said city treasurer.

Like notice shall not less than fifteen days before the day of sale so fixed be deposited by the city treasurer in the postoffice at such city, addressed to the person to whom said property is assessed upon the last assessment-roll of such city (or if the city has no assessment-roll, upon the last assessment-roll of the county in which such city is situated), at his address if known, and to all record lien holders, with the postage, thereon prepaid. When the addresses of such persons are unknown the notice shall be mailed to them at the city in which said property is located.

At any time prior to the sale, the owner or person in possession of any real estate offered for sale under the provisions of this act may pay the whole amount of said bond then due, with penalties and costs, and such bond shall thereupon be canceled; but in case such payment is not made by such owner, or person in possession, or by some one in his behalf of such owner or person in possession, the property subject thereto shall be sold at public auction to the bidder offering to pay the amount due on the bond with penalties and costs for the least portion of such lot or parcel of land offered for sale. [Amendment approved May 16, 1919; Stats. 1919, p. 555.]

§ 70. Collection of penalties. The city treasurer must collect, in addition to the amount due on such bond, the penalties hereinabove provided for and the cost of the publication of such notice, and one dollar, being for the certificate of sale delivered to the purchaser as hereinafter provided and for the cost of filing the duplicate thereof as hereinafter provided. [Amendment approved May 16, 1919; Stats. 1919, p. 556.]

§ 72. Purchaser's lien on property. Certificate of sale. Immediately on the sale, the purchaser shall become vested with a lien on the property so sold to him, for the amount of the purchase money, and is only divested of such lien by the payment to the city treasurer for the purchaser of the purchase money, and in addition thereto ten per cent thereon, with interest on said purchase money at one per cent per month from date of sale.

The city treasurer shall issue for each sale an original and a duplicate certificate of sale referring to the proceedings, describing the parcel sold and giving the name of the purchaser and the amount for which said parcel was sold and shall deliver the original certificate to the purchaser and shall file the duplicate in the office of the recorder of the county in which the land sold is situated. [Amendment approved May 16, 1919; Stats. 1919, p. 556.]

ACT 3937c.

An act to provide for the establishment and change of grade of public streets, lands, alleys, courts, places and rights of ways in municipalities, and providing for the improvement thereof, in cases where any damage to private property would result from such improvement, and

for the assessment of the costs, damages and expenses thereof upon the property benefited thereby, and to provide a system of local improvement bonds to represent the assessments for the costs, damages and expenses of such improvement, and for the payment and effect of such bonds.

[Approved June 16, 1913. Stats. 1913, p. 954.]

Amended 1915, p. 1217; 1917, p. 970.

The amendment of 1917 follows:

The title of the act was amended to read as follows:

An act to provide for the establishment and change of grade of public streets, lanes, alleys, courts, places and rights of way, and of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways in municipalities and providing for the construction or improvement thereof, in cases where any damage to private property would result from such improvement, and for the assessment of the costs, damages and expenses thereof upon the property benefited thereby, and to provide a system of local improvement bonds to represent the assessments for the costs, damages and expenses of such improvement, and for the payment and effect of such bonds.

The balance of the amendment is as follows:

§ 1. City may establish and change street grade, etc. Official grade already established. Whenever the public interest or convenience may require, the legislative body of any city is hereby empowered to establish or change or modify the grade of any public street, avenue, lane, alley, court, place or right of way in said city, or any portion thereof, and also the grade of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any public street, avenue, lane, alley, court, place or other land of the city, or in, on, under, over or through any land in which and where the city may then have an easement or right of way therefor; and in any case when or where, in the opinion of said legislative body, any damage to private property would result from the improvement thereof, to order the whole or any part, either in length or width, of such public street, avenue, lane, alley, court, place or right of way or other land of the city, in which and where the city may then have an easement or right of way therefor, to be improved to conform to such official grade by grading or regrading, paving or repaving, planking or replanking, macadamizing or remacadamizing, piling or repiling, capping or recapping, graveling or regaveling, oiling or reoiling, sewerage or re sewerage, sidewalking or residewalking, curbing or recurbing, guttering or reguttering, or by the construction, reconstruction or repair of manholes, culverts, cesspools, conduits, crosswalks, steps, parking or parkways, or by the construction, reconstruction or repair of poles, posts, wires, conduits, lamps and other appurtenances for the lighting thereof; and also in any case where, in the opinion of said legislative body, any damage to private property would result from the construction, reconstruction or repair thereof, to order the construction, reconstruction or repair of any of the following avenues of public travel,

namely, tunnels, subways, viaducts, bridges or independent subterranean ways, together with approaches thereto, and all appurtenances therefor, in, on, under, over or through any public street, avenue, lane, alley, court, place or other land of the city, or in, on, under, over or through any land in which and where the city has an easement or right of way therefor, to the grade established for the roadway of such tunnel, subway, viaduct, bridge or independent subterranean way, and order the construction, reconstruction or repair of stormwater ditches or tunnels, or breakwaters, levees or walls of rock, or other materials, culverts, manholes, cesspools, conduits, subways, retaining walls, sewers, ditches, drains and channels for sanitary and drainage purposes, or either or both thereof, with necessary outlets, catch-basins, flush-tanks, septic tanks, connecting sewers and other appurtenances, to protect the streets, avenues, lanes, alleys, courts, places or rights of way, or any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways which may be constructed as hereinabove provided, from overflow or injury by water or otherwise; and to order the doing of any other work which shall be necessary to improve the whole, or any portion of such street, avenue, lane, alley, court, place or other land of the city, or any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways which may have been constructed, or which shall be constructed, under the proceedings provided in this act. This act shall apply equally in cases where the official grade of any public street, avenue, lane, alley, court, place or right of way, or of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any public street, avenue, lane, alley, court, place or other land of the city, or in, on, under, over or through any land in which and where the city may then have an easement or right of way therefor has previously been established or changed, and where such grade is established, modified or changed in whole or in part by the same proceedings by which the improvement is ordered, if in the opinion of the legislative body of the city, damage will result to private property from the making of the improvement contemplated by the proceedings. [Amendment approved May 26, 1917; Stats. 1917, p. 971.]

§ 2. Resolution of intention. Boundaries of district. Before ordering any establishment, change, or modification of grade, or any improvement described in section one hereof, the said legislative body shall pass an ordinance or resolution, declaring its intention so to do, and that, in its opinion, damage to private property would result from such improvement, designating the proposed grade, describing the proposed improvement, fixing the time and place for the hearing of protests in relation thereto by said legislative body, which shall be not less than thirty days from the date of the passage of said ordinance or resolution of intention, and specifying the exterior boundaries of the district of land to be benefited by said improvement, and to be specially assessed to pay the costs and expenses thereof, and the damages caused by said improvement, which shall be known as the assessment district. Such legislative body may include in one improvement, under one ordinance or resolution of intention and order and under one contract, the grade of all or any portion of one or more streets, avenues, lanes, alleys, courts, places, rights

of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed, or modified, and the grade of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any portion of any of said streets, avenues, lanes, alleys, courts, places, rights of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed or modified, and the construction of any one or more or all of the different kinds of work enumerated in section one hereof, upon the same or any part or portion thereof, and may exclude therefrom any of such work already done. [Amendment approved May 26, 1917; Stats. 1917, p. 972.]

§ 3. Ordinance posted and published. Publication of notice. Notice mailed property owner. Form of notice. "Unknown owners." Clerk's affidavit. Said ordinance or resolution of intention shall be conspicuously posted for two days on or near the chamber door of said legislative body and published by two insertions in a daily or weekly newspaper published and circulated in said city, and designated by said legislative body for the purpose. If no such newspaper be so published and circulated in said city, such posting of said ordinance or resolution of intention shall be sufficient. The superintendent of streets shall thereupon cause to be conspicuously posted along all streets and parts of streets or other public places or rights of way, or along any land of the city or land in, on, under or over which the city has an easement or right of way where any work is to be done or improvement made, or in, on, under or over which any tunnel, subway, viaduct, bridge or independent subterranean way is to be constructed, at not more than three hundred feet apart, notices (not less than three in all) of the passage of such ordinance or resolution. Said notices shall be headed "Notice of street work" in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said ordinance or resolution of intention, and the time and place fixed for the hearing of protests, and notify all persons interested to appear at said time and place with their objections to said improvement, if any they have, and briefly describe the proposed improvement in general terms, and refer to the ordinance or resolution of intention for further particulars. He shall also cause a notice of similar substance to be published by two insertions in a daily newspaper published and circulated in said city, or, if there be no such daily newspaper, then by two successive insertions in a weekly or semi-weekly newspaper so published and circulated. If no such newspaper be so published and circulated in said city such notice shall also be posted on or near the chamber door of the legislative body of said city, and in two other public places in said city. Such posting and publication shall be completed at least ten days before the day set for the hearing of protests. The city clerk shall immediately upon the passage of said ordinance or resolution of intention mail, postage prepaid, to each property owner in the district to be assessed to pay the costs and expenses of such improvement, at his last known address as the same appears on the records of said city, or, where no address so appears, to the general address of said city, containing a notice, which shall be substantially (filling blanks):

You are hereby notified that on the — day of —, 19—, the legislative body of the city of —, California, by virtue of the street improvement act of 1913, passed an ordinance (resolution) of intention numbered —, for the improvement of — street between — and — street. The time for filing protests will expire on the — day of —, 19—, and protests will be heard on the — day of —, 19—, at the hour of — in the council chamber of said city.

Property belonging to you is within the assessment district for said improvement, and will be assessed therefor. For further information you are referred to said ordinance, and to the maps, profiles, plans and specifications on file in the office of the city engineer (or city clerk).

—, —,
City Clerk.

If any lots or parcels of land in the assessment district be assessed to "unknown owners" on the tax-rolls of said city, no such postal cards need be mailed to the owners thereof.

The city clerk shall, upon the completion of the mailing of said postal cards, file in the office of the superintendent of streets an affidavit setting forth the time and manner of his compliance with this requirement; provided, that the failure of the city clerk to mail said cards, or the failure of the property owners, or any of them, to receive the same, or the failure of the superintendent of streets to post the said notices of street work, or to post proper notices thereof, shall in no wise affect the validity of the proceedings or prevent the legislative body from acquiring jurisdiction to order the said improvement; provided, however, that the city council may require affidavits to be filed showing the posting and mailing of said notices before it adopts the ordinance or resolution ordering the improvement. [Amendment approved May 26, 1917; Stats. 1917, p. 973.]

§ 5. Jurisdiction to order improvements. If no protests are filed at or before the time fixed for the hearing thereof by the ordinance or resolution of intention, or if protests are filed, and after hearing are denied, as above provided, the legislative body shall have jurisdiction to order the establishment, change or modification of grade or other improvement described in the ordinance or resolution of intention. Having acquired such jurisdiction, it shall by ordinance or resolution order the establishment, change or modification of grade or such other improvement to be made, and refer the same to the commission hereinafter provided for, to estimate the damages caused thereby, and report an assessment of said damages, and of all costs and expenses of the improvement, on the property benefited thereby. [Amendment approved May 26, 1917; Stats. 1917, p. 975.]

§ 46. Definitions. The following words and phrases shall, where used in this act, have the following meaning:

1. "Improvement." The term "improvement" includes all work, construction, reconstruction and improvements mentioned in section one of this act.

2. "City." The term "city" includes every incorporated city, city and county, or other corporation organized for municipal purposes.

of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed, or modified, and the grade of the roadway of any of the following avenues of public travel, namely, tunnels, subways, viaducts, bridges or independent subterranean ways, in, on, under, over or through any portion of any of said streets, avenues, lanes, alleys, courts, places, rights of way or other land of the city, or land in which and where the city has an easement or right of way, established, changed or modified, and the construction of any one or more or all of the different kinds of work enumerated in section one hereof, upon the same or any part or portion thereof, and may exclude therefrom any of such work already done. [Amendment approved May 26, 1917; Stats. 1917, p. 972.]

§ 3. Ordinance posted and published. Publication of notice. Notice mailed property owner. Form of notice. "Unknown owners." Clerk's affidavit. Said ordinance or resolution of intention shall be conspicuously posted for two days on or near the chamber door of said legislative body and published by two insertions in a daily or weekly newspaper published and circulated in said city, and designated by said legislative body for the purpose. If no such newspaper be so published and circulated in said city, such posting of said ordinance or resolution of intention shall be sufficient. The superintendent of streets shall thereupon cause to be conspicuously posted along all streets and parts of streets or other public places or rights of way, or along any land of the city or land in, on, under or over which the city has an easement or right of way where any work is to be done or improvement made, or in, on, under or over which any tunnel, subway, viaduct, bridge or independent subterranean way is to be constructed, at not more than three hundred feet apart, notices (not less than three in all) of the passage of such ordinance or resolution. Said notices shall be headed "Notice of street work" in letters not less than one inch in length, shall be in legible characters, and shall state the fact and date of the passage of said ordinance or resolution of intention, and the time and place fixed for the hearing of protests, and notify all persons interested to appear at said time and place with their objections to said improvement, if any they have, and briefly describe the proposed improvement in general terms, and refer to the ordinance or resolution of intention for further particulars. He shall also cause a notice of similar substance to be published by two insertions in a daily newspaper published and circulated in said city, or, if there be no such daily newspaper, then by two successive insertions in a weekly or semi-weekly newspaper so published and circulated. If no such newspaper be so published and circulated in said city such notice shall also be posted on or near the chamber door of the legislative body of said city, and in two other public places in said city. Such posting and publication shall be completed at least ten days before the day set for the hearing of protests. The city clerk shall immediately upon the passage of said ordinance or resolution of intention mail, postage prepaid, to each property owner in the district to be assessed to pay the costs and expenses of the improvement, at his last known address as the same appears on the tax-rolls of said city, or, where no address so appears, to the general delivery, a postal card, containing a notice, which shall be substantially in the following form (filling blanks):

You are hereby notified that on the — day of —, 19—, the legislative body of the city of —, California, by virtue of the street improvement act of 1913, passed an ordinance (resolution) of intention numbered —, for the improvement of — street between — and — street. The time for filing protests will expire on the — day of —, 19—, and protests will be heard on the — day of —, 19—, at the hour of — in the council chamber of said city.

Property belonging to you is within the assessment district for said improvement, and will be assessed therefor. For further information you are referred to said ordinance, and to the maps, profiles, plans and specifications on file in the office of the city engineer (or city clerk).

_____,
City Clerk.

If any lots or parcels of land in the assessment district be assessed to "unknown owners" on the tax-rolls of said city, no such postal cards need be mailed to the owners thereof.

The city clerk shall, upon the completion of the mailing of said postal cards, file in the office of the superintendent of streets an affidavit setting forth the time and manner of his compliance with this requirement; provided, that the failure of the city clerk to mail said cards, or the failure of the property owners, or any of them, to receive the same, or the failure of the superintendent of streets to post the said notices of street work, or to post proper notices thereof, shall in no wise affect the validity of the proceedings or prevent the legislative body from acquiring jurisdiction to order the said improvement; provided, however, that the city council may require affidavits to be filed showing the posting and mailing of said notices before it adopts the ordinance or resolution ordering the improvement. [Amendment approved May 26, 1917; Stats. 1917, p. 973.]

§ 5. Jurisdiction to order improvements. If no protests are filed at or before the time fixed for the hearing thereof by the ordinance or resolution of intention, or if protests are filed, and after hearing are denied, as above provided, the legislative body shall have jurisdiction to order the establishment, change or modification of grade or other improvement described in the ordinance or resolution of intention. Having acquired such jurisdiction, it shall by ordinance or resolution order the establishment, change or modification of grade or such other improvement to be made, and refer the same to the commission hereinafter provided for, to estimate the damages caused thereby, and report an assessment of said damages, and of all costs and expenses of the improvement, on the property benefited thereby. [Amendment approved May 26, 1917; Stats. 1917, p. 975.]

§ 46. Definitions. The following words and phrases shall, where used in this act, have the following meaning:

1. **"Improvement."** The term "improvement" includes all work, construction, reconstruction and improvements mentioned in section one of this act.

2. **"City."** The term "city" includes every incorporated city, city and county, or other corporation organized for municipal purposes.

3. **"City treasurer."** The term "city treasurer" includes any officer who has charge and makes payment of the city funds.

4. **"Superintendent of streets."** The term "superintendent of streets" includes any officer or board whose duty it is by law to have the care or charge of streets or the improvement thereof in any city. In any city where there is no superintendent of streets, or such board, the legislative body is hereby authorized to designate some other officer of the city, or other person, to perform the duties imposed by this act on the superintendent of streets, and all of the provisions hereof applicable to the superintendent of streets shall apply to the officer so designated.

5. **"Owner."** The term "owner" or the term "any person interested" is deemed to be the person owning the fee, or the person in whom on the day any protest is filed, the legal title to real property appears by deeds duly recorded in the county recorder's office of the county in which said city is situate; or any person in possession of real property as the executor, administrator, trustee under an express trust, guardian or other legal representative of the owner, or any person in possession of real property under written contract of purchase, duly recorded.

§ 6. **"Incidental expenses."** The term "incidental expenses" shall be held to mean and include all the necessary expenses and disbursements of the commission, the cost of making the assessment, and all expenses necessarily incurred by the city in connection with the proposed improvement for maps, diagrams, plans, surveys, the mailing of any notices, and other matters incident thereto.

7. **"Delinquency."** The term "delinquency" as herein used shall mean delinquency in the payment of an assessment made under the provisions of this act, and the expression "time of delinquency" shall mean the time in this act fixed when assessments become delinquent. [Amendment approved May 26, 1917; Stats. 1917, p. 975.]

TITLE 556.

SURVEYOR-GENERAL.

ACT 3988.

An act providing for the regulation of land titles, and giving the surveyor-general certain powers in respect thereto.

[Approved June 1, 1917. Stats. 1917, p. 1668.]

§ 1. **Surveyor-general to investigate land titles.** The surveyor-general or a deputy of his department, may not more often than once in two years, visit the various counties of the state and inspect and investigate conditions in respect to land titles. He shall annually report to the governor and shall, prior to each regular session, report to the legislature, making such recommendations as he shall deem proper and necessary. He is hereby authorized to consult with and to advise county registrars of land titles and to make such suggestions and recommendations to the county registrars of land titles as he may deem desirable.

§ 2. **Uniform blank forms.** The surveyor-general or deputy may prepare and recommend for the use of the county registrars of land titles and applicants for registration of land titles and of the courts hearing such applications, uniform blank forms to be used throughout the state.

TITLE 561.**SUTTER'S FORT.****ACT 4017.**

An act for the appointment of a guardian for Sutter's Fort property, prescribing his duties and appropriating money therefor.

[Approved March 16, 1895. Stats. 1895, p. 56.]

Amended 1905, p. 171; 1909, p. 581; 1919, p. 1310.

The amendment of 1919 follows:

§ 3. Salary of guardian at Sutter's Fort. The guardian shall receive an annual salary of one thousand eighty dollars, to be paid at the same time and in the same manner as other state officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1311.]

ACT 4018.

An act authorizing the board of Sutter's Fort trustees to appoint a gardener for the purpose of caring for the grounds around Sutter's Fort, and providing for the compensation of said gardener.

[Approved March 21, 1907, p. 776.]

Amended 1911, p. 1148; 1919, p. 1310.

The amendment of 1919 follows:

§ 2. Salary of gardener at Sutter's Fort. The gardener provided for in section one of this act shall receive an annual salary of one thousand three hundred twenty dollars to be paid at the same time and in the same manner as other state officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1310.]

ACT 4019.

An act providing for an assistant gardener for Sutter's Fort.

[Approved April 14, 1909. Stats. 1909, p. 893.]

Amended 1919, p. 1310.

The amendment of 1919 follows:

§ 2. Salary of assistant gardener at Sutter's Fort. The assistant gardener shall receive an annual salary of one thousand two hundred dollars, to be paid at the same time and in the same manner as other state officers. [Amendment approved May 27, 1919; Stats. 1919, p. 1310.]

TITLE 562a.**SYNDICALISM.****ACT 4033a.**

An act defining criminal syndicalism and sabotage, prescribing certain acts and methods in connection therewith and in pursuance thereof and providing penalties and punishments therefor.

[Approved April 30, 1919. Stats. 1919, p. 281. In effect immediately.]

§ 1. "Criminal syndicalism" defined. The term "criminal syndicalism" as used in this act is hereby defined as any doctrine or precept advocating, teaching or aiding and abetting the commission of crime, sabotage (which word is hereby defined as meaning willful and malicious physical damage or injury to physical property), or unlawful acts of force and violence or unlawful methods of terrorism as a means of accomplishing a change in industrial ownership or control, or effecting any political change.

§ 2. Unlawful acts. Penalty. Any person who:

1. By spoken or written words or personal conduct advocates, teaches or aids and abets criminal syndicalism or the duty, necessity or propriety of committing crime, sabotage, violence or any unlawful method of terrorism as a means of accomplishing a change in industrial ownership or control, or effecting any political change; or

2. Willfully and deliberately by spoken or written words justifies or attempts to justify criminal syndicalism or the commission or attempt to commit crime, sabotage, violence or unlawful methods of terrorism with intent to approve, advocate or further the doctrine of criminal syndicalism; or

3. Prints, publishes, edits, issues or circulates or publicly displays any book, paper, pamphlet, document, poster or written or printed matter in any other form, containing or carrying written or printed advocacy, teaching, or aid and abetment of, or advising, criminal syndicalism; or

4. Organizes or assists in organizing, or is or knowingly becomes a member of, any organization, society, group or assemblage of persons organized or assembled to advocate, teach or aid and abet criminal syndicalism; or

5. Willfully by personal act or conduct, practices or commits any act advised, advocated, taught or aided and abetted by the doctrine or precept of criminal syndicalism, with intent to accomplish a change in industrial ownership or control, or effecting any political change;

Is guilty of a felony and punishable by imprisonment in the state prison not less than one nor more than fourteen years.

§ 3. Constitutionality. If for any reason any section, clause or provision of this act shall by any court be held unconstitutional then the legislature hereby declares that, irrespective of the unconstitutionality so determined of such section, clause or provision, it would have enacted and made the law of this state all other sections, clauses and provisions of this act.

§ 4. Urgency measure. Inasmuch as this act concerns and is necessary to the immediate preservation of the public peace and safety, for the reason that at the present time large numbers of persons are going from place to place in this state advocating, teaching and practicing criminal syndicalism, this act shall take effect upon approval by the governor.

TITLE 563.

TAXATION.

ACT 4035b.

An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and

to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder or under an act hereby repealed, to be known as the "Inheritance Tax Act"; to repeal an act entitled "An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of liens, arising hereunder; to repeal an act entitled 'An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers; to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of liens arising hereunder'; to repeal an act entitled 'An act to establish a tax on collateral inheritances, bequests, and devises, to provide for the collection and to direct the disposition of its proceeds,' approved March 23, 1893, and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act, approved March 20, 1905, and all amendments thereto, and all acts and parts of acts in conflict with this act," approved April 7, 1911. [Approved June 16, 1913. Stats. 1913, p. 1066.]

Amended 1915, pp. 418, 435.

Repealed May 23, 1917; Stats. 1917, p. 880. See next act.

ACT 4035c.

An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder, or under an act hereby repealed, to be known as the "inheritance tax act"; and to repeal chapter five hundred ninety-five of the laws of the session of the legislature of California of 1913, approved June 16, 1913, known as the "inheritance tax act," and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act.

[Approved May 23, 1917. Stats. 1917, p. 880. In effect July 27, 1917.]

§ 1. Title. (1) This act shall be known as the "inheritance tax act."

(2) **"Estate" and "property."** Wife's share of community property **exempted.** The words "estate" and "property" as used in this act shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor, or donor passing or transferred to individual legatees, devisees, heir, next of kin, grantees, donees, vendees, or successors, and shall include all personal property within or without the state; provided, that for the purpose of this act the one-half of the community property which goes to the surviving wife on the death of the husband, under the provisions of section one thousand four hundred two of the Civil Code, shall not be deemed to pass to her as heir to her husband, but shall, for the purpose of this act, be deemed

to go, pass, or be transferred to her for valuable and adequate consideration and her said one-half of the community shall not be subject to the provisions of this act; provided, further, that in case of a transfer of community property from the husband to the wife, within the meaning of subdivisions (3) or (5) of section two of this act, one-half of the community property so transferred shall not be subject to the provisions of this act; and provided, further, that the presumption that property acquired by either husband or wife after marriage is community property, shall not obtain for the purpose of this act as against any claim by the state for the tax hereby imposed; but the burden of proving such property to be community property shall rest upon the person claiming the same to be community property.

(3) **"Transfer."** The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein described.

(4) **"Decedent."** The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor, or donor.

(5) **"County treasurer" and "inheritance tax appraiser."** The words "county treasurer" and "inheritance tax appraiser," as used in this act, shall be taken to mean the treasurer or the inheritance tax appraiser of the county of the superior court having jurisdiction as provided in section fifteen of this act.

§ 2. Tax on transfer of property, when. A tax shall be and is hereby imposed upon the transfer of any property, real, personal, or mixed, or of any interest therein or income therefrom in trust or otherwise, to persons, institutions or corporations, not hereinafter exempted, to be paid to the treasurer of the proper county, as hereinafter directed, for the use of the state, said taxes to be upon the market value of such property at the rates hereinafter prescribed and only upon the excess over the exemptions hereinafter granted, in the following cases:

(1) When the transfer is by will or by the intestate or homestead laws of this state, from any person dying seised or possessed of the property while a resident of the state, or by any order of court setting apart property pursuant to article one, chapter five, title eleven, part three of the Code of Civil Procedure.

(2) **Tax on transfer of property, when.** When the transfer is by will or intestate laws of property within this state and the decedent was a nonresident of the state at the time of his death, or by any order of court setting apart property pursuant to article one, chapter five, title eleven, part three of the Code of Civil Procedure.

(3) When the transfer is of property made by a resident, or by a nonresident when such nonresident's property is within this state, by deed, grant, bargain, sale, assignment or gift, made without valuable and adequate consideration (i. e., a consideration equal in money or in money's worth to the full value of the property transferred):

(a) **Transfer in contemplation of death.** In contemplation of the death of the grantor, vendor, assignor or donor, or,

(b) Intended to take effect in possession or enjoyment at or after such death.

When such person, institution or corporation becomes beneficially entitled in possession or expectancy to any property or the income therefrom, by any such transfer, whether made before or after the passage of this act.

(4) The words "contemplation of death," as used in this act, shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his will, and in no wise shall said words be limited and restricted to that expectancy of death which actuates the mind of a person making a gift causa mortis; and it is hereby declared to be the intent and purpose of this act to tax any and all transfers which are made in lieu of or to avoid the passing of property transferred by testate or intestate laws.

(5) **Property held in joint names.** Whenever property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons, the right of the surviving joint tenant or joint tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant or joint tenants, person or persons, by such deceased joint tenant or joint depositor by will, excepting therefrom such part thereof as may be proved by the surviving joint tenant or joint tenants to have originally belonged to him or them and never to have belonged to the decedent.

(6) **Appointment deemed transfer.** Whenever any person, trustee or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will; and whenever any person, trustee or corporation possessing such power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons, trustees or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

(7) **Bequest exceeding reasonable compensation.** Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devise, or residuary legacies

exceeds what would be a reasonable compensation for their services, such excess over and above the exemptions herein provided for shall be liable to said tax; and the superior court in which the probate proceedings are pending shall fix the compensation.

(8) **Property transferred subject to charge determined by death of person.** Where any property shall, after the passage of this act, be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate or interest, shall be deemed a transfer of property taxable under the provisions of this act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interests is derived.

(9) **Aggregate value of more than one transfer.** When more than one transfer within the meaning of any of the preceding subdivisions of this section has been made, either before or after the passage of this act, by a decedent to one person, the tax shall be imposed upon the aggregate market value of all of the property so transferred to such person in the same manner and to the same extent as if all of the property so transferred were actually transferred by one transfer.

(10) **No deductions of United States tax.** In determining the market value of the property transferred, no deduction shall be made for any inheritance tax or estate tax paid to the government of the United States.

§ 3. Lien. Suit within five years. Such taxes shall be and remain a lien upon the property passed or transferred until paid; provided, that said lien shall be limited to the property chargeable therewith, and the person to whom the property passes or is transferred, and all administrators, executors and trustees of every estate so transferred or passed, shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed. The provisions of the Code of Civil Procedure relative to the limitation of time of enforcing a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty prescribed by this article, and this section shall be construed as having been in effect as of date of the original enactment of the inheritance tax law; provided, that unless sued for within five years after they are due and legally demandable, such taxes, or any taxes accruing under any act herein repealed, shall cease to be a lien as against any bona fide purchaser of said property; and, provided, that no such lien shall cease within two years from the date of the passage of this act.

§ 4. Tax when property value not over twenty-five thousand dollars. When the property or any beneficial interest therein so passed or transferred exceeds in value the exemption hereinafter specified and shall not exceed in value twenty-five thousand dollars, the tax hereby imposed shall be:

(1) Where the person or persons entitled to any beneficial interest in such property shall be the husband, wife, lineal ancestor, lineal issue

of the decedent or any child adopted as such in conformity with the laws of this state, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent (provided, however, such relationship began at or before the child's fifteenth birthday, and was continuous for said ten years thereafter), or any lineal issue of such adopted or mutually acknowledged child, at the rate of one per centum of the clear value of such interest in such property.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of a decedent, a wife or widow of a son, or the husband of a daughter of the decedent at the rate of three per centum of the clear value of such interest in such property.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the decedent, at the rate of four per centum of the clear value of such interest in such property.

(4) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the rate of five per centum of the clear value of such interest in such property.

§ 5. Tax when property value exceeds twenty-five thousand dollars.

(1) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision one of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, two per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, four per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, seven per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, ten per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars and up to one million dollars, twelve per centum of such excess.

(f) Upon all in excess of one million dollars, fifteen per centum of such excess.

(2) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision two of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, six per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, nine per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, twelve per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, fifteen per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars and up to one million dollars, twenty per centum of such excess.

(f). Upon all in excess of one million dollars, twenty-five per centum of such excess.

(3) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision three of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, eight per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, ten per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, fifteen per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, twenty per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars and up to one million dollars, twenty-five per centum of such excess.

(f) Upon all in excess of one million dollars, thirty per centum of such excess.

(4) When the market value of such property or interest passed or transferred to any of the persons mentioned in subdivision four of section four exceeds twenty-five thousand dollars, the rates of tax upon such excess shall be as follows:

(a) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars, ten per centum of such excess.

(b) Upon all in excess of fifty thousand dollars and up to one hundred thousand dollars, fifteen per centum of such excess.

(c) Upon all in excess of one hundred thousand dollars and up to two hundred thousand dollars, twenty per centum of such excess.

(d) Upon all in excess of two hundred thousand dollars and up to five hundred thousand dollars, twenty-five per centum of such excess.

(e) Upon all in excess of five hundred thousand dollars, thirty per centum of such excess:

§ 6. Exemptions allowed. The following exemptions from the tax are hereby allowed:

(1) All property transferred to societies, corporations, and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, education, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy, to any such property or to the income thereof, shall be exempt; provided, however, that such society, corporation, institution or association be organized or existing under the laws of this state or that the property transferred be limited for use within this state.

(2) Property of the clear value of twenty-four thousand dollars, transferred to the widow or to a minor child of the decedent, and of ten thousand dollars transferred to each of the other persons described in the first subdivision of section four, shall be exempt.

(3) Property of the clear value of two thousand dollars, transferred to each of the persons described in the second subdivision of section four, shall be exempt.

(4) Property of the clear value of one thousand dollars, transferred to each of the persons described in the third subdivision of section four, shall be exempt.

(5) Property of the clear value of five hundred dollars, transferred to each of the persons and corporations described in the fourth subdivision of section four, shall be exempt.

§ 7. Time of payment. Discount. Bond. (1) All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within eighteen months, no interest shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; provided, that if said tax is paid within six months from the accruing thereof a discount of five per centum shall be allowed and deducted from said tax. And in all cases where the executors, administrators, or trustees do not pay such tax within eighteen months from the death of the decedent, they shall be required to give a bond for the payment of said tax, together with interest.

(2) **If estate not settled within eighteen months.** The penalty of ten per cent per annum imposed by subdivision (1) of this section for the nonpayment of said tax, shall not be charged in cases where, in the judgment of the court, by reason of claims made upon the estate necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of eighteen months from the death of the decedent; but in such cases seven per cent per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed, after which ten per cent interest per annum shall again be charged until the tax is paid; but litigation to defeat the payment of the tax shall not be considered necessary litigation.

§ 8. Immediate appraisement and payment. (1) When any grant, gift, legacy, devise or succession upon which a tax is imposed by section two of this act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section sixteen or seventeen of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and, together with the interest thereon, shall be and remain a lien on said property until the same is paid.

(2) **Encumbrances.** In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made on account of any contingent encumbrance thereon, nor on account of any contingency upon the happening of which the estate or property or some part thereof or interest therein might be abridged, defeated or diminished; provided, however, that in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of said estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the encumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by section eleven hereof upon order of the court having jurisdiction.

(3) **Property transferred in trust. Bond. Return of property filed. Recovery on bond if security not renewed.** When property is transferred in trust or otherwise, and the rights, interest or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this act, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as the difference between the amount paid and the amount which said person or corporation should pay under the provisions of this act; such return of overpayment shall be made in the manner provided by section eleven of this act, upon order of the court having jurisdiction; provided, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax or the trustees thereof may elect not to pay the same until such person or persons, or body politic or corporate beneficially interested in such property shall come into the actual possession or enjoyment thereof, and in that case such person or persons or body politic or corporate or trustees shall execute a bond to the people of the state of California in a penalty of twice the amount of said tax with such sureties as the said superior court may approve, conditioned for the payment of said tax and interest thereon at the rate of seven per cent per annum commencing at the expiration of eighteen months from the death of the decedent at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, and conditioned further, that if said bond be not renewed and the returns made as herein provided, the amount of said tax and interest thereon shall immediately become due and payable. Said bond shall be

filed in the office of the county clerk of the proper county and a certified copy thereof shall be immediately transmitted to the state controller; provided, further, that such person or persons or body politic or corporate, or trustees, shall enter into such security within a period of ninety days after the entry of the order or decree fixing the inheritance tax charged against such transfer, or within such period thereafter as the court may in its discretion permit, and shall make a full and verified return of such property to said court and file the same in the office of the county clerk within one year from the date of such order or decree fixing tax, and at such times thereafter as the court on the application of the state controller may require, and renew such security every five years after the date of the approval thereof. Upon the approval of said bond as herein provided, said tax shall cease to be a lien upon the property so transferred. If such security shall not be renewed before the expiration of each five-year period, said bond shall immediately become due and payable and if the same be not paid forthwith, the attorney general shall file an action in the name of the people of the state on the relation of the controller, to recover the same and the penalties thereunder and no demand for payment shall be necessary before the institution of such suit. Whenever it shall be made to appear to the satisfaction of the court that any surety on such bond or undertaking has for any reason become insufficient, the court may on motion of the state controller, after such notice to such person or persons, body politic or corporate, or trustees as the court may require, order the giving of a new undertaking with sufficient sureties in lieu of such insufficient undertaking. In case such new undertaking so required shall not be given within the time required by such order, or in case the sureties thereon fail to justify thereon when required, all rights obtained by the filing of such original undertaking, or subsequent undertaking, shall cease and the amount of said tax and interest thereon shall immediately become due and payable.

(4) **Estates in expectancy.** Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which said estates in expectancy may have been limited.

(5) **Estate that can be divested by act of legatee or devisee.** Where an estate or interest can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting.

(6) **Future or contingent estate. Determination of value.** The value of every future, or contingent or limited estate, income or interest, shall, for the purposes of this act be determined by the rule, methods and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interest

and contingencies shall be five (5) per cent per annum. The insurance commissioner shall without a fee on the application of any superior court or of any inheritance tax appraiser determine the value of any future or contingent estate, income or interest therein limited, contingent, dependent or determinable upon the life or lives of persons in being, upon the facts contained in any such appraiser's application or other facts to him submitted by said appraiser or said court and certify the same in duplicate to such court or appraiser, and his certificate thereof shall be conclusive evidence that the method of computation therein is correct. When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of said interest for the purpose of taxation under this act shall be the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which such annuitant or life tenant was entitled to the annuity or was in possession of the life estate.

§ 9. Collection of tax by administrator. (1) Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon, upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator, or trustee shall collect said tax from the distributees thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the superior court to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

(2) **Sale of property to pay tax.** All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of the estate, and the amount of said tax shall be paid as hereinafter directed.

(3) **Payment within thirty days.** Every sum of money retained by an executor, administrator, or trustee, or paid into his hands, for any tax on property, shall be paid by him, within thirty days thereafter, to the treasurer of the county in which the probate proceedings are pending.

§ 10. Treasurer's receipt. Upon the payment to any county treasurer of any tax due under this act, such treasurer shall issue a receipt therefor, in triplicate, one copy of which he shall deliver to the person paying said tax, and the original and one copy thereof he shall immediately send to the controller of state, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and said controller shall retain one of said receipts and the other he shall counter-

sign and seal with the seal of his office, and immediately transmit to the clerk of the court fixing such tax. And an executor, administrator, or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such tax, nor shall said estate be distributed, unless a receipt so sealed and countersigned by the controller, or a copy thereof, certified by him, shall have been filed with the court. Any person shall, upon payment to the county treasurer of the sum of fifty cents, be entitled to a duplicate, or copy, of any receipt that may have been given by said treasurer for the payment of any tax under this act.

§ 11. Refund of tax. (1) If any debts shall be proved against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required by order of the superior court having jurisdiction, on notice to the state controller, to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer; or if such tax has been paid to such county treasurer, such officer shall refund out of any inheritance tax moneys in his hands or custody such equitable proportion of the tax, and credit himself with the same in the account required to be rendered by him under this act.

(2) **Assessing tax on amount wrongfully deducted.** Where it shall be proved to the satisfaction of the superior court that deductions for debts were allowed upon the appraisal, since proved to have been erroneously allowed, it shall be lawful for such superior court to enter an order assessing the tax upon the amount wrongfully or erroneously deducted.

(3) **Refund of tax when order modified or reversed.** Application within one year. If, after the payment of any tax in pursuance of an order fixing such tax, made by the superior court having jurisdiction, such order be modified or reversed by the superior court having jurisdiction within two years from and after the date of entry of the order fixing the tax, or be modified or reversed at any time on an appeal taken therefrom within the time allowed by law on due notice to the state controller, the county treasurer shall refund to the executor, administrator, trustee, person or persons by whom such tax was paid, the amount of any moneys paid or deposited on account of such tax in excess of the amount of tax fixed by the order modified or reversed, out of any inheritance tax moneys in his hands or custody, and credit himself with the same in the account required to be rendered by him to the controller on his semi-annual settlement; but no application for such refund shall be made after one year from such reversal or modification, unless an appeal shall be taken therefrom, in which case no such application shall be made after one year from the final determination on such appeal or of an appeal taken therefrom, and the representatives of the estate, legatees, devisees or distributees entitled to any refund under this section shall not be entitled to any interest upon such refund, and the state controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such overpayment.

(4) **Refund of tax erroneously paid.** When any amount of said tax shall have been erroneously paid, the superior court having jurisdiction, on application after notice to the state controller, and on satisfactory proof to it, shall by order require the county treasurer to refund and pay to the executor, administrator, trustee, person or persons who had paid any such tax in error the amount of such tax so erroneously paid; provided, that all applications for such repayment of such tax so erroneously paid shall be made within one year of the date of the entry of the order fixing tax or of the decree of final distribution of the estate. Such refund shall be made by said treasurer out of any inheritance tax moneys in his hands or custody and he shall credit himself with the same in the account required to be rendered by him to the controller on semi-annual settlement; and the state controller shall deduct from the fees allowed by this act to the county treasurer the amount theretofore allowed him upon such erroneous payment.

(5) **Pending proceedings.** This section, as amended, shall apply to appeals and proceedings now pending and taxes heretofore paid in relation to which the period of one year from such reversal or modification has not expired when this section, as amended, takes effect.

§ 12. Examination of books, etc. Penalty for divulging information.

(1) Whenever the state controller shall have reasonable cause to believe that a tax is due under the provisions of this act, upon any transfer of any property, and that any person, firm, institution, company, association or corporation has possession, custody or control of any books, accounts, papers or documents relating to or evidencing such transfer, the state controller or inheritance tax attorney, or any assistant inheritance tax attorney of the inheritance tax department, is hereby authorized and empowered to inspect the books, records, accounts, papers and documents of any such person, firm, institution, company, association or corporation, including the stock transfer book of any corporation, for the purpose of acquiring any information deemed necessary or desirable by said state controller or such inheritance tax attorney or assistant inheritance tax attorneys, for the proper enforcement of this act, and for the collection of the full amount of tax which may be due the state hereunder. Any and all information acquired by said state controller or said inheritance tax attorney or assistant inheritance tax attorneys shall be deemed and held by said state controller and said inheritance tax attorney and assistant inheritance tax attorneys and each of them, as confidential, and shall not be divulged, disclosed or made known by them or any of them except in so far as may be necessary for the enforcement of the provisions of this act. Any controller or ex-controller, or inheritance tax attorney or ex-inheritance tax attorney, or assistant inheritance tax attorney or ex-assistant inheritance tax attorney, who shall divulge, disclose or make known any information acquired by such inspection and examination aforesaid, except in so far as the same may be necessary for the enforcement of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, or be imprisoned in the county jail for not more than ninety days, or both.

(2) **Penalty for refusing to permit examination.** Any officer or agent of any firm, institution, company, association or corporation having or keeping an office within this state, who has in his custody or under his control any book, record, account, paper or document of such firm, institution, company, association or corporation, and any person having in his custody or under his control such book, record, account, paper or document who refuses to give to the state controller, or said inheritance tax attorney, or any of said assistant inheritance tax attorneys, lawfully demanding, as provided in this section, during office hours to inspect or take a copy of the same, or any part thereof, for the purposes hereinabove provided, a reasonable opportunity so to do, shall be liable to a penalty of not less than one thousand dollars nor more than twenty thousand dollars, and in addition thereto shall be liable for the amount of the taxes, interest and penalties due under this act on such transfer, and the said penalties and liabilities for the violation of this section may be enforced in an action brought by the state controller in any court of competent jurisdiction.

§ 13. Consent of controller to transfer of decedent's stock. (1) No corporation organized or existing under the laws of this state, shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent or belonging to or standing in the joint names of a decedent and one or more persons, without the written consent of the state controller or person by him in writing authorized to issue such consent.

(2) **Trust companies, etc., to retain amount to pay tax. Notice of transfer.** No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control or custody or under partial control or partial custody securities, deposits, assets or property belonging to or standing in the name of a decedent who was a resident or nonresident, or belonging to, or standing in the joint names of such a decedent and one or more persons, including the shares of the capital stock of, or other interest in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives, agents, deputies, attorneys, trustees, legatees, heirs, successors in interest of said decedent or to any other person or persons, or to the survivor or survivors when held in the joint names of a decedent and one or more persons, or upon their order or request, without retaining a sufficient portion or amount thereof to pay any tax and interest which may thereafter be assessed thereon under this act and unless notice of the time and place of such delivery or transfer be served upon the state controller and county treasurer at least ten days prior to said delivery or transfer; provided, that the state controller, or person by him in writing authorized so to do, may consent in writing to said delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligation hereunder to give such notice or to retain any portion of said securities, deposits or other assets in their possession or control. And

it shall be lawful for the state controller or county treasurer, personally or by representatives, to examine said securities, deposits or assets at the time of said delivery or otherwise.

(3) **Penalty for failure to comply.** Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable to a penalty of not more than twenty thousand dollars, and in addition thereto said safe deposit company, trust company, corporation, bank or other institution, person or persons shall be liable for the amount of the taxes, interest and penalties due under this act on said securities, deposits, or other assets above mentioned, and said penalties and liabilities of said safe deposit company, corporation, bank or other institution, person or persons for the violation of this section may be enforced in an action brought by the state controller in any court of competent jurisdiction.

§ 14. Inheritance tax appraisers. Penalty for taking other than fee allowed. The state controller shall appoint, and may at his pleasure remove, one or more persons in each county of the state to act as inheritance tax appraisers therein. Every such inheritance tax appraiser (in addition to any fees paid him as appraiser under section one thousand four hundred forty-four of the Code of Civil Procedure) shall be paid for his services out of any inheritance tax moneys in the hands of the treasurer of the county in which he may be acting, a reasonable compensation, to be fixed by the superior court of said county, or a judge thereof, and, together with said compensation, said appraiser shall be allowed his actual and necessary traveling and other incidental expenses, and the fees paid such witnesses as he shall subpoena before him, said expenses and fees to be allowed by said superior court or a judge thereof; provided, that any claim for any such services or expenditure, must before payment, first receive the approval of the state controller; and provided, further, that in any probate proceeding in which the executor or administrator shall have failed to have had the inheritance tax appraiser act as one of the appraisers under section one thousand four hundred forty-four of the Code of Civil Procedure and to have paid him his fees therefor, the expense of making the inheritance tax appraisement in this act provided for shall be paid out of said estate, and the executor or administrator thereof shall be liable for said fee. Any such appraiser who shall take any fee or reward, other than such as may be allowed him by law, from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay said tax, or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, or be imprisoned in the county jail ninety days or both, and in addition thereto the court shall dismiss him from such service.

§ 15. Jurisdiction of superior court. The superior court in the county in which is situate the real property of a decedent, who was not a resident of the state, or if there be no real property, then in the county in which any of the personal property of such nonresident is situate, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in rela-

tion to the tax arising under the provisions of this act; the court first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other; provided, that the superior court having acquired jurisdiction in probate of the estate of a decedent shall hear and determine in said probate proceedings all questions in relation to any tax arising under the provisions of this act: (a) Upon property passing in said probate proceedings. (b) Upon any other property transferred, within the meaning of subdivision three of section two or any other provisions of this act, to any person, institution or corporation taking any property under and by virtue of said probate proceedings.

§ 16. Appointment of inheritance tax appraisers in probate proceedings. Powers of referee. Witnesses. Evidence. Report to superior court. (1) When any superior court, having jurisdiction in probate of the estate of any decedent, or a judge of such court, shall, in accordance with section one thousand four hundred forty-four of the Code of Civil Procedure, appoint the appraiser or appraisers in said section provided for, said superior court or judge thereof shall also at the same time designate and appoint an inheritance tax appraiser (unless such designation and appointment be previously made) to ascertain and report to said superior court the amount of inheritance tax due upon any property passing in said probate proceeding, or a lien thereon, or upon any other property transferred within the meaning of subdivision (3) of section two of this act, or under any other provision of this act, to any person, institution or corporation taking property under and by virtue of said probate proceedings, together with such other or additional information as shall assist said court in the determination of said tax. Thereupon said inheritance tax appraiser shall have all the powers of a referee of said superior court, and shall have jurisdiction to require the attendance before him of the executor or administrator of said estate, or any person interested therein, or any other person whom he may have reason to believe possesses knowledge of the estate of said decedent, or knowledge of any property transferred by said decedent within the meaning of this act, or knowledge of any facts that will aid said appraiser or the court in the determination of said tax. For the purpose of compelling the attendance of such person or persons before him, and for the purpose of appraising any property or interest subject to, or liable for any inheritance tax hereunder, and for the purpose of determining the amount of tax due thereon, the said inheritance tax appraiser is hereby authorized to issue subpoenas compelling the attendance of witnesses before him. Any person or persons who shall be served with a subpoena, issued by said inheritance tax appraiser, to appear and testify or to produce books and papers, and who shall refuse and neglect to appear and testify or to produce books and papers relevant to such appraisal, as commanded in such subpoena, shall be guilty of a contempt of court. And he may examine and take the evidence of such witnesses or of such executor or administrator, or other person under oath concerning such property and the value thereof, and concerning the property or the estate of such decedent subject to probate, and concerning any transfer made by such decedent within the meaning of this act. Upon the completion of his inheritance tax appraisal in any probate proceeding, the inheritance tax appraiser shall make a report in writing to the superior court of the clear market value of the several interests in the estate of the decedent,

and shall report the amount of inheritance or transfer tax chargeable against, or a lien upon such interests, acquired by virtue of said probate proceedings or by any transfer within the meaning of this act, to any person, institution or corporation acquiring any property by virtue of said probate proceedings together with such other facts as may advise the court in regard thereto, or which the court may require, and may return to said superior court such depositions as he may have had reduced to writing, exhibits, or other testimony or information taken before him, or submitted to him.

(2) **Notice of filing report. Order confirming report. Hearing objections.** Upon the filing of said report said appraiser shall mail a copy thereof to the state controller and the clerk of said superior court shall on said day or the next succeeding judicial day give notice of such filing to all persons interested in such proceedings by causing notices to be posted in at least three public places in the county, one of which must be the place where the court is held, and in addition thereto shall mail to the state controller and to all persons chargeable with any tax in said report who have appeared in such proceeding, a copy of said notice. At any time after the expiration of ten days thereafter, if no objection to said report be filed, the said superior court or a judge thereof, may, without further notice give and make its order confirming said report and fixing the tax in accordance therewith. At any time prior to the making of said order, any person interested in said proceeding (including the state controller) may file objections in writing to said report. Thereupon said superior court shall, by order, fix a time, not less than ten days thereafter, for the hearing thereof, and shall direct the clerk of said superior court to give such notice thereof as it shall deem necessary; provided, that a copy of such notice and of such objections shall be forthwith mailed to the state controller, county treasurer and inheritance tax appraiser. Upon the hearing of said objections, said court may make such order as to it may seem meet and proper in the premises.

(3) **Order that no inheritance taxes due.** If, upon examination of the executor or administrator of said estate or other persons familiar with the affairs of such decedent, or from other information before him, it shall appear to the inheritance tax appraiser that there is no inheritance tax due out of said estate or a lien upon any property or interest therein, said appraiser may so certify to the superior court, and at any time thereafter, if no objection to said certificate shall have been filed, said superior court or a judge thereof may, without further notice, make an order or decree that there are no inheritance taxes due out of said estate or upon any interest therein or may make such different order as may to it seem meet in the premises. Such order shall be conclusive only as to such property as may have been returned in the inventory or inventory and appraisement in said probate proceedings.

§ 17. Determination of taxability of transfer. Examination by appraiser. Report of findings. Service. Hearing by court. (1) If it shall appear to the superior court upon petition of the state controller that any transfer has been made within the meaning of this act, and the taxability thereof and the liability for such tax and the amount thereof have not been determined, and that no pre-

ceedings are pending in any court in this state wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined, said court shall issue a citation ordering and directing the persons who may appear liable therefor or known to own any interest in or part of the property transferred, to appear before said court or before an inheritance tax appraiser to be designated by said order at a time and place in said order named, not less than ten days nor more than one year from the date of such order, to be examined, under oath by said court or by said appraiser as the case may be, concerning said transfer and all facts connected therewith, and concerning the property transferred and the character and value thereof.

If said person or persons shall be directed to appear before said appraiser said appraiser shall, at the time and place in said order named, or at such time and place to which said appraiser may adjourn said hearing, proceed to examine said person or persons and such witnesses as said appraiser may subpoena before him, and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said appraiser shall have the powers of a referee of said court, and is hereby authorized to issue subpoenas compelling the attendance of witnesses before him, and to administer oath, and to take the evidence of such witnesses under oath concerning such property and the value thereof and concerning such transfer. Said appraiser shall report to said court his findings and conclusions in relation to said transfer and said tax, and may return to said court, any depositions, exhibits or other testimony or information taken before him or exhibited to him. The procedure subsequent to the filing of said report shall conform to subdivision (2) of section sixteen of this act.

Except as herein otherwise provided, the service of such citation and the time, manner and proof thereof, and the hearing and determination thereon, and the hearing and determination upon the facts returned in such report, and the enforcement of the determination or decree, shall conform to the provisions of chapter twelve, title eleven, part three of the Code of Civil Procedure, and the clerk of the court shall, upon the request of the state controller, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the state, without fee, in the same manner and with the same effect as provided by section six hundred seventy-four of said Code of Civil Procedure for filing a transcript of an original docket.

The superior court may hear the said cause upon the relation of the parties and the testimony of witnesses, and evidence produced in open court, and, if the court shall find said property is not subject to any tax, as herein provided, the court shall, by order, so determine; but if it shall appear that said property, or any part thereof, is subject to any such tax, the same shall be appraised and taxed as in other cases.

(2) Petition to determine taxability. Compensation of appraiser. Verified petitions may be filed by any interested party with the superior court, alleging and admitting that a transfer within the meaning of this act has been made and the taxability thereof and the liability for such tax and the amount thereof have not been determined, and that no proceedings are pending in any court in

this state wherein the taxability of such transfer and the liability therefor and the amount thereof, may be determined, and that the petitioner desires such determination and desires to pay said tax, if any be due. Upon the filing of such petition the superior court or a judge thereof shall by order designate and appoint an inheritance tax appraiser to ascertain and report to said court the amount of the inheritance tax, if any, due by said petitioner on account of such transfer, and shall fix a time and place, not less than ten days thereafter, for the hearing of said matter before said inheritance tax appraiser, a copy of which petition and order shall be forthwith mailed to the state controller, and shall refer to said petition and said matter to said inheritance tax appraiser who shall have all of the powers of a referee of said court, including the powers prescribed in subdivision (1) of section sixteen of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of subdivisions (1) and (2) of section sixteen of this act.

In the event that final judgment is rendered in said proceeding, ascertaining and determining that no inheritance tax is due on account of said transfer or that the amount of the tax to which said transfer is liable, is less than twenty dollars the court shall, in addition to the amount of the tax, if any, include in such judgment and assess against the petitioner reasonable compensation for said inheritance tax appraiser, not exceeding the sum of ten dollars, and the necessary traveling and incidental expenses of said appraiser.

(3) **Action to quiet title. Hearing by appraiser. Judgment in favor of state.** Actions may be brought against the state by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this act, or for the purpose of having it determined that any property is not subject to any lien for taxes nor chargeable with any tax under this act. No such action shall be maintained where any proceedings are pending in any court in this state wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the state in said action shall be served upon the state controller.

At any time after issue is joined in such action the court, on its own motion, or upon the motion of any interested party, may by order appoint and designate an inheritance tax appraiser to hear said matter and report to the court thereon and shall in such order fix a time and place for the hearing of said matter before said inheritance tax appraiser, and direct notice of such time and place to be given in such manner as the court shall deem proper, and shall refer said matter to said inheritance tax appraiser who shall have all of the powers of a referee of said court, including the powers prescribed in subdivision (1) of section sixteen of this act. The procedure subsequent to said reference to said appraiser shall conform to the provisions of subdivisions (1) and (2) of section sixteen of this act.

Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this act, the court shall award affirma-

tive relief to the state in said action, and judgment shall be rendered therein in favor of the state, ascertaining and determining the amount of said tax, and the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor, and shall assess against such person or persons reasonable compensation for said inheritance tax appraiser and his necessary traveling and incidental expenses.

(4) **Actions commenced, where.** Actions under this section shall be commenced in the superior court of the county in which is situated any part of any real property against which any lien is sought to be enforced, or to which title is sought to be quieted against any lien, or claim of lien; but if in said action no lien against real property is sought to be enforced, the action shall be brought in the superior court of the county which has or which had jurisdiction of the administration of the estate of the decedent mentioned herein.

(5) **No fees charged.** No fee shall be charged said state controller by any public officer in this state for the filing or recording of any petition, lis pendens, decree or order, or for the taking of oaths or acknowledgments in any proceeding taken under this act; nor shall any undertaking be required from or costs charged against the state controller or the state of California in any such proceeding.

§ 18. Orders have force of judgments in civil actions. The orders, decrees and judgments fixing tax or determining that no tax is due, mentioned in this act, shall have the force and effect of judgments in civil actions. Except as otherwise herein provided, the provisions of the Code of Civil Procedure relative to judgments, new trials, appeals, attachments and execution of judgments, so far as applicable, shall govern all proceedings taken under this act. Nothing in this section shall preclude the state from relief herein provided for, which may be inconsistent with the provisions of the Code of Civil Procedure.

§ 19. Taxes paid to state treasurer. The treasurer of each county shall collect all taxes and moneys that may be due and payable under this act and pay the same to the state treasurer (excepting such moneys as he may pay out from time to time pursuant to the provisions of this act) and the state treasurer shall give him a receipt therefor; of which collection and payment he shall make a report, under oath, to the controller, between the first and fifteenth days of May and December of each year, stating for what estate paid, and in such form and containing such particulars as the controller may prescribe; and for all such taxes collected by him and not paid to the state treasurer by the first day of June and January of each year he shall pay interest at the rate of ten per centum per annum.

§ 20. Percentage of tax retained by county treasurer. The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year under this act, in addition to his salary or fees now allowed by law, three per centum of the first fifty thousand dollars so paid and accounted for by him, one and one-half per centum on the next fifty thousand dollars so paid and accounted for by him, and one-half of one per centum on all additional sums so paid and accounted for by him; provided, that no county treasurer shall be entitled to retain

to his own use more than the sum of two hundred dollars out of the inheritance taxes paid on account of any transfer or transfers made by, or resulting from the death of, any one decedent, nor more than five thousand dollars out of the total inheritance taxes accounted for in any one year.

§ 21. State controller may employ counsel. The state controller, whenever he shall be cited as a party in any proceeding or action to determine any tax under this act provided, or whenever he shall deem it necessary for the better enforcement of this act to make any special employment to secure evidence of evasion of said tax, or to commence or appear in any proceeding or action to determine any tax hereunder, may, by and with the consent and approval of the attorney-general, make such special employment or designate and employ counsel or attorney in or out of this state to represent him on behalf of the state, and, by and with such consent of the attorney-general, he is hereby authorized to incur the necessary expense for such employment and any reasonable and necessary expense incident thereto. And the county treasurer is hereby authorized and directed to pay out of any funds which may be in his hands on account of this tax, on presentation of a sworn itemized account and on certificate of the state controller and attorney general, all expenses incurred as in this section above provided, but no expense for such special employment or legal services, up to and including the entry of the order of the court fixing the tax and the same becoming final, shall exceed ten per centum of the tax and penalties collected; provided, that all reasonable and necessary expenses incurred, in any legal action or proceeding in any court of this state or on any appeal therefrom, other than attorney's fees, including expense of serving processes and printing and preparing of necessary legal papers, may be allowed and paid in the manner above provided, even though no tax be recovered in such action or proceeding, and the limitations herein made shall not apply thereto.

§ 22. Disposition of taxes collected. All taxes levied and collected under this act, up to the amount of two hundred fifty thousand dollars annually, shall be paid into the treasury of the state, for the uses of the state school fund, and all taxes levied and collected in excess of two hundred fifty thousand dollars annually shall be paid into the state treasury to the credit of the general fund thereof.

§ 23. Penalty for failure to perform duty. Every officer who fails or refuses to perform, within a reasonable time, any and every duty required by the provisions of this act, or who fails or refuses to make and deliver within a reasonable time any statement or record required by this act, shall forfeit to the state of California the sum of one thousand dollars, to be recovered in an action brought by the attorney general in the name of the people of the state on the relation of the controller.

§ 24. Constitutionality. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof,

irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 25. Acts repealed. Pending suits, etc., not affected. An act entitled "An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and by any act hereby repealed and for suits to quiet title against claims of liens arising hereunder or under an act hereby repealed to be known as the 'inheritance tax act'; to repeal an act entitled 'An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds; to provide for the enforcement of liens created by this act and for suits to quiet title against claims of liens, arising hereunder; to repeal an act entitled "An act to establish a tax on gifts, legacies, inheritances, bequests, devises, successions and transfers, to provide for its collection, and to direct the disposition of its proceeds," approved March 23, 1893, and all amendments thereto, and to repeal all acts and parts of acts in conflict with this act, approved March 20, 1905, and all amendments thereto, and all acts and parts of acts in conflict with this act,' approved April 7, 1911"; approved June 16, 1913, and all amendments thereto, and all acts and parts of acts in conflict with this act are hereby expressly repealed; provided, however, that such repeal shall in no wise affect any suit, prosecution or proceeding pending at the time this act shall take effect, or any right which the state of California may have at the time of the taking effect of this act, to claim a tax upon any property under the provisions of the act or acts hereby repealed, for which no proceeding has been commenced, and where no proceeding has been commenced to collect any tax arising under any act hereby repealed the procedure to collect such tax shall conform to the provisions hereof; nor shall such repeal affect any appeal, right of appeal in any suit pending, or orders fixing tax, existing in this state at the time of the taking effect of this act.

ACT 4043.

An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the State of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be allowed for such county officers for the services so rendered to such municipal corporations.

[Approved March 27, 1895. Stats. 1895, p. 219.]

Amended 1905, p. 429; 1913, p. 441; 1919, pp. 160, 187.

The amendments of 1919 follow:

§ 2. Duties of city treasurer may be performed by county treasurer. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power to elect that the duties of the city treasurer of such city or municipal corporation, shall be performed by the county treasurer of the county in which such city or municipal corporation is situated; and whenever such board of trustees, common council or other legislative body shall by ordinance so determine such duties shall be performed by the treasurer of the county in which such city or municipal corporation is situated. Certified copies of such ordinance shall be served on the auditor, tax collector, and treasurer of such county, and such ordinance shall also prescribe the manner in which money shall be drawn out of the various funds belonging to said city or municipal corporation, in the hands of the treasurer. [Amendment approved April 30, 1919; Stats. 1919, p. 160.]

§ 8a. Redemption of property through county auditor. Whenever any municipal corporation elects or has heretofore elected to avail itself of the provisions of this act relating to the assessing and collecting by the county of taxes for such municipal corporation, redemption of property which after such election has been made has been sold to such municipal corporation on account of nonpayment of taxes shall be effected through the office of the county auditor. [Amendment approved April 30, 1919; Stats. 1919, p. 187.]

ACT 4065.

An act to carry into effect the provisions of section 14 of article XIII of the constitution of the state of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations, banks and insurance companies for the benefit of the state, all relating to revenue and taxation.

[Approved April 1, 1911. Stats. 1911, p. 530.]

Amended 1913, pp. 3, 615; 1915, pp. 3, 937.

This act was revised and a substitute passed for it in 1917.

The act of May 11, 1917, adding sections 3664a to 3671d to the Political Code, contained the following provision (Stats. 1917, p. 370):

§ 38. This act is a revision of and substitute for the act entitled "An act to carry into effect the provisions of section fourteen of article thirteen of the constitution of the state of California as said constitution was amended November 8, 1910, providing for the separation of state from local taxation, and providing for the taxation of public service and other corporations, banks and insurance companies for the benefit of the state, all relating to revenue and taxation," approved April 1, 1911, and amendments thereof; provided, however, that nothing herein contained shall affect any tax heretofore levied or assessed in accordance with the provisions of said act and amendments thereof; and provided, further, that all laws in force prior to the taking effect of this act and providing for the levy and collection of such taxes shall, for the purpose of the collection of such taxes, remain in full force and effect.

ACT 4066.

An act to carry into effect the provisions of subdivision (e) of section 14 of article XIII of the constitution of the state of California as the said article was amended on the eighth day of November in the year 1910, in so far as the same relates to the state university; and also to provide for the permanent support and improvement of the University of California; and to that end making a continuing appropriation and creating an annual fund therefor; and repealing an act entitled: "An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor, and to repeal an act approved February 14, 1887, entitled: 'An act to provide for the permanent support and improvement of the University of California by the levy of a rate of taxation and the creation of a fund therefor,' and also to repeal an act approved February 27, 1897, entitled 'An act to provide additional support and maintenance, and for the acquisition of necessary property and improvements of the University of California, by the levy of a rate of taxation, and the creation of a fund therefor,'" approved March 20, 1909.

[Approved April 25, 1911. Stats. 1911, p. 1104.]

Amended 1915, p. 448; 1917, p. 534.

The amendment of 1917 follows:

§ 1. State university fund created. In order to carry into effect the provisions of subdivision (e) of section fourteen of article thirteen of the constitution of the state of California as the said article was amended on the eighth day of November in the year one thousand nine hundred ten, in so far as the same relates to the state university, and to provide for the permanent support and improvement of the University of California, there is hereby created an annual fund to be called "the state university fund"; said fund for the sixty-third fiscal year shall be equal to, but not more than, seven per cent in excess of the amount received by the university under the provisions of chapter three hundred twenty-nine of the statutes of one thousand nine hundred nine for the fiscal year ending June thirtieth in the year one thousand nine hundred eleven; and provided, further, that such fund for each of the sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first and seventy-second fiscal years shall be equal to, but not more than, seven per cent in excess of the amount received by the university under this act for the immediately preceding respective fiscal year. [Amendment approved May 15, 1917; Stats. 1917, p. 534.]

ACT 4067d.

An act authorizing and providing for an investigation and report upon the matter of revenue and taxation, and making an appropriation therefor.

[Approved May 10, 1915. Stats. 1915, p. 432.]

Amended 1917; Stats. 1917, p. 301.

The amendment of 1917 follows:

§ 5. Duties of tax commission. The officers and appointees provided for in section two of this act shall perform such duties as the governor may deem necessary to further the objects of senate joint resolution number three, adopted by the legislature January 26, 1917, and chapter number thirty-two of the laws of one thousand nine hundred seventeen. [New section added May 10, 1917; Stats. 1917, p. 301.]

ACT 4067f.

An act to regulate and limit the amount that may be produced by tax levies in the aggregate by political subdivisions of this state, creating a state board of authorization, providing for the making and filing of budgets by such subdivisions, and repealing all acts and parts of acts in conflict with this act.

[Approved May 31, 1917. Stats. 1917, p. 1402. In effect July 30, 1917.]

This act never became operative, as it was not approved by the voters at an election held November 5, 1918, when it was submitted to the voters under a referendum petition.

§ 1. Terms defined. (a) For the purposes of this act the term "political subdivision" shall mean, refer to and include counties, cities, towns, and all other subdivisions of this state which have or shall hereafter have power to make tax levies; the term "governing body" shall mean, refer to and include the body, board, commission or council, by whatever name the same may be designated in legislative act or local charter, which has and exercises the power of a political subdivision to levy taxes therein; and the term "estimate" shall mean, refer to and include any and all estimates, statements or calculations required by legislative act or local charter to be made or prepared and filed with or submitted to a governing body for the purpose of obtaining from such governing body a levy or levies of taxes to produce all or any part of the amount of money specified therein; and the term "year" shall mean and refer to fiscal year.

(b) **Amount produced by tax levies.** The amount produced in a preceding year or the amount to be produced in a current or ensuing year by tax levies by the governing body of any political subdivision shall be ascertained by multiplying the total assessed taxable value of each district within such subdivision by the total rate of tax levied or to be levied in such district, and the sum of these products shall be taken as the amount produced or to be produced in such political subdivision; provided, that from the amount produced, as so ascertained, there shall be deducted the amount by which the production of any interest or bond levy will be decreased in the current year by reason of the payment, in whole or in part, of bonds of a subdivision prior to the time of levying taxes therein for such current year, and the remainder shall be taken as the amount produced.

§ 2. Maximum limit on rate. In every case in which a maximum limit upon the rate of any tax levy permitted, directed or authorized to be made by the governing body of any political subdivision is now or may hereafter be prescribed by legislative act or charter, such maximum limit shall remain as so prescribed and shall not be construed to be increased by any of the provisions of this act.

§ 3. Statement by officer of estimated amount needed. Change by governing body. Not less than ninety days before the day prescribed by legislative act or charter for the governing body of a political subdivision to fix the rates of taxes to be levied therein, each officer thereof shall file with the governing body, in duplicate and upon a form or forms to be prescribed as hereinafter provided, a statement showing the income and expenditures of his office for the last two fiscal years immediately preceding, the estimated amount of money needed for his office for each and every purpose for the next fiscal year, and such other information as the said form or forms may call for. Such statements so filed as aforesaid shall be used by the governing body for the purpose of making up the budget of its political subdivision for the ensuing fiscal year.

The amount proposed to be produced by any special levy of taxes, and any estimate of the amount of money required or needed for any purpose filed with or submitted to the governing body of any political subdivision for the purpose of obtaining a levy or levies of taxes to produce the amount of money therein specified, may be revised and changed in whole or in part by the governing body with which the same is so filed or to which it so submitted.

§ 4. State board of authorization created. A state board of authorization is hereby created for the purpose of determining whether an emergency or urgent necessity exists by reason of which any political subdivision may make tax levies that will produce an amount greater than the amount limited by section six; to prescribe the forms mentioned in section three; and to have such other powers and duties as are hereinafter vested therein. The members of the said board shall be the state controller, the chairman of the state board of control, the chairman of the state board of equalization and two other persons in the service of the state to be appointed by the governor, one of whom shall be a member of the state board of control. The members of the state board of authorization shall organize by electing a chairman and a secretary from their own number.

§ 5. Budget of political subdivision filed with board. Not less than sixty days prior to the time prescribed by legislative act or charter for the governing body of a political subdivision to determine upon and fix the rates of tax levies therein, such governing body shall file with the state board of authorization a copy of the statement theretofore filed with it by each officer as required by section three, and also, upon such form or forms as the state board of authorization may prescribe, the budget of such political subdivision for the ensuing fiscal year. Such budget shall show the income and expenditures of such political subdivision for the last two fiscal years immediately preceding, the estimated expenditures for each and every purpose for the ensuing fiscal year, an estimate of income for the ensuing fiscal year from sources other than taxation, the rate of each tax levy proposed to be made for such ensuing year, and such other facts and information as the state board of authorization may require.

§ 6. No increase in excess of five per cent. No governing body of any political subdivision shall in any year make tax levies which, in the aggregate, will produce an amount more than five per cent in excess of

the amount produced by tax levies made thereby during the year immediately preceding, except as hereinafter provided.

§ 7. Approval by board. The state board of authorization shall examine such budgets, proposed tax levies and other matter filed as required by section five, and, after public hearing thereon, shall approve the proposed tax levies if the amount the same will produce will not exceed the amount limited by section six; otherwise it shall disapprove such proposed levies, giving its reasons therefor, and return them and the budget to the proper governing body to be corrected and revised by it in accordance with the reasons given, to the end that the amount that will be produced thereby shall not exceed the amount limited by section six. In correcting or revising any proposed levies or budget so returned for correction or revision the governing body shall make due provision in any event first for the principal and interest of bonded indebtedness and second for the support and maintenance of the public schools. No taxes shall be collected under any levy by the governing body of a political subdivision until after such levy shall have been approved or corrected and revised as in this section required.

§ 8. Request to make levies producing excess amount. In case of emergency or urgent necessity which, in the judgment of a governing body requires the making of tax levies which, in the aggregate, will produce an amount more than five per cent in excess of the amount produced by tax levies made thereby in the year immediately preceding, such fact shall be set forth in the form of a special request, containing a description of such emergency or urgent necessity and a statement of the amount in dollars of the desired excess, and filed with the state board of authorization. As soon as may be after receiving such special request the state board of authorization shall publicly hear and determine the same under such rules as it may prescribe. If the state board of authorization shall be of opinion that such emergency or urgent necessity exists it shall specifically authorize the making of tax levies, which, in the aggregate, will produce such excess amount; if it shall not be of such opinion it shall so state, giving its reasons therefor; and its decision shall be final unless changed by the voters as provided in section nine.

§ 9. Petition to call special election. Notice. Ballots. Three-fifths vote required. Within ten days after the date of the order or decision of the state board of authorization on any special request filed as required in the preceding section, a petition may be filed with the clerk or recording officer of the governing body of the political subdivisions affected thereby, asking that a special election be called by such governing body to determine the question of whether such order or decision shall stand as final. If said petition is signed by not less than fifteen per cent of the electors of such subdivision resident therein for the period requisite to enable them to vote at a general election, the governing body with which the same is filed shall call the special election therein requested by publishing notice thereof in a daily paper, published in such subdivision, for five consecutive days before the same is held. If no daily paper is published therein, such notice shall be posted in at least fifty of the most public places in such subdivision for at least five consecutive days before the day of the election. Such notice must specify the time, place or places, and the purpose of said special election and the

hours during which the polls will be kept open. Said election shall be conducted in accordance with the general election laws of this state, where applicable and not in conflict herewith. The ballots shall contain the question "Shall — (naming the political subdivision) make tax levies in the year — (naming the fiscal year) which will produce dollars (naming in words and figures the total sum desired to be produced, including the exact amount of increase requested of the board of authorization, in excess of the amount produced in the year immediately preceding) more than the amount produced by all tax levies in the year — (naming the last preceding fiscal year)?" Under said question there shall be printed two squares, one above the other. Above the first square there shall be printed the word "yes," and above the second the word "no." Each voter shall indicate his vote by marking or stamping a cross (X) in the proper square. Every elector resident within the political subdivision for the period requisite to enable him to vote at a general election shall be entitled to vote at the election herein provided for. The votes cast shall be canvassed as expeditiously as is practicable and if not less than three-fifths of the votes cast shall be in the affirmative the governing body of the subdivision in which the election was held shall have power to make tax levies for the ensuing year which, in the aggregate, will produce the amount stated on the ballots in excess of the amount produced during the year preceding; but if the number of votes cast in the affirmative shall be less than three-fifths of all the votes cast at such election, the governing body shall not have such power. Such election must be held within fifteen days after the filing of a proper petition therefor. The result of such election, with a statement of the total number of votes cast and the total number of affirmative and negative votes, shall be forthwith recorded in the minutes of the governing body and certified to the board of authorization. Tax levies made pursuant to the decision of an election held as provided in this paragraph shall not require approval by the state board of authorization.

§ 10. When boundaries of political subdivision changed. During the first year after the boundaries of any political subdivision are changed to include or exclude in whole or in part property theretofore included in another political subdivision, no greater amount may be produced by tax levies upon property within such new boundaries than the amount produced by tax levies thereon in the year immediately preceding, plus five per cent, without special request and authorization as provided in section eight hereof.

§ 11. Excess amount excluded in estimate for ensuing year. The amount of any increase or excess, over the normal increase permitted by section six hereof, authorized by the state board of authorization after special request therefor, or by the voters as provided in section nine, shall be excluded in determining the amount that may be produced in an ensuing year without such special authorization or election.

§ 12. Procedure prescribed by board. The time, manner, form, contents of and procedure on special applications and requests to the state board of authorization under this act shall be prescribed by the said board, and all rules or orders prescribing the same may be modified or amended at any time. In the event any order is made by the state

board of equalization under the provisions of section three thousand seven hundred five of the Political Code, the state board of authorization shall have power by order, in the event it deems it advisable so to do, to change any time requirement of this act so as to adjust the performance of duties under this act by governing bodies, and the petitioning for, publication of notice for, holding of, and certification of the results of elections held hereunder to meet any change of time so as aforesaid authorized by the state board of equalization.

§ 13. Application of percentage limitation. The percentage limitation provided for in sections six and eight shall apply to and restrict the amount produced or to be produced by the aggregate of all tax levies that the governing body of any political subdivision has or shall hereafter have power to make, or that it is its duty to make, for any purpose whatsoever.

In no event shall this act be construed, either in whole or in part, to permit the governing body of any political subdivision to make a levy of taxes for any purpose at a rate higher than the rates prescribed in section two.

§ 14. City, etc., may become subject to act. This act shall apply only to counties and to the governing bodies thereof; provided, any city, city and county or other political subdivision may by resolution of its governing body declaring its intention so to do, subject such political subdivision and such governing body to all the terms, conditions, limitations and requirements hereof by filing a certified copy of such resolution with the state board of authorization. From and after the filing with the state board of authorization of a certified copy of the resolution herein provided for, the governing body so passing the same and its political subdivision shall be subject in all respects and particulars to the provisions, conditions, requirements and limitations of this act.

§ 15. Minimum limits abolished. Repealed. In all cases in which levies of taxes by any political subdivision are permitted, authorized or directed to be made and the minimum limits thereof or the minimum amount or amounts that shall be raised thereby are expressed in terms of mills, cents, dollars, per cent of assessed value, or in dollars per capita or other unit, such minimum limits and each thereof are hereby expressly abrogated and abolished. All acts and parts of acts in conflict with this act are hereby repealed.

ACT 4067g.

An act to provide for the payment into the county treasury of any moneys now held by county tax collectors which represent duplicate or excess payments of taxes on property in their respective counties. and to provide for the distribution and repayment of such moneys when so paid, and to provide for the payment, repayment and distribution of any duplicate or excess collections which may be made hereafter.

[Approved April 12, 1917. Stats. 1917, p. 116. In effect July 27, 1917.]

§ 1. County tax collector to pay excess taxes to treasurer. It shall be the duty of every county tax collector, within thirty days after this

act takes effect, to pay into the treasury of his county any moneys which said tax collector may have on hand, representing duplicate or excess payments of taxes on property within his county, including such as may have been collected during a previous term or terms, as well as during his present term of office. If the records of the tax collector show the fact, there shall be filed with the county auditor at the time of such payment a description of each piece of property for which such duplicate tax payments were collected and the amount of the tax collected for each such piece of property in excess of the tax regularly levied and collected on such property in any one year.

§ 2. Recovery of excess payments. Allowance of claim. Within five years from the time of such payment into the county treasury by the tax collector, any person holding a tax receipt showing the payment to a county tax collector of taxes in any one year on any given property in the county in excess of the taxes which have been regularly levied and collected upon said property for said year, may recover the excess over and above the tax regularly levied and collected on such property for such year, by filing with the board of supervisors a claim therefor, and surrendering with such claim the tax receipt for such excess payment. If the duplicate payment of taxes in excess of the regularly levied taxes shall have been paid by different persons, the party first filing such claim and receipt for the excess payment, shall be entitled to the refund. If, upon examination by the board of supervisors, it is found that such claim has been filed within the five years and represents a payment in excess of the taxes regularly levied and collected for any given piece of property in the county for any given year and the amount thereof has been paid into the county treasury by the tax collector as aforesaid, the board of supervisors shall allow the said claim for the excess payment to the person entitled thereto.

§ 3. Moneys credited to general fund. All moneys paid to the county treasurer by the county tax collector as herein provided, shall be placed to the credit of the general fund of the county.

§ 4. Duty of tax collector. Whenever any duplicate or excess payment of taxes is made hereafter, it shall be the duty of the tax collector to retain same for thirty days and if not refunded as hereinafter provided to pay the same into the county treasury on the first Monday of each month thereafter, and at the same time file with the county auditor a description of the property upon which said taxes have been collected, the excess amount collected for each piece so described and the name of the person to whom the property is assessed at the time such excess payment is made. Such duplicate or excess payment of taxes shall be placed to the credit of the general fund of the county and within five years the party making the same, or in the event the payments are made by different parties, the party first filing his claim therefor in the manner and form hereinbefore provided, may secure a refund of such duplicate or excess payment; provided, however, that during such thirty day period, the tax collector may adjust any mistakes in the payment of taxes by returning to the party or parties, making such duplicate or excess payments the amount thereof.

§ 5. Suit by district attorney. If any tax collector shall refuse to comply with the provisions of this act, the district attorney of the county is hereby authorized to begin suit against the county tax collector to recover any sums in the possession of said county tax collector representing said duplicate or excess payment of taxes, and the statute of limitations shall not be a defense to the maintenance of any such action.

ACT 4067h.

An act permitting daily payment into the county treasury of duplicate or excess payments of taxes made to the tax collector and providing for the refund of such payments.

[Approved May 5, 1917. Stats. 1917, p. 248. In effect July 27, 1917.]

§ 1. Daily payments of excess taxes. The county tax collector, notwithstanding the provisions of any other statute enacted at the forty-second session of the legislature of this state, may pay daily into the county treasury under the provisions of section four thousand one hundred one *a* of the Political Code all duplicate or excess payments of taxes hereafter made to him on property within the county; and all such duplicate and excess payments so paid into the county treasury shall be subject to refund under the provisions of section three thousand eight hundred four of the Political Code.

ACT 4067i.

An act to provide for the assessment, levy and collection of taxes for the support of the state government for the seventy-first and seventy-second fiscal years.

[Approved May 25, 1919. Stats. 1919, p. 1013.]

§ 1. Assessment and tax levy for support of state government. Sum to be raised for seventy-first fiscal year. Ad valorem tax to meet deficiency. The state board of equalization shall, between the first Monday in March and the first Monday in July in the year one thousand nine hundred nineteen, for the support of the state government assess and levy taxes upon the property in the manner and upon the rates of taxation as provided for in the subdivisions (a), (b), (c), and (d), of section fourteen of article thirteen of the constitution of the state of California, or if any rate of taxation shall have been changed by the legislature pursuant to subdivision (f) of said section and article, then upon such rate of taxation as so changed and fixed, for the purpose of raising the sum of twenty-three million four hundred ninety thousand dollars for annual expenditure for the support of the state government for the seventy-first fiscal year, and in the event that the taxes so assessed and levied, together with all available revenues other than those revenues required by law to be used for special uses, shall not raise said sum of twenty-three million four hundred ninety thousand dollars, then said above-named revenues shall be deemed insufficient to meet the annual expenditures of the state for the seventy-first fiscal year, which deficiency is hereby declared to be the difference between the amount of taxes assessed and levied upon the property and in the manner and upon the rates of taxation hereinbefore specified, together with all other state revenues, other than those revenues required by law to be used

for special uses, and said sum of twenty-three million four hundred ninety thousand dollars, then said state board of equalization, in accordance with the provisions of subdivision (e) of said section fourteen of article thirteen of the constitution of the state of California, at the time provided in section three thousand six hundred ninety-six of the Political Code, shall fix such an ad valorem rate of taxation for the said seventy-first fiscal year upon each one hundred dollars in value of taxable property, upon all the property in the state of California not exempt from taxation under the law and subject to taxation for state purposes on the seventh day of November in the year one thousand nine hundred ten, as, after allowing five per cent for delinquencies, will raise for said seventy-first fiscal year the amount of said deficiency.

§ 2. Sum to be raised for seventy-second fiscal year. Ad valorem tax to meet deficiency. The state board of equalization shall, between the first Monday in March and the first Monday in July in the year one thousand nine hundred twenty, for the support of the state government, assess and levy taxes upon the property in the manner and upon the rates of taxation as provided for in subdivisions (a), (b), (c), and (d) of section fourteen of article thirteen of the constitution of the state of California, or if any rate of taxation shall have been changed by the legislature pursuant to subdivision (f) of said section and article, then upon such rate of taxation as so changed and fixed by the laws now in force, for the purpose of raising the sum of twenty-four million four hundred eighty thousand dollars for annual expenditure for the support of the state government for the seventy-second fiscal year; and in the event that the taxes so assessed and levied, together with all available revenues other than those revenues required by law to be used for special uses, shall not raise the said sum of twenty-four million four hundred eighty thousand dollars, then said above-named revenues shall be deemed insufficient to meet the annual expenditures of the state for the seventy-second fiscal year, which deficiency is hereby declared to be the difference between the amount of taxes assessed and levied upon the property and in the manner and upon the rates of taxation as hereinbefore specified, together with all other state revenues, other than those revenues required by law to be used for special uses, and said sum of twenty-four million four hundred eighty thousand dollars, then said state board of equalization, in accordance with the provisions of subdivision (e) of said section fourteen of article thirteen of the constitution of the state of California, at the time provided in section three thousand six hundred ninety-six of the Political Code, shall fix such an ad valorem rate of taxation for said seventy-second fiscal year upon each one hundred dollars in value of taxable property, upon all the property of the state of California not exempt from taxation under the law and subject to taxation for state purposes on the seventh day of November in the year one thousand nine hundred ten, as, after allowing five per cent for delinquencies, will raise for said seventy-second fiscal year, the amount of said deficiency.

§ 3. Tax to meet deficiency levied on what property. Any tax so levied and collected to meet a deficiency in state revenues for either of said fiscal years shall be assessed, levied and collected on all prop-

erty in the state, not exempt from taxation, including the classes of property enumerated in section fourteen of article thirteen of the constitution of this state, under the provisions of the Political Code relating to the assessment, levy and collection of state and county taxes as said provisions were in force on the seventh day of November in the year one thousand nine hundred ten.

§ 4. In effect immediately. This act, inasmuch as it provides for a tax levy for the usual current expenses of the state shall, under the provisions of section one of article four of the constitution of the state of California, take effect immediately.

TITLE 564.

TEHAMA COUNTY.

ACT 4067j.

Charter of. [Stats. 1917, p. 1877.]

TITLE 567.

TENEMENT HOUSES.

ACT 4098.

An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof and repealing an act entitled, "An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof," approved April 16, 1909, Statutes of California of 1909, page 948. [Approved April 10, 1911. Stats. 1911, p. 860.]

The entire act was amended June 13, 1913; Stats. 1913, p. 737; and again May 29, 1915; Stats. 1915, p. 952. Repealed 1917; Stats. 1917, p. 1473. See next act.

ACT 4098a.

An act to regulate the erection, construction, reconstruction, moving, alteration, maintenance, use and occupancy of tenement houses, and the maintenance, use and occupancy of the premises and land on which tenement houses are erected or located, in all parts of the state of California, including incorporated towns, incorporated cities and incorporated cities and counties, and to provide penalties for the violation thereof; and repealing an act entitled "An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof, and repealing an act entitled 'An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof,' approved April 16, 1909, Statutes of California of 1909, page 948," approved April 10, 1911, Statutes of California of 1911, page 860, and approved June 13, 1913, Statutes of California, 1913, page 737, and approved May

29, 1915, Statutes of California, page 952, and all acts amendatory thereof.

[Approved May 31, 1917. Stats. 1917, p. 1473. In effect September 1, 1917.]

§ 1. Title. This act shall be known as the "state tenement house act" and its provisions shall apply to all parts of the state of California, including incorporated towns, incorporated cities, and incorporated cities and counties.

§ 2. Duty of building department. Duty of housing department. In case no such departments. Enforcement. Power of commission of immigration and housing. It shall be the duty of the "building department" of every incorporated town, incorporated city, and incorporated city and county, to enforce all the provisions of this act pertaining to the erection, construction, reconstruction, moving, conversion, alteration and arrangement of tenement houses and to issue the certificate of "final completion" hereinafter provided.

It shall be the duty of the "housing department" or if there is no housing department the health department of every incorporated town, incorporated city, and incorporated city and county to enforce all of the provisions of this act pertaining to the maintenance, sanitation, ventilation, use and occupancy of tenement houses after said tenement houses have been erected, constructed, or altered, as the case may be, and the certificate of "final completion" has been issued by the building department, and to issue the "permit of occupancy" as hereinafter provided.

In the event that there is no building department or no housing department or health department in an incorporated town, incorporated city or incorporated city and county, it shall be the duty of the officer or officers who are charged with the enforcement of ordinances and laws regulating the erection, construction or alteration of buildings, or the maintenance, sanitation, ventilation or occupancy of buildings, or of the police, fire or health regulations in said incorporated town, incorporated city or incorporated city and county to enforce all of the provisions of this act.

In every county it shall be the duty of the officer or officers who are charged with the enforcement of ordinances or laws regulating the erection, construction or alteration of buildings, or of the maintenance, sanitation, occupancy and ventilation of buildings, or of the police, fire or health regulations in said county, to enforce all of the provisions of this act outside of the limits of any incorporated town or incorporated city.

Every incorporated town, incorporated city, or incorporated city and county in the state of California shall have, and it is hereby empowered and given authority to designate and charge by ordinance any other department or officer than the department or officers mentioned herein, with the enforcement of this act, or any portion thereof.

The commission of immigration and housing of California shall have, and it is hereby empowered and given authority to enforce the provisions of this act, which do not pertain to the actual erection, construction, reconstruction, moving, alteration or arrangement of tenement houses in all incorporated towns, incorporated cities and incorporated

cities and counties, and counties in the state of California, whenever said commission finds or discovers a violation or violations of the provisions of this act and notifies the local department or officer, or departments or officers who are charged with the enforcement of the provisions of this act, in writing, of such violation or violations, and the said local department or officer, or departments or officers, fail, neglect or refuse to enforce the provisions of the said act within thirty days thereafter; provided, however, that the said commission of immigration and housing of California shall enforce the provisions of this act only in the instances specified in said written notice.

- § 3. Unlawful to construct tenement house contrary to act.** It shall • be unlawful for any person, firm or corporation, whether as owner, agent, contractor, builder, architect, engineer, superintendent, foreman, plumber, tenant, lessee, lessor, occupant, or in any other capacity whatsoever, to erect, construct, reconstruct, alter, build upon, move, convert, use, occupy or maintain, or to cause, permit or suffer to be erected, constructed, reconstructed, altered, built upon, moved, converted, used, occupied or maintained any tenement house or any portion thereof contrary to the provisions of this act, or to commit or maintain or cause or permit to be committed or maintained any nuisance in or upon any tenement house or any portion thereof, or any of the premises, yards or courts which are a part thereof, or which are required by the provisions of this act; or to do or cause to be done, or to use or cause to be used, any privy, sewer, cesspool, plumbing or house drainage affecting the sanitary condition of any tenement house or any portion thereof, or of the premises thereof, contrary to any of the provisions of this act.

§ 4. Alterations. It shall be unlawful for any person to make any alterations or changes, or reconstruction work of any kind whatsoever, to any tenement house erected prior to the passage of this act, or to any tenement house hereafter erected, or to increase the height or the percentage of the lot occupied, in any manner which would be inconsistent with any of the provisions of this act, or in violation of the said provisions of this act, or in any manner to diminish the size of the yards, courts or shafts or the size of windows or skylights, or to remove any stairway or fire escape, or to obstruct the egress from such building or from the hallways or stairways, or to do anything that would affect the ventilation and sanitation of the building, contrary to any of the provisions of this act.

§ 5. Building converted to use as tenement house. Building moved. Building reconstructed. A building not erected for, or which is not used as a tenement house at the time of the passage of this act, if hereafter converted to or altered for such use, shall thereupon become subject to all of the provisions of this act affecting tenement houses hereafter erected.

A building used as a tenement house at the time of the passage of this act, if moved, shall be made to conform to all of the provisions of this act affecting tenement houses hereafter erected, in so far as they pertain to the percentage of lot occupied and the size of outer courts, inner courts bounded by a lot line, and yards.

It shall be unlawful to reconstruct any tenement house which is hereafter damaged by fire or the elements to an extent in excess of fifty-one (51) per cent of its physical proportions, unless the said building is made to conform to all of the provisions of this act affecting tenement houses hereafter erected.

§ 6. Penalty for violation. Procedure. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment, and in addition to the penalty therefor, shall be liable for all costs, expense and disbursements paid or incurred by the department, by any of the officers thereof, or by any agent, employee or contractor of same, in the prosecution of such violation. The costs, expense and disbursements by this section provided shall be fixed by the court having jurisdiction of the matter.

Except as herein otherwise specified, the procedure for the prevention of violations of this act, for the vacation of tenement houses or premises unlawfully occupied, or for the abatement of a nuisance in connection with a tenement house or the premises thereof, shall be as set forth in the charter and ordinances of the municipality in which the procedure is instituted.

§ 7. Permit to erect tenement house. Application. Affidavit. Permit issued. Revocation. Plans kept on premises. Permit for nominal alterations. Expiration of permit. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, or alteration of a tenement house, or to move or to build upon a tenement house, or to convert a building or any portion thereof into use as a tenement house, without first obtaining a permit in writing so to do from the department charged with the enforcement of this act. Any person, firm or corporation desiring such a permit shall file an application therefor with the department charged with the enforcement of this act. Said application shall give a detailed statement in writing, verified under oath by the person making the same, of the erection, construction, reconstruction, moving, conversion or alteration, as the case may be, upon blanks or forms to be furnished by the said department. The said application must be accompanied with a full, true and complete set of the plans of the tenement house or alteration, or work proposed, as the case may be, together with a set of specifications describing the materials proposed to enter into the construction of the proposed work, also a plan of the lot on which such building is proposed to be erected, constructed, reconstructed, converted, altered, or moved, as the case may be. Such statement shall give in full the name and address by street and number of the owner or owners, also the name and address of the architect and of the contractor, if there be such an architect or contractor; also shall give such other data and information as in the judgment of the department charged with the enforcement of this act is deemed necessary.

The affidavit to said application shall allege that the plans and specifications are true and contain a correct description of the proposed tene-

ment house, lot and proposed work. If any person other than the owner makes such affidavit, such person shall not be recognized except that he allege in his affidavit that he is authorized and empowered by the said owner to act for him and to sign the required affidavit. Said department charged with the enforcement of this act shall cause all such plans, specifications and statements to be examined, and if it appears that they conform to the provisions of this act, shall then issue a permit to the person submitting the same. Said department may, from time to time, approve changes in any plans, specifications or statements previously approved by it; provided, that all changes when so made shall be in conformity with the provisions of this act. Said department shall have the power to revoke or cancel any permit or approval that it has previously issued in case of any refusal, failure or neglect of the person to whom such permit or approval has been issued to comply with any of the provisions of this act, or in case any false statement or misrepresentation is made in any of the said plans, specifications or statements submitted or filed for such permit or approval. The erection, construction, reconstruction, moving, alteration or conversion of any such tenement house, as the case may be, shall be made in accordance with the plans, specifications and statements submitted or filed and for which the permit is issued.

A true copy of the plans, specifications and other information submitted or filed, upon which a permit is issued, with the approval of the department with which they are filed, stamped or written thereon shall be kept upon the premises of the tenement house or work for which the said permit is issued, from the commencement of the said building or work to the final completion of same, and shall be subject to inspection at all times by proper authorities.

The department charged with the enforcement of this act may, at its discretion, issue a permit in case of nominal alterations or repairs, when application is made therefor, in writing, by the owner or his agent, when the making of said nominal alterations and repairs do not affect any structural feature or the sanitation or the ventilation of the tenement house, without requiring the filing of plans or specifications.

The issuance or granting of a permit or approval by the department charged with the enforcement of this act under the authority of this section shall not be deemed or construed to be a permit or an approval of the violation of any of the provisions of this act.

Every permit or approval which is issued by the department charged with the enforcement of this act, but under which no work has been done within ninety days from the date of issuance, or where work has been suspended for a period of ninety days, shall expire by limitation and a new permit shall be obtained before the work may be done.

§ 8. "Certificate of final completion" and "permit of occupancy." Renewal of permit of occupancy. Certificate issued. Permit issued. Tenement house occupied without permit nuisance. In every incorporated town, incorporated city, and incorporated city and county, it shall be unlawful to occupy or to permit to be occupied, any tenement house hereafter erected, constructed, reconstructed, altered, converted or moved, as the case may be, or any portion thereof, for human habitation until the issuance of a "certificate of final completion" and a "per-

mit of occupancy" by the department or departments charged with the enforcement of this act.

It shall also be unlawful to occupy any existing tenement house until a permit of occupancy has been issued by the department designated to issue such permit.

Every permit of occupancy shall be renewed each calendar year by the department designated to issue the said permit; provided, that no structural alterations or changes have occurred since the issuance of the certificate of final completion; and provided, that all other provisions of this act have been complied with.

Any person desiring a certificate shall file a notice with the department charged with the enforcement of this act. Said department shall cause an inspection to be made of the said tenement house or portion thereof, or work described in the said notice, within ten days after written application therefor, and shall issue a "certificate of final completion" if it is found that all the provisions of this act, regulating the erection, construction, alteration or moving, as the case may be, have been complied with.

The department charged with the enforcement of this act and designated to issue the permit of occupancy shall issue the said "permit of occupancy" upon application, in writing, therefor by the owner or his agent, and upon the filing by the owner or his agent of such statements or records required by the department, after the "certificate of final completion" has been issued; provided, that no violations have occurred since the issuance of the certificate of final completion, or, in the case of a tenement house erected prior to the passage of this act, and for which no certificate of final completion has been issued, then after the said department has caused an inspection to have been made of the said tenement house and has found that all of the provisions of this act applying to such tenement house have been complied with.

All permits and certificates shall be made in duplicate and a copy shall remain on file in the department issuing them.

Any tenement house hereafter erected, altered, converted or moved, which is occupied, or any portion thereof which is occupied for human habitation, prior to a "certificate of final completion" or a "permit of occupancy" being issued, shall be deemed a nuisance, and the department or departments charged with the enforcement of this act may cause it to be vacated until the said certificate of completion and permit of occupancy have been obtained in accordance with the provisions of this act.

§ 9. Power to enter tenement house. The department or departments charged with the enforcement of this act in any incorporated town, incorporated city, incorporated city and county, or county, and the authorized officers, agents or employees of such department or departments, may, whenever necessary, enter tenement houses or portions thereof, or the premises thereof, within the corporate limits of such towns, cities, cities and counties, or counties, for the purpose of inspecting such buildings, in order to secure compliance with the provisions of this act and to prevent violations thereof.

The members of the commission of immigration and housing of California and the agents, officers or employees of said commission may, whenever necessary, enter tenement houses or portions thereof, or the

premises thereof, for the purpose of inspecting such buildings in order to secure compliance with the provisions of this act and to prevent violations thereof.

The owner or his authorized agent may, whenever necessary, enter tenement houses, or portions thereof, or the premises thereof, owned by him, to carry out any instructions or to perform any work required to be done by the provisions of this act.

§ 10. Definitions. For the purpose of this act, certain words and phrases are defined as follows, unless it shall be apparent from their context that they have a different meaning:

Words used in the singular include the plural, and the plural, the singular.

Words used in the present tense include the future.

Words used in the masculine gender include the feminine, and the feminine, the masculine.

Words "building department," "housing department," "health department," "department charged with the enforcement of this act," "fire commissioner," shall be construed as if followed by the words, "of the incorporated town, incorporated city, incorporated city and county, or county," as the case may be, in which the tenement house is situated.

"Apartment" is a room or suite of rooms which is occupied, or is intended or designed to be occupied by one family for living and sleeping purposes.

"Approved" means whatever material, appliance, appurtenance, or other matter meets the requirements and approval of the department charged with the enforcement of this act, or which is approved by local ordinance of the municipality in which the building is situated, or any appliance, appurtenance, or other matter which conforms to the requirements of, and bears the approval of the "national board of fire underwriters"; provided, however, that no such material, appliance, appurtenance, or other matter shall be deemed "approved" for use where, or in such a manner as would be inconsistent with the intent, or specific provisions of this act.

"Basement" is any story or portion thereof partly below the level of the curb or the actual adjoining ground level, the ceiling of which is no part is less than seven feet above the curb level or actual adjoining ground levels. If the adjoining ground is excavated to or below the curb level, or to or below the adjoining natural ground level, such excavated space shall have not less than the minimum width and length required in this act for outer courts.

Every basement is a story.

"Building" is a tenement house.

"Building department" means the commissioner of buildings, superintendent of buildings, chief inspector of buildings, or any officer or department charged with the enforcement of ordinances and laws regulating the construction and alteration of buildings or structures.

"Cellar" is any story or portion thereof, the ceiling of which in any part is less than seven feet above the curb level and actual adjoining ground levels.

"Court" is an open, unoccupied space other than a yard on the lot on which is situated a tenement house. A court, one entire side or end of which is bounded by a front yard, a rear yard or a side yard, or by the

front of lot, or by a street or a public alley, is an "outer court." Every court which is not an "outer court" is an "inner court."

Every court shall be open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are windows from rooms or apartments abutting the said court, except that a cornice on the building may extend into an "outer court" two inches for each one foot in width of such court, and a cornice may extend into an "inner court" one inch for each one foot in width of such court.

"Curb level" is the curb level opposite the center of the "front of lot."

Wherever the word "department" is used it means the building department, the housing department, the health department or such other department or officer, or departments or officers, who are charged with the enforcement of the provisions of this act.

"Family" is one person living alone or a group of two or more persons living together in an apartment, whether related to each other by birth or not.

"Fireproof tenement house" is a building wherein all the exterior and interior loads or strains are transmitted to the foundation by means of concrete, reinforced concrete, brick, stone, or by means of a skeleton framework of steel or iron, the exterior walls, inner court walls and roof constructed of concrete, reinforced concrete, brick, stone or hollow terra cotta tile; where all the structural steel or iron is thoroughly fireproofed by concrete, cement plaster, tile, brick or sandstone, not less than two inches thick; where all the interior partitions are constructed of either hollow terra cotta tile blocks, gypsum blocks, brick, concrete, reinforced concrete, or of metal studs lathed with metal lath and plastered not less than three-quarters inch thick including the lath, or of metal studs lathed with approved plaster board and plastered not less than three-quarters inch thick including the plaster board, or constructed of wire glass not less than one-fourth inch thick, set in metal frames and sash, and all other materials used in the said building are of approved incombustible material, except that the glass in windows, transoms, or doors may be plain glass, and except that doors, frames, sash and the usual trim of rooms, hallways, corridors and passageways may be of wood, and except that wood floors may be placed on top of the floors constructed of incombustible materials, except in the stairways and public hallways.

"Housing department" is any department or commission charged with the enforcement of ordinances or laws regulating the occupancy and maintenance of tenement houses, hotels or dwelling-house buildings; and where no such department is maintained, shall be deemed to be the health commissioner, the department of health, health officer, or similar department charged with the enforcement of laws and ordinances relating to the protection of the public health.

"Kitchen" is any room in any apartment used or intended or designed to be used for cooking purposes and for the preparation of food.

"Lot" is a parcel or area of land on which is situated a tenement house, together with the land, yards, courts and unoccupied spaces for such a tenement house as required by this act; all of which land shall be owned by or be under the absolute lawful control and in the lawful possession of the tenement house.

A lot situated at the junction of two or more intersecting streets, with a boundary line thereof bordering on each of the two streets, is a "corner lot." All parts of the width of such a corner lot which are distant more than seventy-five feet from the junction point of the two or more intersecting streets, shall be deemed to be an "interior lot." The owner or his authorized agent may designate either street frontage as being the front of such corner lot for the purpose of determining the width thereof.

A lot which has only one boundary line bordering on a public street is an "interior lot."

"Rear lot" is a parcel or area of land having no boundary line bordering on a street, or having less than one-half of its width as a boundary line bordering on a street.

"Front of lot" is the boundary line of lot bordering on the street. In case of a corner lot, either of such boundary lines may be the "front of lot."

"Rear of lot" is the boundary line of lot opposite the "front of lot."

"Depth of lot" is the mean distance from the "front of lot" to the "rear of lot."

"Nuisance" embraces public nuisance as known at common law or in equity jurisprudence, and whatever is dangerous to human life or detrimental to health, and shall also embrace the overcrowding with occupants of any room, insufficient ventilation, or illumination, or inadequate or insanitary sewerage or plumbing facilities, or uncleanness, and whatever renders air, food or drink unwholesome or detrimental to the health of human beings.

"Occupied space" is all the space covered by a tenement house, including outside stairways, platforms, fire-escapes, balconies, fire-towers, chimneys, stacks, vent shafts, not exceeding thirty-two square feet in area, cornice, or any part thereof, which projects into an inner court more than one inch for each one foot in width of such court, or which projects into an outer court or yard more than two inches for each one foot in width of such outer court or a yard, except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may extend not exceeding four feet beyond the exterior walls of the building into a front or rear yard, and except that a retaining wall may extend not to exceed twelve inches into a yard or court. For the purpose of determining occupied space, the area of the building shall be taken at the lowest story or portion thereof used for living or sleeping purposes.

"Person" is a natural person, his heirs, executors, administrators or assigns; and also includes a firm, partnership or corporation, its or their successors or assigns.

"Public hallway" is a hallway, corridor, passageway or vestibule not within an apartment, and includes stairways, landings and platforms.

"Rear tenement house" is a tenement house on a "rear lot."

"Semi-fireproof tenement house" is a building with all exterior walls and walls of inner and outer courts constructed of brick, stone, concrete, reinforced concrete or hollow terra cotta tile; except that the walls of an inner court, which court is surrounded on four sides by the same building, may be constructed as provided in this act for such inner courts; interior partitions and floors constructed of approved combustible materials or of wood, with all ceilings, partitions, soffits of

stairways, and outside stringers of open stairways and stair wells metal lathed and plastered not less than three-quarters inch thick including the lath or lathed with an approved plaster board plastered not less than three-quarters inch thick including the plaster board; in which all finished floors, frames, doors and the usual trim of rooms and hallways may be built of wood and the roof of which shall be covered with at least a composition fire-retardant material.

"Shall." Whenever this word is used it shall be mandatory.

"Street" is any public street, alley, thoroughfare or park having a minimum width of sixteen feet, measured from the "front of lot" to the opposite "front of lot," and which shall have been dedicated or deeded to the public for public use.

"Tenement house" is any house or building, or portion thereof, more than one story in height, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their cooking in the said building; provided, however, that any building not more than two stories in height which is designed, built, rented, leased, let or hired out to be occupied, or is occupied, as the home or residence of not more than four families, and the said building is so arranged that each of the said families live independently of each other, and the building is constructed and arranged so that a separate section is, or may be, kept as a home or residence of a separate family, and each such section has an entirely independent and separate entrance, and if a stairway is required, one such stairway leading to each section from the street or from an outside vestibule on the level of the first floor of said building is a separate stairway, and with no room, hallway, bathroom, water-closet, or kitchen used in common by two or more families occupying the said building, shall be deemed not to come within the definition of a "tenement house."

"Wooden tenement house" is a building which does not fully comply with the requirements for a "fireproof" or a "semi-fireproof" tenement house as defined in this act, and shall include all frame and all veneered buildings.

In every such building all ceilings and walls and partitions of public hallways, soffits of interior stairways and the outside stringers of open stairways, and stair wells shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with an approved plaster board plastered not less than three-quarters inch thick including the plaster board.

"Yard" is a portion of a lot on which is situated a tenement-house and which is unoccupied by the building and extends from the ground up (except where otherwise provided by this act) open and unobstructed to the sky; except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may extend not more than four feet into such yards. If such yard is between the front line of the building and the front boundary line of the lot, it is a "front yard." If it is between the extreme rear line of the building and the rear of the lot, it is a "rear yard." If it extends from the rear yard to the front yard or front of the lot, it is a "side yard."

§ 11. **Front yard.** No tenement house shall hereafter be erected on, or moved on to, a rear lot. No building for any purpose shall hereafter

be erected in front of any tenement house unless there shall be left unoccupied a front yard extending from the front of the rear tenement house to the front line of lot bordering on the street.

Such front yard shall not be in any part less in width than fifty per cent of the actual width of the rear tenement house.

§ 12. Height. No fireproof tenement house hereafter erected shall exceed one hundred fifty feet in height, nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No semi-fireproof tenement house hereafter erected shall exceed six stories at any point, nor more than sixty-five feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

No wooden tenement house hereafter erected shall exceed three stories at any point nor more than thirty-six feet in height (except as hereinafter provided), nor more than one and one-half times the width of the widest street to which the lot on which it is situated abuts.

The width of the street, for this purpose, shall be measured from the extreme front of the building to the front of lot opposite, across the street.

For the purposes of this section a basement is a story.

The height of a fireproof tenement house is the perpendicular distance from the curb level or adjoining ground levels to the highest point of the roof. The height of a semi-fireproof or of a wooden tenement house is the perpendicular distance from the curb level or adjoining ground levels to the lowest point of the finished ceiling of the top story; provided, that in the case of a semi-fireproof tenement house situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed sixty-five feet above the curb level measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed seventy-five feet above the adjoining curb in case of a corner lot, or above the level of the ground in the case of an interior lot, and in the case of a wooden tenement house situated on a lot with the ground sloping downward from the facade at which the measurement is taken the height of the building shall not at any point exceed thirty-six feet above the curb line measured on the facade facing the street, nor shall the height of the building at any point of the grade exceed forty-six feet above the adjoining curb in the case of a corner lot or above the level of the ground in the case of an interior lot.

§ 13. Per cent of lot left unoccupied. On every corner lot on which a tenement house is hereafter erected, at least ten per cent of such lot shall be left unoccupied; provided, however, that if such corner lot extends through from one street to another street, one-half of the narrowest street to which said lot abuts may be considered as a part of the lot in computing the percentage of lot to be left unoccupied; except that if such one-half of the narrowest street is greater than the rear yard required for such tenement house, then only as much of the said street as is required for the rear yard shall be considered as part of the lot for the purpose of computing the percentage of lot to be left unoccupied.

On every interior lot on which a tenement house is hereafter erected, at least twenty-five per cent of such lot shall be left unoccupied; provided, however, that if such interior lot extends through from one street to another street, one-half of the narrowest street to which such lot abuts may be considered as a part of the lot in computing the percentage of lot to be left unoccupied; except that if such one-half of the narrowest street is greater than the rear yard required for such tenement house, then only as much of the said street as is required for the rear yard shall be considered as part of the lot for the purpose of computing the percentage of lot to be left unoccupied.

§ 14. Rear yard. Immediately behind every tenement house hereafter erected there shall be a rear yard extending across the entire width of the lot.

§ 15. Yard serving two tenement houses. Distance between buildings. In no event shall any yard or court be made to serve the purpose of two tenement houses hereafter erected, or of an existing tenement house and a tenement house hereafter erected, unless such yard or court, as the case may be, is of the full size required for two tenement houses, and then only in the event that such yard or court, as the case may be, is located on the same lot and owned by or in the absolute lawful control and in the lawful possession of the tenement house it proposes to serve.

Where a tenement house, now or hereafter erected, stands upon a lot, no other building shall hereafter be placed upon the front or rear of that lot, unless the minimum distance between such buildings shall be at least ten feet, and two additional feet shall be added to such minimum distance of ten feet for every story more than one in height of the highest building on such lot.

§ 16. Depth of rear yard. The depth of a rear yard shall be measured at right angles from the extreme rear line of the building toward the rear lot line.

§ 17. Minimum depth of rear yard on interior lot. On every interior lot on which a tenement house is hereafter erected there shall be provided a rear yard. Such yard shall extend from the ground clear and unobstructed to the sky, and shall extend across the entire width of the lot; except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may extend not more than four feet into such yard. The minimum depth of such rear yard shall be as follows:

Height of building measured from top of wall to floor of yard at point abutting the rear yard		Depth of rear yard
Not exceeding 36 feet	.....	10 feet
Not exceeding 48 feet	.....	11 feet
Not exceeding 60 feet	.....	12 feet
Not exceeding 72 feet	.....	14 feet
Not exceeding 84 feet	.....	16 feet
Not exceeding 96 feet	.....	18 feet
Not exceeding 108 feet	.....	20 feet
Not exceeding 120 feet	.....	22 feet
Not exceeding 132 feet	.....	24 feet
Not exceeding 150 feet	.....	26 feet

Provided, however, that if such interior lot extends through from one street to another street or public alley, one-half of the narrowest street or public alley to which said lot abuts may be considered as a part of the lot in computing the rear yard required by this section.

§ 18. Minimum depth of rear yard on corner lot. On every corner lot on which a tenement house is hereafter erected there shall be provided a rear yard. Such yard shall extend from the lowest floor which is used for living or sleeping apartments, clear and unobstructed to the sky, and shall extend across the entire width of such lot; except that outside stairways, platforms and balconies constructed of open metal work and fire-escapes may be extended not more than four feet into such yard. The minimum depth of such rear yard shall be as follows:

Depth of corner lot	Depth of rear yard
Not exceeding 100 feet....	Not less than 10 per cent of the depth of the lot nor less than 5 feet, nor less than the minimum width required for an outer court, based on the number of stories in such building.
Exceeding 100 feet.....	Not less than 10 feet nor less than the minimum width required for an outer court, based on the number of stories in such building.

Provided, however, if such corner lot extends through from one street to another street, or to a public alley, one-half of the narrowest street or public alley to which such lot abuts may be considered as a part of the lot in computing the rear yard required by this section.

§ 19. Passageway to street. Every rear yard required by this act and not bordering on a street or public alley and without direct access thereto shall have access to a street or public alley by means of an unobstructed passageway not less than three feet six inches in clear width, nor less than seven feet in clear height; and if such passageway or any portion thereof passes through a building, such portion thereof shall be built of approved incombustible materials, or shall be lathed with metal lath or approved plaster board and be plastered not less than three-quarters inch thick including the lath or plaster board, or shall be lined with not less than number twenty-six (gauge) galvanized iron, and shall be drained and lighted.

§ 20. Excavated front yard. Every front yard which is excavated below the level of the curb or below the adjoining ground level for the purpose of furnishing light and ventilation to a basement shall in no part be less in width and length than required for outer courts.

§ 21. Width of side yard. The width of every side yard shall be not less than the width required for an outer court except that the provisions of this act regarding the maximum lengths of an outer court shall not apply to a side yard; provided, that if there is a side yard on both sides of the building, connected one with the other across the

rear of the building by the rear yard, then the width of the side yards may be reduced twelve inches.

§ 22. Minimum size of outer court. The minimum size of every outer court for a tenement house hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is an apartment or apartments	Minimum width of court	Maximum length of court
1 or 2 stories.....	4 ft. 0 in.	16 ft. 0 in.
3 stories	4 ft. 6 in.	25 ft. 0 in.
4 stories	5 ft. 6 in.	30 ft. 0 in.
5 stories	6 ft. 0 in.	35 ft. 0 in.
6 stories	8 ft. 0 in.	35 ft. 0 in.
7 stories	10 ft. 0 in.	40 ft. 0 in.
8 stories	12 ft. 0 in.	40 ft. 0 in.
9 stories	13 ft. 0 in.	40 ft. 0 in.
10 or more stories.....	14 ft. 0 in.	40 ft. 0 in.

There shall be added to the minimum width of each such outer court six inches for each five feet or fractional part thereof in excess of the maximum length; provided, however, that the maximum lengths herein provided shall not apply when the outer court is bounded on one side for its entire length by a lot line; provided, further, that if an outer court is bounded by a public alley or public park, the width of such public alley or public park may be considered a part of the lot in determining the required width of the outer court.

§ 23. Minimum size of inner court. The minimum size of every inner court for tenement houses hereafter erected shall be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is an apartment or apartments.	Minimum width of court	Minimum area of court in square feet
1 or 2 stories.....	6 ft. 0 in.	75 square feet
3 stories	7 ft. 0 in.	120 square feet
4 stories	8 ft. 0 in.	160 square feet
5 stories	12 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more.....	24 ft. 0 in.	840 square feet

Provided, however, that the minimum size of every inner court which is bounded on one side for its entire length by a lot line may be as follows:

Height of building based on the full number of stories in the building measured upward from and including the lowest story in which there is an apartment or apartments.	Minimum width of court	Minimum area of court
1 or 2 stories.....	5 ft. 0 in.	75 square feet
3 stories	6 ft. 0 in.	120 square feet
4 stories	7 ft. 0 in.	160 square feet
5 stories	9 ft. 0 in.	250 square feet
6 stories	16 ft. 0 in.	400 square feet
7 stories	20 ft. 0 in.	625 square feet
8 stories and more.....	24 ft. 0 in.	840 square feet

Every inner court hereafter constructed and every inner court or vent shaft now in any tenement house shall be provided with a door or window at or near the bottom thereof, giving sufficient access to such court or vent shaft as to enable it to be properly cleaned out.

§ 24. **Recess.** Every recess from a court, yard or street in a tenement house hereafter erected shall, unless it conforms to the requirements of this act for an inner court, or an outer court, be not less in width than its depth. Every such recess shall be open and unobstructed to the sky from a point not more than two feet above the floor line of the lowest story in the building in which there are rooms the said recess proposes to serve.

§ 25. **Intakes for inner court. Construction.** Every inner court in a tenement house hereafter erected shall be provided with one or more horizontal intakes at the bottom of the court, as follows:

Inner court areas	Minimum number of intakes	Net aggregate area of intakes
Each not exceeding 300 square feet.....	One	19½ square feet
Each not exceeding 800 square feet.....	Two	40 square feet
Each exceeding 800 square feet.....	Two	60 square feet

Every such intake shall always extend directly to the front of lot or front yard, or rear yard, or to a side yard, or to a street, or to a public alley or public park. Whenever more than one intake is required, one such intake shall extend to the front of lot or front yard, and one to the rear yard, public alley, public park, or to the other street, and the court ends of the air intakes shall be as far apart as possible.

Each such intake shall consist of an unobstructed duct or passageway having a minimum width of three feet in all its parts and a minimum height of six feet six inches.

Every such intake shall be constructed of approved incombustible materials, or shall be lined with at least number twenty-six (gauge) galvanized iron on the inside thereof. Such air intakes may be closed at each end with a gate or grill having not less than seventy-five per cent of open work.

In case the inner court does not extend below the second floor level, then each such air intake may consist of an unobstructed open duct, constructed of approved incombustible materials or lined with at least number twenty-six (gauge) galvanized iron on the inside thereof, having an interior area of not less than nineteen and one-half square feet, and in no dimension less than twelve inches, and covered at each end with a wire screen of not less than one inch mesh.

Every air intake shall be drained and so constructed and arranged as to be readily cleaned out.

§ 26. Cellars. In no tenement house shall any room in the cellar be constructed, altered, converted or occupied for living or sleeping purposes.

Every cellar shall be illuminated and ventilated. The walls and floor of every cellar hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary, and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 27. Basements. In no tenement house shall any room in the basement be constructed, altered, converted or occupied for living or sleeping purposes, unless such room conforms to all of the requirements of this act for rooms in other parts of the building and that the ceiling of each such room be in all parts not less than seven feet above the adjoining level.

Every basement shall be illuminated and ventilated. The walls and floors of every basement hereafter constructed, which are below the ground level, shall be made waterproof and dampproof, and whenever deemed necessary, and so ordered by the department charged with the enforcement of this act, the walls and ceilings thereof shall be plastered.

§ 28. Ventilation beneath floor. Floor made impervious to rats. In every tenement house hereafter erected, the lowest floor thereof shall be at least eighteen inches above the surface soil adjoining and under the floor, and the entire space under such floor shall be kept dry, drained, clean and free from any accumulation of rubbish, debris or filth.

Such space under the floor shall be inclosed and provided with a sufficient number of openings with removable screens or similar provisions of a size to insure ample ventilation; provided, however, that in any such building the lowest floor thereof may be less than eighteen inches above the surface soil, but in no case less than six inches, except where masonry floors are laid directly on the soil, if the said floor is made impervious to the ingress of rats or other vermin as follows:

(a) Foundation walls shall be constructed of concrete or of brick or stone or other masonry laid in a good mortar or constructed of some other equally rat-proof material.

(b) The said foundation walls shall be not less than six inches in thickness at the top nor less than twelve inches in thickness at the bottom, nor extend less than twelve inches below the surface soil, and, except where masonry floors are laid directly on the soil, shall extend not less than six inches above the surface soil.

(c) Every opening in the foundation walls, for ventilation or for other purposes, shall be made rat proof with suitable metal screens or

with some other similar rat-proof material. Door or window openings in such walls shall have tight-fitting doors or windows.

(d) The said lowest floor or differing levels thereof, forming a complete floor between the outside walls of the building, shall be constructed either of masonry, or covered with concrete not less than one and one-half inches thick, or constructed of two layers of flooring with a layer of galvanized iron or galvanized iron wire cloth or other approved equally as rat-proof material placed between the two layers of flooring. Or, in lieu of the floor being constructed as herein prescribed, the entire ground area under the floor shall be covered with concrete not less than two inches thick, except where the surface of the soil is composed of rock. The rat-proofing material shall always extend under the plates of the exterior walls and supporting partitions.

(e) All openings throughout the said floor for chimneys, plumbing, water-pipes, or for any other purpose, shall be closed up tight in the same manner and with the same kind of materials as required under the plates of the exterior walls and supporting partitions, and if the rat-proofing material used for closing of openings is other than masonry, it shall extend beyond and underlap the flooring all around the opening, not less than two inches.

§ 29. Floor area of rooms. Width and height. Water-closets, etc. Curtains. In every apartment in every tenement house hereafter erected there shall be at least one room containing not less than one hundred twenty square feet of superficial floor area, and every other room shall contain at least ninety square feet of superficial floor area, except water-closet, bath or slop-sink compartments, and except kitchens, closets, recesses from rooms, or dressing-rooms.

Every kitchen shall contain not less than fifty square feet of superficial floor area.

Every room shall at every point be not less than seven feet in width, nor less than nine feet in height, measured from the finished floor to the finished ceiling; except that attic rooms and rooms where sloping ceilings occur need be nine feet in height in but one-half the area of the room; provided, however, that the provisions of this paragraph shall not apply to water-closet, bath or slop-sink compartments, nor to closets, nor to recesses from rooms, nor to dressing-rooms, nor shall the provisions of this paragraph as to minimum width apply to kitchens.

Every water-closet compartment shall be not less than thirty-six inches in clear width, and every such water-closet compartment, bath or slop-sink compartment, or closet, or recess from a room, or dressing-room, shall have a height of not less than seven feet six inches, measured from the finished floor to the finished ceiling. Every closet, recess from a room, or dressing-room, which contains more than twenty-five square feet of superficial floor area (built-in dressers, clothes-presses and similar features which are a substantial part of the structure shall not be deemed to be a part of the floor area of a closet, recess from a room) or dressing-room shall conform to all of the provisions of this act as to rooms, and shall contain not less than ninety square feet of superficial floor area.

No part of any room in any tenement house shall hereafter be inclosed or subdivided wholly, or in part, by a curtain, portiere, fixed or

movable partition, or other contrivance or device, for any purpose contrary to any of the provisions of this act.

Entertainment, amusement or reception rooms hereafter constructed, altered or converted in any tenement house shall conform to the provisions of section thirty-three of this act.

§ 30. Windows. Opening into vent shaft. Opening through porch. In every tenement house hereafter erected every room, kitchen, and every water-closet compartment, toilet or shower-room, and bath or slop-sink room (except in the cellar), shall have at least one window of the area hereinafter required opening directly upon a street, or upon a yard or court, of the dimensions specified in this act and located on the same lot.

All windows required by this act shall be located so as to properly light all portions of the rooms, and shall be made so as to open in all parts and so arranged that at least one-half of each such window may be opened unobstructed; provided, however, that the windows required by this section in a water-closet compartment, toilet or shower-room, and bath or slop-sink room, may open directly into a vent shaft, such vent shaft to be of the minimum size and constructed of the materials and in the manner prescribed by section sixty-one of this act; provided, further, that windows required to open on to a street, yard, or an outer court, except windows from kitchens, may open through porches, provided that said porches do not exceed seven feet in depth measured at right angles to the windows and that at least seventy-five per cent of the entire side of the porch, bounded by the street, yard, or outer court, is left open except that the open space may be inclosed with mosquito screens.

§ 31. Window area. In every tenement house hereafter erected the total window area in each room except in a water-closet compartment, bath, toilet, slop-sink room or shower-room shall be at least one-eighth of the superficial floor area of the room.

The aggregate window area in each room shall be not less than twelve square feet, and no single window shall be less than six square feet in area.

All measurements for window area shall be taken to outside of sash.

§ 32. Windows. In every tenement house hereafter erected each window in a water-closet compartment or bath, toilet or slop-sink room, or shower-room, shall be not less than three square feet in area. The aggregate area of windows for each such compartment or room shall be not less than six square feet. In each such compartment or room containing more than one water-closet, bath, urinal, or slop-sink, the aggregate window area shall be equivalent to three square feet for each water-closet, bath, urinal or slop-sink therein, except that at no time need the aggregate window area exceed one-fourth of the superficial floor area of such compartment or room.

§ 33. Windows. Ventilation by fan exhaust system. Penalty for failing to maintain system. Height of amusement rooms. In every tenement house hereafter erected, the total window area in each room used for the purpose of amusement, entertainment or as a reception-room, or any room used for similar purposes, which room has a superficial floor area not

exceeding one hundred eighty square feet, shall be at least one-eighth of the superficial floor area of such room.

Every such room which has a superficial floor area exceeding one hundred eighty square feet shall have an aggregate window area not less than that required for a room of one hundred eighty square feet of superficial floor area.

Amusement, entertainment or reception-rooms and rooms used for similar purposes, in lieu of being provided with windows, as in this section prescribed, may be provided with a fan exhaust system of ventilation. Such fan-exhaust system of ventilation shall consist of independent inlet ducts, extending from the outer air to each such room and exhaust ducts extending from each such room to the outer air above the highest roof of the building. ●

All of the inlet ducts and exhaust ducts shall be constructed of galvanized iron or other smooth-surfaced, nonabsorbent material and so arranged that they may be readily cleaned out.

The exhaust ducts shall always be connected to an exhaust fan mechanically operated, so designed and operated as to provide a complete change of air in not to exceed fifteen minutes for each such room.

Any person in charge of a building in which a system of fan-exhaust ventilation, as in this section is required, who fails, neglects or refuses to operate and maintain the said system of ventilation in good order and repair so that the ventilation (complete change of air) herein specified is provided in each such room at all times, shall be deemed guilty of a misdemeanor and subject to all of the penalties fixed by this act.

Every amusement, entertainment or reception room, or any room used for similar purposes, shall have a minimum height between the finished floor and the finished ceiling of not less than nine feet. No such room or part thereof shall be used for living or sleeping apartments, except that said room or part thereof complies with all of the other provisions of this act, for living and sleeping apartments.

§ 34. Windows in public hallway. Skylight. French windows. In every tenement house hereafter erected, every public hallway on any floor where there are more than three apartments shall have at least one window opening directly upon a street, or upon a yard or a court of the dimensions specified in this act and located on the same lot; such windows shall be at the end of the public hallway and placed so as to secure the maximum light into the hallway; provided, however, that in tenement houses not exceeding two stories in height, the public hallway may, in lieu of such windows, be lighted and ventilated by one or more skylights constructed in accordance with the provisions of this act.

Every window required by this act in a public hallway shall be not less than twenty-nine inches in clear width, nor less than fifty-eight inches in height, and the finished sill of same shall not be more than thirty inches above the adjoining finished floor. Every such window shall be made so as to open and so arranged that at least one-half of the window may be opened unobstructed.

Every skylight provided for in this section shall have an effective horizontal area of glass of not less than fifteen square feet, and shall have ridge ventilators or fixed or movable louvres so as to provide a ventilating area of not less than five hundred square inches. Such

skylights shall be so located that no portion of the hallway be distant more than twenty feet (measured from a vertical line), from a skylight opening.

Any part of a public hallway which is offset, recessed, or cut off from any other part of a hallway where such offset or recess is more in length than one and one-half times the width of the public hallway from which it offsets or recesses, shall be deemed a separate public hallway within the meaning of this section.

French windows or doors, if arranged to open and glazed to give the areas of opening and glass required by this act for windows in public hallways, may be used in lieu of windows therein.

§ 35. Ventilating skylight. In every tenement house two or more stories in height hereafter erected, where there are more than three apartments on any one floor, there shall be provided at the roof over each stairway a ventilating skylight, placed directly as practicable over same, having a minimum effective horizontal area of glass at least twenty square feet in area for buildings two stories in height, and the area of glass in such skylight shall be increased at a ratio of six square feet for each additional story in height. In every such skylight the ventilating area shall be not less than five hundred square inches.

Every such skylight and the ventilating openings and the shutters and the closing and opening devices for the ventilating openings shall be made of approved incombustible materials, and so arranged that the entire ventilating area may be readily opened from at least the top-most and first story levels, except that in tenement houses not exceeding four stories in height the ventilators may be arranged so as to open from at least the first story, or the ventilators may be fixed permanently in an open position.

Skylights as in this section prescribed may be omitted in case that windows are provided of the size fixed by section thirty-four hereof and located adjoining the stairways, and that each window adjoining the stairway be provided with an open louvre or ventilator providing a ventilating area of not less than one hundred square inches or such louvre or ventilator may be placed in the roof over the stairway, in which event the ventilating area shall be not less than five hundred square inches.

Whenever a skylight is required as in this section provided there shall be constructed a stair well, the clear open area of which shall be at each floor equal to one-third of the area of glass in the skylight.

§ 36. Water-closets. In every tenement house hereafter erected, every apartment shall be so arranged that access may be had to every living-room, and to at least one water-closet compartment, without passing through a bedroom; provided, however, that nothing in this section shall be so construed as to prohibit passing through a bedroom in going from a kitchen to a bathroom or water-closet compartment.

§ 37. Water-closet for each apartment. Waterproof floor. In every tenement house hereafter erected there shall be installed one water-closet within each apartment located in a separate compartment or located in a compartment with a bathtub, shower or lavatory, used exclusively by the occupants of the apartment.

No door or other opening to a water-closet compartment shall open from or into any room in which food is prepared or stored. The walls

exceeding _____ compartment shall be well plastered or coated with nonabsorbent material, except that the ordinary wood may be used in such compartment. Every such compartment shall be provided and equipped with a full door, properly fitted and with a lock or bolt to lock same.

Every such water-closet compartment shall be made water-tight with asphalt, tile, marble, terrazzo, cement, or some other similar material, and such waterproofing shall extend not less than six inches on the vertical walls of the room. No water-closet fixture shall be enclosed with woodwork.

§ 38. In tenement house already erected. Sewer connection required. In every tenement house erected prior to the passage of this act there shall be provided at least one water-closet in a separate compartment, located on the public hallway of the same floor, for every three apartments or fractional part thereof on such floor which are not provided with private water-closets. Where two or more water-closets are required by the provisions of this section to be located on a public hallway, one of such water-closets shall be distinctly marked "for men," and one of the water-closets distinctly marked "for women"; provided, however, that the housing department charged with the enforcement of this act may exempt any tenement house existing at the time of the passage of this act from fully complying with the provisions of this paragraph, when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof or to the sanitation of the said tenement house or premises.

Nothing in this section shall be construed as permitting such exemptions to apply to any addition or extension to any tenement house.

Every water-closet hereafter placed in a tenement house erected prior to the passage of this act shall comply with every provision of this act relative to water-closets installed in tenement houses hereafter erected, except that if a water-closet is installed in the top story of any such building, the compartment in which it is installed may be ventilated by a skylight with fixed louvres in lieu of a window; provided, however, that a new water-closet may be installed to replace a defective or antiquated fixture in the same location.

Every tenement house erected prior to the passage of this act, or hereafter erected, where a connection with the sewer is possible, shall discontinue the use of any school sink, privy vault, or any similar receptacle used to receive fecal matter, urine or sewage, and every such receptacle shall be completely removed and the place where it was located be properly disinfected. All such receptacles shall be replaced by individual water-closets of durable nonabsorbent material, properly connected, trapped, vented and provided with flush tanks, the same as is required, by the provisions of this act, in tenement houses hereafter erected.

§ 39. Bathtub or shower. In every tenement house hereafter erected there shall be a bathtub or shower within each apartment, and such bathtub or shower shall be located in a separate compartment, or there may be provided one such bathtub or shower in a separate compartment for every three such apartments which are not provided with private

baths or showers; provided, that said bathtub or shower is on the same floor and is accessible from each apartment through the public hallway.

In every tenement house hereafter erected there shall be at least one kitchen sink within each apartment.

The walls, floors and openings to every bath, shower or slop-sink room hereafter constructed shall conform to all of the provisions of this act relative to the waterproofing of the walls and floors, and of the construction of the doors of water-closet compartments in tenement houses hereafter erected.

§ 40. In tenement house already erected. In every tenement house erected prior to the passage of this act there shall be provided at least one bathtub or shower in a separate compartment, located on the same floor, for every five apartments, or fractional part thereof, which are not provided with private baths or showers, on each such floor, and there shall be provided at least one kitchen sink in each apartment; provided, however that the department charged with the enforcement of this act may exempt any tenement house existing at the time of the passage of this act from fully complying with the provisions of this section when, in its discretion, such deviation will not be detrimental to the health of the occupants thereof or to the sanitation of the said tenement house or premises; provided, further, that no such exemption shall apply to any addition or extension to a tenement house.

§ 41. Running water. Sewer connection. In every tenement house hereafter erected every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

Every plumbing fixture affecting the sanitary drainage system in tenement houses hereafter erected, shall be properly connected with the street sewer, if a street sewer exists in the street abutting the lot on which the building is located and is ready to receive connections. When it is impracticable to connect such plumbing fixtures with a street sewer, then the plumbing fixtures shall be connected and drained into a cess-pool constructed satisfactorily to the department charged with the enforcement of this act; or some other means of sewage disposal satisfactory to the department charged with the enforcement of this act may be made until such time as it may become practicable and possible to connect with the street sewer.

§ 42. In tenement house already erected. In every tenement house erected prior to the passage of this act, every plumbing fixture shall be provided with running water, and there shall be provided faucets, with running water, sufficient in number so that all of the yards, courts and passageways may be washed. Faucets shall be of the hose bibb type, not less than three-quarter inch size.

§ 43. In case no running water. Privy. Water-closets, baths, showers, sinks, slop-sinks, faucets and other plumbing fixtures required by this act need not be installed in the event that the tenement house hereafter erected or an existing tenement house, as the case may be, is situated where there is no running water and where there is no practical

means of sewage disposal, until such time as it becomes practicable and possible to obtain running water and means of sewage disposal; provided, in every such case the department charged with the enforcement of this act shall decide whether or not it is practicable and possible to provide running water and proper means of sewage disposal. A special permit in writing shall be obtained in every such case from the department charged with the enforcement of this act, which permit shall be made in duplicate, and a copy thereof shall remain on file in the department issuing it; provided, further, that proper, separate toilet facilities for each sex shall be provided for the use of the occupants of such building. Such facilities shall be made sanitary. A privy, or toilet other than a water-closet, erected under the authority of this section shall consist of a pit at least three feet deep, with suitable shelter over the same to afford privacy, and protection from the elements. The openings of the shelter and pit shall be inclosed by mosquito screening, and the door to the shelter shall be made to close automatically by means of a spring or other device. No privy pit shall be allowed to become filled with excreta to nearer than one foot from the surface of the ground, and the excreta in the pit shall be covered with earth, ashes, lime or similar substances at regular intervals. All drainage water shall be conveyed from the premises by means of a covered drain to a covered cesspool.

§ 44. Plumbing fixtures made sanitary. In every tenement house hereafter erected all plumbing fixtures affecting the sanitary drainage system shall be properly trapped and vented and made sanitary in every particular. In any tenement house hereafter erected, and in any tenement house erected prior to the passage of this act no plumbing fixtures shall be inclosed with woodwork, but the space under and around same must be left entirely open. All woodwork inclosing a water-closet, sink, slop-sink, wash tray or lavatory shall be removed and the floor and wall surface beneath and around such water-closet, sink, slop-sink, wash-tray or lavatory shall be maintained in good repair, and if of wood, well painted with a light-colored paint of sufficient body to make it nonabsorbent. All wooden seats, attached to water-closet bowls, shall be varnished or enameled, or by some other method be made nonabsorbent.

In every tenement house hereafter erected water-closets shall have earthenware bowls and shall have earthenware seats integral with the bowls, or wooden seats varnished or enameled so as to be nonabsorbent, or seats made of some nonabsorbent material attached directly to the bowls. No wooden wash-trays or wooden kitchen sinks shall be permitted in such buildings. All plumbing connections hereafter made in buildings shall be of standard lead, iron, steel or brass; and every gas and water service connection hereafter made shall be of steel or iron, and shall be equipped with cut-off valves placed outside of the building and such cut-off valves shall be readily accessible.

Whenever any plumbing fixture becomes insanitary the department charged with the enforcement of this act is hereby empowered to order the same removed and to order that it be replaced by a fixture conforming to the provisions of this act.

§ 45. Two means of egress. Every tenement house hereafter erected, three or more stories in height and in which there are three or more apartments on any one floor, shall be so designed and constructed that

every apartment in such building shall have not less than two means of egress, either by stairways or fire-escapes, constructed in accordance with the provisions of this act. Such means of egress shall be accessible from every apartment, either directly or through a public hallway, and so located that should one egress be or become blocked, the other egress shall be available.

§ 46. Stairways. Every tenement house hereafter erected shall have not less than two stairways.

Every fireproof tenement house hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each six thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every semi-fireproof tenement house hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each four thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every wooden tenement house hereafter erected shall have not less than one stairway, not less than three feet six inches wide, for each three thousand square feet, or fractional part thereof, of floor area in any one floor above the first floor thereof.

Every tenement house hereafter erected shall have not less than one stairway leading from the outside to every basement or cellar thereof.

§ 47. Computing number of stairways required. The largest floor area above the ground floor shall be used as the basis for computing the number of stairways required in every tenement house hereafter erected; provided, that if all floors above the largest floor area of the building are diminished in area, the stairway or stairways from that portion of the building containing a smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 48. Location of stairways. All stairways hereafter constructed shall be located so as to furnish the best means of egress from the building, and shall be as far removed from each other as practicable, and shall be as follows:

Access to stairways shall be provided at every floor by means of a public hallway, corridor, or passageway, and the public hallway, corridor, passageway and stairway from the ground exit level to the top story or roof shall be accessible at all times.

No stairway shall abut on more than one side of an elevator shaft, except on the lowest and topmost stories, provided that the stairway is so located that it can be approached from the street entrance without passing by or in front of the open side of the said elevator shaft.

No stairway shall be located over a steam boiler, gas meter or gas heater or furnace, unless such boiler, gas meter, gas heater, or furnace be located in a room, the walls and ceiling of which are constructed as required for a boiler-room by section sixty-three of this act. No stairway leading from any other portion of the building shall terminate in or pass through a boiler-room.

§ 49. Construction of stairways. Every stairway hereafter constructed shall be as follows: have a rise of not more than eight inches and a run of not less than nine inches, without change in the run or rise between floors; and shall be provided with head room of not less

than six feet six inches measured from the nearest nosing of the stairway to the nearest soffit.

The depth of every landing in a stairway shall be not less than the width of the stairway, and all treads shall be of equal width for every run of stairs, and shall not vary in width in the width of the stairs.

Stairways required by this act shall be continuous from the ground floor level to the top story, i. e., the flights of such stairways shall be constructed one directly above the other, or shall be constructed so that each flight shall be in plain view of each succeeding flight; provided, however, that half of the stairways from the upper floors may terminate at the second floor, in the event that the stairways from the first to the second floor be increased in width not less than fifty per cent.

Every stairway shall have at least one handrail, and if the stairway be five feet or more in width, shall have a handrail on each side thereof.

The underside and soffits of wooden stairways and the outside stringers of open stairways except outside stairway, in semi-fireproof and wooden tenement houses shall be metal lathed and plastered not less than three-quarters inch thick including the lath, or lathed with an approved plaster board and plastered not less than three-quarters inch thick including the plaster board.

The width of stairways shall be measured in the clear of all projections except the baseboards, and except that handrails and newel posts may project not more than four inches.

§ 50. Space under stairway. No closet of any kind shall be constructed in any tenement house under any wooden stairway, but such space shall be kept entirely open, and be kept clean and free from all encumbrances; or such space shall be effectually closed with walls of studs, lathed and plastered, with no door or opening of any kind therein; provided, however, that the provisions of this section as to a closet under a stairway shall not apply to any tenement house not more than two stories in height, in which not more than two families live above the first floor thereof.

§ 51. Stairway to roof. In tenement house already erected. In every tenement house hereafter erected more than two stories in height, the stairway nearest to the main entrance of the building shall be carried to the roof level and shall give egress to the roof through a penthouse or roof structure.

In every such building not exceeding two stories in height there shall be constructed a scuttle in the public hallway near the stairway. Such scuttle shall be not less than two feet by three feet in area, and shall be cut through the ceiling and roof.

Penthouses over stairways shall be built either of fireproof materials or of wood studs, lathed with metal lath or approved plaster board and plastered not less than three-quarters inch thick including the lath or plaster board on the inside and outside thereof; or such penthouses may be covered in the same manner and with the same kind of materials as required by this act for the doors from such penthouses.

The door to the roof from a penthouse or roof structure shall be self-closing and shall open outward to the roof, and shall be covered on both sides and edges with tin or other metal.

The frames and trim of such door opening shall be similarly constructed and all glass in such door shall be wired glass not less than one-fourth inch thick.

Every tenement-house of more than two stories in height, erected prior to the passage of this act, shall have in the roof a penthouse or a scuttle, which scuttle shall be not less than two feet by three feet in area, located in the ceiling of a public hallway. There shall be provided a stairway or a stationary ladder, leading from the top floor of such tenement house to the roof thereof. Such stairway or stationary ladder shall be made readily accessible to all the tenants of the building. No scuttle or penthouse door shall at any time be locked with a key, but may be fastened on the inside by a movable bolt or lock.

§ 52. **Hallways, etc., from stairways.** Public hallways, landings and corridors from stairways shall be of the same width and measured in the same manner as the stairways, as provided in section fifty hereof.

§ 53. **Fire-escapes. Types of fire-escapes.** On every tenement house hereafter erected more than two stories in height, which contains more than three apartments, there shall be provided at least one fire-escape. If such tenement house exceeds three thousand square feet of floor area on any one floor above the second floor thereof, such building shall be provided with one additional fire-escape for each four thousand square feet of floor area or fractional part thereof.

Fire-escapes required by this act shall be of one of the following types:

Type 1. Metallic throughout and fastened securely to the exterior walls of the building, with a balcony at each story above the first story thereof, with inclined stairways connecting all balconies and a goose-neck ladder connecting the topmost balcony to the roof. The lowest balcony of such fire-escape to be not more than fourteen feet above the street or ground level directly under same.

All metallic balconies shall be not less than forty-four inches in width nor less than thirty-three square feet in area. The stairway openings therein shall be not less than twenty-one inches wide and forty inches in length. The balcony balustrade shall be not less than thirty-four inches high, with no opening in such balustrade greater than eight inches in horizontal dimension.

There shall be no opening greater than one inch in width in a fire-escape balcony platform, except the stair-well opening.

There shall be no opening greater than one inch in width in the lowest fire-escape balcony platform, except that there be attached a counter-balanced or permanent ladder reaching to the street or ground below.

Every balcony platform shall be fastened to the outside walls of the building by building in and anchoring to such walls the balcony platform and the balustrade framing, or by securely bolting same thereto. Every balcony shall be supported by brackets, braces, or struts fastened to or built in and anchored to the walls.

The inclined stairways shall be not less than eighteen inches in width and placed in no part nearer than twenty-one inches from the face of the wall. Such inclined stairways shall have an inclination of not less than four inches and not more than six inches horizontally to each twelve inches of vertical height. The treads shall be not less than four inches

wide, placed not more than twelve inches apart. Each side of such stairways shall be provided with a handrail not less than one inch in diameter fastened to the stair stringers and continued around the well hole openings of balcony platform.

The gooseneck ladder shall be not less than fifteen inches wide and extend vertically from the topmost balcony to three feet above the fire wall or roof above, and then be brought down and fastened to the inside face of the fire wall or to the roof. The rungs of the gooseneck ladder shall be not less than five-eighths inch round iron or steel, placed not more than fourteen inches apart. The gooseneck ladder shall be securely braced and fastened to the outside wall, and in no case shall such ladder pass in front of any opening in the wall to the interior of the building. The cornice opening for the passage of such ladder shall be not less than twenty-four inches in width and twenty-four inches in the clear outside of the ladder.

Such fire-escape shall be framed and riveted or bolted together in a solid, substantial manner and properly supported, braced and fastened to the outside walls so as to be rigid, durable and secure and carry the loads imposed.

All metallic fire-escapes shall be painted with not less than two coats of good, durable paint; or such fire-escapes may be galvanized.

Type 2. Metallic ladders and stairways conforming to the provisions set forth for type one and with reinforced concrete or iron or steel fireproofed balconies, with fastenings of similar materials. Such balconies to measure the full size inside of balustrades. Floor openings and well holes provided and protected similarly to the requirements for metallic balconies.

Type 3. Any type of an inclosed approved metallic spiral fire-escape which consists of a rigid form of an inclined chute or chutes constructed entirely of incombustible material; securely attached to the outside walls of building; provided with proper means of ingress thereto from the building and egress therefrom at the bottom; having means enabling firemen to reach the roof thereby from the ground; equipped with stand-pipes; painted the same as provided for metallic fire-escapes; and satisfactory to the department charged with the enforcement of this act as being as solid, substantial and durable and as fireproof in construction, and providing at least as safe and efficient means of escape from the building for the occupants thereof, and furnishing all the protection and utility of the metallic fire-escapes described as "type one" in this act.

Type 4. Fire and smoke towers, consisting of a fire-escape stairway not less than twenty inches in width, constructed of reinforced concrete, iron or steel, or a combination of these materials; and in all other details as required in this act for metallic fire-escape stairways; said stairways being continuous the full height of the building from the first floor exit level to the roof, and with handrails on each side thereof the full length of same. Such stairways to be constructed at a point adjoining the exterior walls of the building and be entirely inclosed with walls of brick, terra cotta tile, concrete or reinforced concrete not less than twelve inches thick; such walls to be continuous from the basement up to and extending three feet above the roof of the building, with no covering of any kind over same, and with no openings in the walls of such tower into the building. The inclosing walls of such tower not to

be used to carry or support any floor joist, beam, girder or other structural feature of the building, nor to be chased for any pipe, conduit or other purpose; to have an exit from the inclosure at the first floor line opening directly to a street or yard, and having an entrance by means of an outside balcony at each floor, such balconies to have a solid floor and in all other details and kind of materials to be as in this act required for metallic fire-escape balconies. The balconies to be located and arranged to connect with a door opening from a public hallway in the interior of the building and with a door opening leading from the balcony to the tower, such door opening from the building to the balcony and from the balcony to the tower to be not less than thirty inches wide by seventy-two inches high and be equipped with metal-lined doors and with a frame and threshold of such door openings constructed of fireproof materials.

Type 5. A fire and smoke tower in every way similar to "type four" of this section, except that instead of the outside balcony there be built a vestibule with inclosing walls continuous with and of the same kind of materials and of the same thickness as the inclosing walls of the fire tower; that the vestibule opening be direct from a public hallway and be equipped with metal-lined doors. The vestibule floor to be of masonry construction. The inclosure to have an opening at each floor through the exterior wall of the building, such opening to extend from the floor to the ceiling and be not less in width than three-fourths of the width of the tower, said opening to be protected with an open metallic balustrade similar to that specified for metallic fire-escape balconies.

§ 54. **Stairway and fire-escape combined.** In any tenement house hereafter erected in which there is constructed a fire escape of "type four" or "type five," as prescribed in this act, such fire-escape may be used and constructed as a stairway and a fire-escape combined; provided, that there is at least one other stairway or one other fire-escape constructed in accordance with the provisions of this act, in the said building.

§ 55. **Location of fire-escapes.** Every fire-escape required by this act shall be located on the building so as to furnish the best means of escape therefrom for the occupants, and at least one such fire-escape shall be located on a street front. Every fire-escape shall have egress thereto from a public hallway or passageway not less than three feet wide, or such fire-escapes in lieu of being located on a public hallway, shall be so located that each apartment has direct egress thereto without passing through another apartment, or if a public parlor, public lobby or similar room is connected directly with the public hall, corridor or passageway through a clear and unobstructed opening, without doors, then egress may be had thereby to a fire-escape. Signs both pointing toward and marking the locations of fire-escapes shall be placed on each floor.

§ 56. **Computing number of fire-escapes required.** The largest floor area above the second floor shall be used as a basis for computing the number of fire-escapes required by this act; provided, that if all floors above the largest floor area are diminished in size, the number of fire-escapes from that portion of the building containing the smaller area may be computed on the basis of the largest floor area in that portion of the building.

§ 57. Strength of platform, etc. All parts of each balcony platform of a fire-escape shall be designed to carry, in addition to the dead load thereof, a live load of one hundred pounds per square foot over the entire area thereof (using outside dimensions) and the live and dead loads from the ladders or stairs supported thereon.

Each ladder shall be designed to withstand a horizontal pressure of one hundred pounds per square foot.

Each stairway shall be designed to carry, in addition to the dead load thereof, a live load of one hundred fifty pounds per square foot of horizontal projection.

Top rails of balcony balustrades shall be designed to withstand a horizontal pressure of one hundred pounds per lineal foot of railing.

Each balcony shall be independently supported.

All fastenings of fire-escape balconies to the building shall be designed to carry twenty-five per cent greater load than the total dead and live loads carried by the balconies. The balcony anchorage shall be direct to the structural steel or iron members of the balustrades and platforms extended into the walls and anchored into the structural work of the building.

The level of the inside sill of the door or window giving access to a fire-escape balcony or the balcony floor shall be not more than thirty inches above the adjoining floor in the building. Every such door or window opening shall be not less than twenty-nine inches in clear width, nor less than fifty-eight inches in height.

Where double-hung windows are used in such openings, the lower sash shall be at least the size of the upper sash and shall slide to the top of such opening. Any lock used on any such window shall be of a type which can be readily opened from the interior of the building without the use of a key or other tool.

§ 58. Readily accessible. Every fire-escape in or on tenement houses hereafter erected, or in or on tenement houses erected prior to the passage of this act, shall at all times be maintained in good order and repair, well painted and clear and unobstructed at all times, and be readily accessible.

§ 59. Standpipes. On every tenement house hereafter erected four or more stories in height, there shall be provided one or more metallic standpipes. Each such standpipe shall be not less than four inches in internal diameter, and shall have a Siamese inlet valve near the sidewalk or the ground directly under same, and an outlet valve at each story above the first story and on the roof.

One such standpipe shall be placed on or in the exterior walls of the building at one fire-escape on each street frontage, and the outlet valves shall be readily accessible from the balconies of the fire escape.

The inlet and outlet valves on every standpipe shall be threaded and brought to a size which will meet the standard connections of the local fire department of the municipality in which such tenement house is being erected.

The standpipes required by this section need not be installed in any tenement house which is situated where there is no running water and where it is not practicable or possible to obtain water for efficient use of such standpipes in case of fire, until such time as it is practicable

and possible to obtain running water; and the department charged with the enforcement of this act shall decide whether or not it is possible or practicable to obtain running water.

§ 60. Elevator shafts inclosed. In every fireproof tenement house hereafter erected, every elevator shaft, dumb-waiter shaft or other interior shaft shall be inclosed in walls constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard incombustible materials, or shall be constructed of metal studs lathed either with metal lath or an approved plaster board and plastered on both sides so as to make a solid partition not less than two inches thick.

In every semi-fireproof or wooden tenement house hereafter erected, every such shaft shall be inclosed by walls constructed as provided by this act for fireproof tenement houses, or such walls may be constructed with wood studs, with wood firestops the same size as the studs, cut in between the studs at each floor and half way between each floor, lathed on both sides with metal lath or an approved plaster board and be plastered not less than three-quarters inch thick including the lath or the plaster board.

Every opening from any shaft into the building shall be equipped with a metal door and with door frame and trim entirely of metal; or such door and door frame shall be constructed of wood covered with metal on the shaft side thereof and if there is any glass therein, such glass shall be wired glass not less than one-fourth ($\frac{1}{4}$) inch thick. Every door or window therein shall be made to close tight, and every door except elevator doors therein shall be self-closing.

Every window in such shaft shall be of wired glass, not less than one-fourth ($\frac{1}{4}$) inch thick, set in a metal sash or a sash metal covered on the shaft side thereof. At the roof over every elevator shaft there shall be constructed a ventilating skylight or a ventilator with open louvres.

§ 61. Vent shafts inclosed. In every tenement house hereafter erected every vent shaft shall be inclosed with walls constructed the same as required by this act for elevator shaft in the same class of building. Such vent shafts may, in a semi-fireproof or wooden tenement house, be lined on the outside thereof (weather side) with metal in lieu of metal lath and plaster; also, that portion of such shaft extending from the ceiling joists to the top thereof may be lined with metal in the same manner as is required for the weather side of such vent shaft.

Every opening from any vent shaft into the building or any window therein, shall be equipped in the same manner as required by this act for elevator shafts in the same class of building.

Plaster on the weather side of any such shaft shall be cement plaster.

Every vent shaft required by this act shall be not less than four feet in any direction and be at least sixteen square feet in area. If such vent shaft exceeds fifty feet in height, measured from the bottom to the top of the walls of such shaft, then such vent shaft shall throughout its entire height be increased in area three square feet for each additional ten feet or fractional part thereof above fifty feet.

Every such vent shaft shall be provided with an air intake or duct at or near the bottom thereof, communicating with the street or yard

or a court. Such intake shall be not less than three square feet in total area, and may be divided into not more than three separate ducts running between the joists or otherwise, and shall in all cases be placed as nearly horizontal as possible. Every such intake or duct shall be constructed of approved fireproof material or shall be of metal or metal lined, and be provided with a wire screen of not less than one inch mesh at each end. Plumbing, gas, steam or other similar pipes may be placed in such vent shaft.

Every such vent shaft shall have a door or a window at or near the bottom of the shaft, so arranged as to permit of its being readily cleaned out.

§ 62. Walls of inner court. The walls of every inner court in a fireproof tenement house hereafter erected shall be constructed of concrete, reinforced concrete, brick, terra cotta tile or other similar hard incombustible material. In a semi-fireproof or in a wooden tenement house such inner court walls, if surrounded on four sides by the walls of the same building, shall be constructed as provided for fireproof tenement houses, or may be of wood studs, with wood firestops the same sizes as the studs, cut in between the studs at each floor and halfway between each floor, lathed on both sides with metal lath, or an approved plaster board, and be plastered not less than three-quarters inch thick including the lath or the plaster board. Plaster on the weather side of such inner court walls shall be cement plaster, or such inner court walls may be lined on the weather side with not less than the number twenty-six (gauge) metal, in lieu of metal lath and plaster.

§ 63. Boiler-room. Doors in boiler-room. In every tenement house hereafter erected, every boiler used for purposes of heating the building, using fuel other than gas, and every heating furnace or water-heating apparatus, using oil for fuel, shall be installed in a room, the walls of which room shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six (6) inches thick, and such walls shall extend from the floor of the boiler-room to the ceiling over same. The entire ceiling of such room shall be built of similar materials as the walls, or shall be built with a double ceiling, with a space of not less than seven-eighths inch between the two ceilings; each ceiling shall be metal lathed or lathed with an approved plaster board and be plastered not less than three-quarters inch thick, including the lath or plaster board. The floor of a boiler-room shall be of concrete not less than two (2) inches thick.

Any door in the wall of such room shall be a fire-resisting door, constructed of three (3) thicknesses of seven-eighths ($\frac{7}{8}$) inch by not more than six (6) inches, tongued and grooved, matched redwood boards entirely covered on the sides and edges with lock-jointed tin; every such door shall be self-closing, so hung as to overlap the walls of the room at least three (3) inches, and any glass in any such door or any glass in any window or opening in the walls of a boiler-room shall be wired glass, not less than one-fourth ($\frac{1}{4}$) inch thick, set in a metal or metal covered sash.

All such doors shall have hinges, hangers, latches and other hardware of wrought iron, bolted to the doors, and shall have steel tracks, when

sliding doors are used, with wrought-iron stops and binders bolted through the wall. Swinging doors shall have wall eyes of wrought iron, built into or bolted through the wall.

Every such boiler-room shall have a sill across each door not less than four (4) inches high. Such sill shall be of masonry, and the doors shall overlap same at least three (3) inches, or in lieu of a masonry sill a steel or iron sill may be used, in which case the bottom of the door shall close tight on top of same. Every swinging door in a boiler-room shall open outward from the boiler-room.

Where oil or other fluid fuel is burned, the oil or other fluid fuel shall not be fed by a gravity flow.

§ 64. Garage. In every tenement house hereafter erected any portion of such building, in which there is kept or stored any automobile or automobiles, shall be a room, the inclosing partitions of which shall be built of concrete, reinforced concrete, brick, stone or terra cotta tile, not less than six (6) inches thick, or may be of wood studs lined on the automobile storage room side with redwood boards not less than seven-eighths ($\frac{7}{8}$) of an inch thick covered with asbestos paper one-eighth ($\frac{1}{8}$) of an inch thick, and then covered with No. 26 (gauge) galvanized iron, and such inclosing partitions shall extend from the floor of the room to the ceiling of the same. The entire ceiling of such room shall be built of material similar to that used in the construction of its walls, or shall be either metal lathed and be well plastered or be lathed with an approved plaster board and be well plastered. The floor of every such room shall be of concrete not less than two (2) inches thick.

Every door, window or other opening in the walls of such room, opening to the interior of the building, shall be protected in the same manner as required by section sixty-three hereof for doors, windows and other openings in a boiler-room.

§ 65. Height of additional rooms in tenements erected prior to act. In any tenement house erected prior to the passage of this act, every additional room or hallway that is hereafter constructed or created, may be of the same height as the other rooms or hallways on the same story of such tenement house.

§ 66. Windows in tenement already erected. Every room in a tenement house erected prior to the passage of this act shall, if the said room be hereafter occupied for living or sleeping purposes, have a window of an area not less than eight square feet, opening directly upon a street, a yard, a court or upon a vent shaft not less than twenty-five square feet in area, which vent shaft shall in no part be less than four feet wide and open and unobstructed, without roof or skylight over same; except that if such room be located on the top floor of the building, such room may be ventilated by a skylight with fixed louvers directly to the outer air, or may have a window opening upon a vent shaft not less than ten square feet in area, if such window from the room be not more than three feet below the top of the wall of such vent shaft.

Every public hallway in every tenement house erected prior to the passage of this act, which does not conform to the provisions for public hallways in buildings hereafter erected, shall be provided with light

and ventilation to the outer air. Such light and ventilation shall be provided by the placing of windows or skylights, or by making such alterations as in the judgment of the housing department may be deemed necessary to accomplish the result.

§ 67. **Cooking in bath, etc., unlawful. Sleeping in cellar, etc., unlawful. Floor space for each occupant.** It shall be unlawful for any person to cook or to prepare food, or to permit or suffer any person to cook or to prepare food in any bath, shower, slop-sink or toilet-room, water-closet compartment; or in any closet, or recess from a room, or dressing-room, which does not conform to all the provisions of this act as to size of kitchens and windows opening to a street, yard or court, or in any other place in such building which, in the judgment of the department charged with the enforcement of this act, is detrimental to the proper sanitation of such building.

It shall be unlawful for any person to live or sleep, or permit or suffer any person to live or sleep in any cellar, bath or shower compartment or slop-sink room, water-closet compartment, hallway, closet, kitchen, recess from a room or dressing-room, except when such recess from a room or dressing-room has not less than ninety square feet of superficial floor area and complies with every other requirement of this act for rooms, or in any other place which, in the judgment of the department charged with the enforcement of this act, would be dangerous or prejudicial to life or health by reason of want of light, windows, ventilation, drainage, or on account of dampness or offensive, obnoxious or poisonous odors, or in any room that shall be so overcrowded as to afford less than the following floor space for each occupant, in accordance with the age of the said occupant:

Number of persons over 12 years of age	Number of persons under 12 years of age	Superficial floor area required
1 or.....	2.....	60 square feet
2 or.....	4.....	120 square feet
3 or.....	6.....	180 square feet
4 or.....	8.....	240 square feet
5 or.....	10.....	300 square feet
6 or.....	12.....	360 square feet

Additional floor area in the same ratio shall be provided for additional persons.

§ 68. **Lighting of hallways, etc.** In every tenement house there shall be installed and kept burning from sunrise to sunset throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, passageway, public water-closet compartment, or toilet-room, whenever there is insufficient natural light to permit a person to read in any part thereof.

In every tenement house there shall be installed and kept burning from sunset to sunrise throughout the year artificial light sufficient in volume to properly illuminate every public hallway, stairway, fire-escape egress, elevator, public water-closet compartment, or toilet-room and exterior passageway on the lot.

§ 69. Light-colored material on walls. The walls and ceilings of every sleeping-room in every tenement house shall (except when there is sufficient natural light to permit a person to read in any part thereof during daytime) be calcimined or painted or papered with a light-colored material, and such calcimine, paint or paper, as the case may be, shall be renewed as often as is necessary to maintain the same of a light color and clean and free from vermin.

The walls of courts and shafts, unless built of light-colored materials, shall be painted of a light color or whitewashed, and such painting or whitewashing shall be renewed as often as is necessary to maintain the same of a light color.

§ 70. Repapering. No wall, partition or ceiling of any room in any tenement house shall be repapered, calcimined, or have any other covering placed thereupon unless the old wall paper or other covering shall have first been removed therefrom, and the said wall, partition or ceiling cleaned, disinfected and freed from bugs, insects or vermin.

§ 71. Repairs. Every tenement house shall be maintained in good repair. The roofs shall be kept waterproof and all storm or casual water properly drained and conveyed therefrom to the street sewer, storm drain or street gutter.

All portions of the lot about a tenement house, including the yards, areaways, vent shafts, courts and passageways, shall be properly graded and drained; and whenever the department charged with the enforcement of this act deems it necessary for the protection of the health of the occupants of such building, or for the proper sanitation of the premises, it may require that the said lot, yards, areaways, vent shafts, courts and passageways be graveled or properly paved and surfaced with concrete, asphalt or similar materials.

§ 72. Metal mosquito screening. There shall be provided, whenever it is deemed necessary for the health of the occupants of any tenement house or for the proper sanitation or cleanliness of any such building, metal mosquito screening of at least sixteen mesh, set in tight-fitting removable sash, for each exterior door, window or other opening in the exterior walls of the building.

§ 73. Garbage cans. In every tenement house there shall be provided by the occupants, or tenants, such number of tight metal receptacles with close-fitting metal covers for garbage, refuse, ashes and rubbish as may be deemed necessary by the department charged with the enforcement of this act, or in lieu of such metal receptacles there may be constructed a garbage chute or shaft approved by the housing department. Each of said receptacles shall be kept in a clean condition by the occupants, or tenants and in the case of a chute or shaft by the person in charge or in control of the building.

§ 74. Rooms, etc., to be kept clean. Swill, etc., not to be deposited in plumbing fixtures. Every room, hallway, passageway, stairway, wall, partition, ceiling, floor, skylight, glass window, door, carpet, rug, matting, window curtain, wash-closet compartment or room, toilet-room, bathroom, slop-sink, or wash-room, plumbing fixture, drain, roof, closet, cellar, or basement in any tenement house or on the lot, yard, court

or any of the premises thereof, shall be kept in every part clean and sanitary and free from all accumulation of debris, filth, rubbish, garbage or other offensive matter.

No person shall, or cause or permit any person to, deposit any swill, garbage, bottles, ashes, cans or other improper substances in any water-closet, sink, slop-hopper, bathtub, shower, catch-basin, or in any plumbing fixture connection or drain therefrom; or otherwise to obstruct the same; or to place or cause or permit to be placed any filth, urine or other foul matter in any place other than the place provided for same; or to keep or cause or permit to be kept any urine or filth or foul matter in any room or apartment in any tenement house, or in or about the said building or premises thereof, for such length of time as to create a nuisance.

§ 75. Beds kept clean. In every tenement house, every part of every bed, including the mattress, sheets, blankets and bedding, shall be kept in a clean, dry and sanitary condition, free from filth, urine or other foul matter, in or upon the same; and free from the infection of lice, bedbugs or other insects.

§ 76. Dangerous articles not to be kept. In no tenement house or any part thereof, or in the lot, yard, court or any portion thereof, shall there be kept, stored or handled any article dangerous or detrimental to life or to the health of the occupants thereof; nor shall there be stored, kept or handled any feed, hay, straw, excelsior, cotton (paper stock, rags or junk, except upon a written permit so to do, obtained from the fire commissioner or other department authorized to issue such permit. Every such permit shall be deemed to be a public record, made in duplicate, and a copy thereof shall remain on file in the office of the fire commissioner or department issuing same.

§ 77. Animals not to be kept. Bakery. No horse, cow, calf, swine, sheep, goat, rabbit, mule or other animal, chicken, pigeon, goose, duck or other poultry shall be kept in any tenement house or any part thereof; nor shall any such animal or poultry nor shall any stable be kept or maintained on the same lot, yard, court or premises of a tenement house or within twenty feet of any window or door or such building, nor shall there be hereafter constructed, altered, converted or maintained in any tenement house any public automobile garage or machine-shop, or automobile repair-shop.

No bakery or place of business in which fat is boiled shall be constructed or maintained in any tenement house, unless such bakery or place of business in which fat is boiled is constructed of approved fireproof materials, with no openings connecting into the tenement house, and so separated and arranged as to prevent odors from entering such building.

No tenement house shall be connected with or have any door, window or transom opening to any part of a building wherein spirituous liquors, drugs, paint or oil are stored or kept for the purpose of sale or otherwise.

§ 78. Housekeeper in charge. In every tenement house in which eight (8) or more families reside, and in which the owner does not live, there shall be a janitor, housekeeper or other responsible person, who

shall reside in such tenement house or on the same lot or premises thereof and have charge of same.

§ 79. Action to abate nuisance. Authority to execute order. In case any tenement house, or any part thereof, is constructed, altered, converted or maintained in violation of any provisions of this act or of any order or notice of the department charged with its enforcement, or in case a nuisance exists in any such tenement house or building or structure, or upon the lot on which it is situated, said department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said tenement house, building or structure, to prevent any illegal act, conduct or business in or about such tenement house or lot. In any such action or proceeding said department may, by affidavit setting forth the facts, apply to the superior court, or to any judge thereof, for an order granting the relief for which said action or proceeding is brought, or for an order enjoining all persons from doing or permitting to be done any work in or about such tenement house, building, structure or lot, or from occupying or using the same for any purpose, until the entry of final judgment or order. In case any notice or order issued by said department is not complied with, said department may apply to the superior court or to any judge thereof, for an order authorizing said department to execute and carry out the provisions of said notice or order, to remove any violation specified in said order or notice, or to abate any nuisance in or about such tenement house, building or structure, or the lot upon which it is situated. The court, or any judge thereof, is hereby authorized to make any order specified in this section. In no case shall the said department or any officer thereof or the municipal corporation be liable for costs in any action or proceeding that may be commenced in pursuance of this act.

§ 80. Fine a lien. Every fine imposed by judgment under section six of this act upon a tenement house owner shall be a lien upon the house in relation to which the fine is imposed, from the time of the filing of a certified copy of said judgment in the office of the recorder of the county in which said tenement house is situated, subject only to taxes and assessments and water rates, and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department charged with the enforcement of the provisions of this act, upon the entry of such judgment, to file forthwith the copy as aforesaid, and such copy upon filing shall be forthwith indexed by the recorder in the index of mechanics' liens.

§ 81. Notice of pendency of action. In any action or proceeding instituted by the department charged with the enforcement of this act, the plaintiff or petitioner may file, in the county recorder's office of the county where the property affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Said notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards before final judgment or order, or at any time after the service of any notice or order issued by said department. Such notice shall have the same force and effect as the

§ 90. Act of 1911 repealed. The act entitled "An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof and repealing an act entitled 'An act to regulate the building and occupancy of tenement houses in incorporated towns, incorporated cities, and cities and counties, and to provide penalties for the violation thereof' approved April 16, 1909, Statutes of California of 1909, page 948," approved April 10, 1911, Statutes of California, 1911, page 860, and approved June 13, 1913, Statutes of California, 1913, page 737, and approved May 29, 1915, Statutes of California page 952, and all acts amendatory thereof are hereby repealed.

TITLE 589.

UNITED STATES.

ACT 4219.

An act to accept from the United States government the cession of jurisdiction over a portion of the Presidio of the San Francisco military reservation.

[Approved May 17, 1917. Stats. 1917, p. 626. In effect July 27, 1917.]

§ 1. Cession of jurisdiction accepted. The state of California hereby accepts from the United States government the cession of jurisdiction over that portion of the Presidio of the San Francisco military reservation designated by the secretary of war for the use of the Panama-Pacific international exposition company and its successors in interest, pursuant to the act of congress making appropriations for the support of the army for the fiscal year one thousand nine hundred seventeen, approved August 29, 1916, subject to the conditions, reservations and stipulations contained in said act.

ACT 4245a.

An act providing a continuous appropriation for the support and maintenance of the University of California to be an item of the general appropriation bill and repealing the act entitled "An act to provide a continuous appropriation for the support and maintenance of the University of California to be an item of the general appropriation bill," approved March 15, 1901.

[Approved June 6, 1913. Stats. 1913, p. 905.]

Amended 1919, Stats. 1919, p. 829.

The title of the act was amended in 1919 to read as follows: "An act providing a continuous appropriation for the support and maintenance of the University of California and repealing the act entitled "An act to provide a continuous appropriation for the support and maintenance of the University of California to be an item of the general appropriation bill" approved March 15, 1901." [Amendment approved May 22, 1919. Stats. 1919, p. 829.]

The remaining part of the amendment is as follows:

§ 2. Appropriation. Maintenance University of California. In addition to all other sums of money or funds provided for the support and

maintenance of the University of California, and commencing with the seventy-first fiscal year, there is hereby appropriated for such support and maintenance for each biennial period the sum of four hundred thousand dollars. [Amendment approved May 22, 1919; Stats. 1919, p. 829.]

TITLE 593.

UNIVERSITY OF CALIFORNIA.

AOT 4263h.

An act authorizing the construction of the unfinished portion of the library building of the University of California, and the construction of a building for general use as a recitation building, of a building for the use of the college of agriculture, and of a building for the use of the college of natural sciences as a chemistry building, upon the grounds of said University of California at Berkeley; providing for the issuance and sale of state bonds to meet the cost of the foregoing purposes; and providing the necessary moneys for the payment of the principal and interest to become due on said bonds. [Adopted as initiative measure by vote of the people November 3, 1914. Stats. 1915, p. 1923.]

Amended 1915, p. 15; 1917, p. 21.

The amendment of 1917 follows:

§ 3. Sale of bonds on direction of governor. When the bonds authorized by this act to be issued shall have been signed, countersigned, indorsed and sealed, as in section one provided, the state treasurer shall, from time to time, sell such number thereof as the governor of the state may direct to the highest bidder for cash. The governor of the state shall, from time to time, issue to the state treasurer such direction immediately after being requested so to do through and by a resolution duly adopted and passed by a majority vote of the regents of the University of California. Such resolution shall specify the amount of money which, in the judgment of said the regents of the University of California, shall be required at such time, and the governor of the state shall direct the state treasurer to sell such number of bonds as will, at the par value thereof, equal said amount of money so required according to such resolution of the regents of the University of California. Said bonds shall be sold in consecutive numerical order, save and except that the state treasurer may sell two or more bonds at the same time in one lot, which lot, however, shall be made up of bonds consecutively numbered, the first of which in number shall be the first bond in number yet unsold. The state treasurer shall not accept any bid which is less than the par value of the bond or bonds bid for, and to the amount of the accepted bid there shall be added in each case, as a part of the purchase price to be paid by the bidder, the amount of interest which shall have accrued on the bonds bid for between the date of the payment for said bonds and the last preceding interest maturity date. Each bid shall be in writing and signed by the bidder and sealed, and shall be deposited with the state treasurer not later than the last business day preceding the date of sale. Each bid shall be accompanied by the deposit with the state treasurer, either in cash or by certified check on a reputable bank

to prepare students for the profession of public instruction in the kindergartens, elementary and intermediate schools of the state of California. Persons worthily completing said last-named courses, if said courses comply with the minimum requirements fixed by the state board of education of California, shall receive credentials to that effect, which said credentials shall entitle the holders thereof to equal rights and privileges with the holders of diplomas of graduation from the normal schools in securing certificates to teach in the schools of this state.

Courses leading to special high school certificates shall also be given and when such courses are duly accredited by the state board of education persons worthily completing the same shall receive credentials therefor from the regents which shall be of equal value in securing special certificates to teach in the secondary schools of this state with credentials given for the completion of such general courses in any of the normal schools.

§ 4. Measures by board of trustees. The board of trustees of the Los Angeles State Normal School are hereby authorized and directed to take such measures as shall be directed or approved by the regents of the University of California for the accomplishment of the purposes of this act.

§ 5. Appropriation. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, to be expended under the direction of the regents of the University of California, the sum of forty-one thousand dollars for the conduct and maintenance of the said institution during the fiscal year beginning July 1, 1919, and the fiscal year next succeeding, providing the regents of the University of California shall be empowered to limit the total enrollment of students in said branch of the university during the said fiscal years in order that the financial provisions of this act may be sufficient to supply the usual university grade of education.

§ 6. Failure to comply with provisions of act. Upon the failure to maintain the courses and give the instruction as provided in section three of this act, the properties granted by section two of this act shall immediately revert to the state of California and the control of the same by the regents of the state university shall close.

ACT 4263j.

An act to establish a university farm in Riverside county and making an appropriation to carry out the purposes hereof. [Approved May 27, 1919. Stats. 1919, p. 1231. In effect July 27, 1919.]

TITLE 595.

VALLEJO.

ACT 4265.

Charter of. [Stats. 1899, p. 370.]

Amended 1907, p. 1245; 1919, p. 1442.

TITLE 595a.**VENICE.****ACT 4271.**

An act granting to the city of Venice the tide-lands and submerged lands of the state of California within the boundaries of the said city.

[Approved April 10, 1917. Stats. 1917, p. 89. In effect July 27, 1917.]

§ 1. **Tide-lands granted to Venice.** There is hereby granted to the city of Venice, a municipal corporation of the state of California, and to its successors, all the right, title and interest of the state of California held by said state by virtue of its sovereignty, in and to all the tide-lands and submerged lands, whether filled or unfilled; provided, that nothing contained herein shall in any way affect any property held or claimed under, through or from a Mexican grant or patent therefor within the present boundaries and jurisdiction of said city, and situated below the line of mean high tide of the Pacific Ocean, or of any harbor, estuary, bay or inlet within said boundaries, to be forever held by said city, and by its successors, in trust for the uses and purposes and upon the express conditions following, to wit:

(a) **Purposes for which land may be used. Term of franchises and leases.** That said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon, for a period not exceeding twenty-five years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for a period not exceeding twenty-five years, for purposes consistent with the trusts upon which said lands are held by the state of California and with the requirements of commerce or navigation at said harbor;

(b) **Harbor improved without expense to state.** That said harbor shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad, owned or operated by the state of California;

(c) **No discrimination in rates. Right to fish reserved to people.** That in the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors;

Reserving, however, in the people of the state of California the absolute right to fish in the waters of said harbor, with the right of convenient access to said waters over said lands for said purpose.

TITLE 598.**VETERINARY SURGERY.****ACT 4296.**

An act authorizing the state veterinarian to employ throughout the seventy-first and seventy-second fiscal years such inspectors as he may deem necessary to inspect and supervise the dipping of sheep infected and exposed to the disease known as scabies; providing for the compensation and expenses of such inspectors, and making an appropriation therefor.

[Approved May 27, 1919. Stats. 1919, p. 1231. In effect July 27, 1919.]

§ 1. Inspectors of dipping of sheep. The state veterinarian of the state of California is hereby authorized to temporarily employ such inspectors, from time to time, throughout the seventy-first and seventy-second fiscal years, as he may deem necessary for the purpose of inspecting and supervising the dipping of sheep exposed to and infected with the disease known as scabies. The said state veterinarian shall fix the compensation of such inspectors which compensation shall not exceed the sum of five dollars per day, exclusive of their necessary and actual expenses. Such compensation and necessary expenses shall be allowed and paid out of the appropriation herein made.

§ 2. Appropriation. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of nine thousand dollars, or so much thereof as may be necessary, to be used according to law in paying the wages and necessary actual expenses of the inspectors herein provided for, four thousand five hundred dollars of which shall be available during the seventy-first fiscal year, and four thousand five hundred dollars of which shall be available during the seventy-second fiscal year; and the state controller is directed to draw his warrants in favor of the person or persons entitled to the same, and the state treasurer is directed to pay the same.

TITLE 600.**VITAL STATISTICS.****ACT 4302.**

An act to provide a central bureau for the preservation of records of marriages, births and deaths, and to provide for the registration of all births and deaths, the establishment of registration districts under the superintendence of the state bureau of vital statistics; the issuance and registration of burial and disinterment permits and certificates of births and deaths; the appointment of state and local registrars of vital statistics; to prescribe the powers and duties of registrars, coroners, physicians, undertakers, sextons and other persons in relation to such registration and to fix penalties for violation of this act; to create the offices of state and local registrars of vital statistics, to provide for the salary and fees of same; to repeal all acts and parts of acts in conflict herewith.

[Approved May 19, 1915. Stats. 1915, p. 575.]

Amended 1917; Stats. 1917, p. 717; 1919, pp. 446, 759.

The amendments of 1917 and 1919 follow:

§ 1. Bureau of vital statistics. State registrar. Salary. Deputy. Other assistants. The state board of health shall maintain a bureau of vital statistics which shall have charge of such matters and shall have such powers as may from time to time be referred and delegated to it by the state board of health. The board shall appoint a state registrar who, by virtue of his office, shall be director of the bureau of vital statistics. His salary shall be two thousand four hundred dollars per annum. The state registrar shall be a competent vital statistician. He shall have general supervision and control over the bureau of vital statistics. He shall devote his entire time to the duties of his office and shall not engage in any other occupation or business. The board shall appoint also a deputy statistician, whose salary shall be one thousand six hundred dollars per annum, and two copyists, each of whom shall receive a salary of nine hundred dollars per annum. All such salaries shall be paid in the same manner and at the same time as the salaries of state officers. The state board of health may appoint and fix the compensation of such other additional professional and clerical assistants as may be necessary for the purposes of this act, but such compensation shall be paid from its fund for contingent expenses, as provided in the general appropriation act. As soon as practicable the custodian of the capitol shall provide for the bureau of vital statistics in the state capitol at Sacramento, suitable offices, which shall be properly equipped with fireproof vault and filing cases for the permanent and safe preservation of all official records made and returned under this act. [Amendment approved May 18, 1917; Stats. 1917, p. 717.]

§ 2. Duties of state registrar. The state registrar shall under the direction of the state board of health have charge of the registration of births, deaths, and marriages, shall prepare forms and blanks with instructions for obtaining and preserving such records and shall procure the faithful registration of the same in each primary registration district as constituted in section three of this act, and in the bureau of vital statistics of the state board of health at the capitol of the state. The said board shall be charged with the uniform and thorough enforcement of the law throughout the state, and shall promulgate any additional regulations. [Amendment approved May 18, 1917; Stats. 1917, p. 718.]

§ 3. Registration districts. For the purposes of this act the state shall be divided into registration districts as follows: Each city and county, or city and incorporated town having at least five thousand inhabitants at the last federal census, shall constitute a primary registration district; and each county, exclusive of the cities and incorporated towns therein having at least five thousand inhabitants at the last federal census may be subdivided by the state registrar into a sufficient number of primary rural registration districts, the boundaries of which he shall define and which he may alter, combine, or subdivide from time to time as may be necessary to promote efficient and convenient registration of all births and deaths. [Amendment approved May 13, 1919; Stats. 1919, p. 446.]

This section was also amended in 1917. See Stats. 1917, p. 718.

§ 4. Local registrars. Local registrars for primary rural district. Registrar for marriages. Deputy. Subregistrars. The clerk of each city and incorporated town having at least five thousand inhabitants at the last federal census, shall be the local registrar in and for such primary registration district and shall perform all such duties of local registrar as hereinafter provided; provided, however, that in cities and counties and cities having a freeholders' charter, the health officer shall act as local registrar and perform all the duties thereof. The state registrar, subject to the approval of the state board of health or its secretary, shall appoint a local registrar for each primary rural district whose term of office shall be four years, and whom the state registrar may remove forthwith for failure or neglect to perform his duty as prescribed by this act. Each local registrar, besides transmitting to the state registrar each original birth and death certificate registered by him and besides retaining a complete and accurate copy of each such birth and death certificate for the local record of his district as required by section nineteen of this act, shall also transmit to the recorder of the county for a special county record a complete and accurate copy of each original birth and death certificate transmitted by said local registrar to the state registrar; provided, that the health officer of a city and county when acting as local registrar shall not be required to transmit copies of birth or death certificates to the county recorder thereof; and provided, further, that in accordance with sections three thousand seventy-six, three thousand seventy-eight, and three thousand seventy-nine of the Political Code, the county recorder shall be the sole local registrar for marriages performed anywhere in the county. Each local registrar shall immediately appoint a deputy in writing whose duty it shall be to act in his stead in case of his absence or disability; and such deputy shall in writing accept such appointment, and be subject to all rules and regulations governing local registrars. And when it appears necessary for the convenience of the people in any registration district, the local registrar is hereby authorized, with the approval of the state registrar, to appoint one or more suitable persons to act as subregistrars, who shall be authorized to receive certificates and to issue burial or removal permits in and for such portions of the district as may be designated; and each subregistrar shall note, on each certificate, over his signature, the date of filing, and shall forthwith forward all certificates to the local registrar of the district, and in all cases before the third day of the following month; provided, that each subregistrar shall be subject to the supervision and control of the state registrar, and may be by him removed for neglect or failure to perform his duty in accordance with the provisions of this act or the rules and regulations of the state registrar, and shall be subject to the same penalties for neglect of duty as the local registrar. [Amendment approved May 13, 1919; Stats. 1919, p. 446.]

This section was also amended in 1917. See Stats. 1917, p. 719.

§ 5. Burial permits. Removal permit. Body brought into state for burial. The body of any person whose death occurs in this state, or which shall be found dead therein or which shall be brought in from outside the state, shall not be interred, deposited in a vault or tomb, cremated, disinterred or otherwise disposed of, or removed from or into

any registration district, or be temporarily held pending further disposition more than five days after death, unless a permit for burial, removal, or other disposition thereof shall have been properly issued by the local registrar of the registration district in which the death occurred or the body was found, or by the county recorder of the county where said district is located, and it shall be the duty of said county recorder to mail within twenty-four hours the original death certificate to said local registrar; provided, that nothing in this act shall be construed to prevent an undertaker from removing a body from the registration district where the death occurred or the body was found to another registration district in the same or an adjoining county in an undertaker's conveyance for the purpose of preparing said body for burial or shipment. A removal permit must be secured within forty-eight hours and before embalming the body. No body where death occurred from any disease held by the state board of health to be infectious, contagious or communicable and dangerous to the public health shall be removed without first securing a removal permit in the manner provided in section nineteen of this act. And no such burial or removal permit shall be issued by any registrar until, wherever practicable, a complete and satisfactory certificate of death has been filed with him as hereinafter provided; provided, that when a dead body is transported from outside the state into a registration district in California for burial, the transit or removal permit, issued in accordance with the law and health regulations of the place where the death occurred, shall be accepted by the local registrar of the district into which the body has been transported for burial or other disposition, as a basis upon which he may issue a local burial permit, noting upon the face of the burial permit the fact that it was a body shipped in for interment, and giving the actual place of death; and no local registrar shall receive any fee for the issuance of burial or removal permits under this act other than the compensation provided in section twenty. [Amendment approved May 13, 1919; Stats. 1919, p. 447.]

This section was also amended in 1917. See Stats. 1917, p. 720.

§ 7. Certificate of death. Medical certificate. The certificate of death shall contain the following items, which are hereby declared to be necessary for the legal, social, and sanitary purposes subserved by registration records:

(1) Place of death, including state, county, township, village or city. If in a city, the ward, street, and house number; if in a hospital or other institution, the name of the same to be given instead of the street and house number. If in an industrial camp, the name of the camp to be given.

(2) Full name of decedent. If an unnamed child, the surname preceded by "unnamed."

(3) Sex.

(4) Color or race—as white, black, mulatto (or other negro descent), Indian, Chinese, Japanese, or other.

(5) Conjugal condition—as single, married, widowed or divorced.

(5a) Husband of —.

(5b) Wife of —.

(6) Date of birth, including the year, month, and day.

(7) Age, in years, months and days. If less than one day, the hours or minutes.

(8) Occupation. The occupation to be reported of any person, male or female, who had any remunerative employment with the statement of (a) trade, profession or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(9) Birthplace; at least state or foreign country, if known.

(10) Name of father.

(11) Birthplace of father; at least state or foreign country, if known.

(12) Maiden name of mother.

(13) Birthplace of mother; at least state or foreign country, if known.

(14) Signature and address of informant.

(15) Official signature of registrar, with the date when certificate was filed, and registered number.

(16) Date of death, year, month, and day.

(17) Certification as to medical attendance on decedent, fact and time of death, time last seen alive, and the cause of death, with contributory (secondary) cause of complication, if any, and duration of each, and whether attributed to dangerous or insanitary conditions of employment; signature and address of physician or official making the medical certificate.

(18) Length of residence (for inmates of hospitals and other institutions; transients or recent residents) at place of death and in California, together with the place where disease was contracted if not at the place of death, and former or usual place of residence (giving city and state of residence).

(19) Place of burial or removal; date of burial.

(20) Signature and address of undertaker or person acting as such and license number of embalmer.

The personal and statistical particulars (items one to thirteen) shall be authenticated by the signature of the informant who may be any competent person acquainted with the facts.

The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, and said physician shall within fifteen hours after the death deposit the certificate at the place of death, or deliver it to the attending undertaker at his place of business or at the office of said physician. Said physician shall specify in the certificate the time in attendance, the time he last saw the deceased alive and the hour of the day at which death occurred. And he shall further state the cause of death, so as to show the course of disease or sequence of causes resulting in the death, giving first the name of the disease causing death (primary cause) and the contributory (secondary) cause, if any, and the duration of each. Indefinite and unsatisfactory terms denoting only symptoms of disease or conditions resulting from disease will not be held sufficient for the issuance of a burial or removal permit; and any certificate containing only such terms, as defined by the state registrar, shall be returned to the physician or person making the medical certificate for correction and more definite statement. Causes of death which may be the result of either disease or violence shall be carefully defined; and if from violence, the means of injury shall be

stated, and whether (probably) accidental, suicidal, or homicidal. And for deaths of nonresidents, transients or recent residents in hospitals or institutions, the physician shall supply the information required under this head (item eighteen) if he is able to do so, and shall state where, in his opinion, the disease was contracted. [Amendment approved May 18, 1917; Stats. 1917, p. 720.]

§ 10. Removal of body from one district to another. The removal of a dead body from one registration district to another must be accompanied by a yellow transit paster prepared according to a form prescribed by the state board of embalmers and approved by the state board of health. [Amendment approved May 18, 1919; Stats. 1919, p. 759.]

This section was also amended in 1917. See Stats. 1917, p. 722.

§ 13. Certificate of birth. Duty of father, mother, etc. Within thirty-six hours after the date of each birth, there shall be filed with the local registrar of the district in which the birth occurred a certificate of such birth, which certificate shall be upon the form adopted by the state board of health with a view to procuring a full and accurate report with respect to each item of information enumerated in section fourteen of this act.

In sparsely-settled districts or where there is no direct mail communication with the county seat a reasonable time shall be fixed by the local registrar.

In each case where a physician, or midwife, or person acting as midwife, was in attendance upon the birth, it shall be the duty of such physician to file in accordance herewith the certificate herein contemplated.

In case no physician was in attendance it shall be the duty of the midwife or person acting as midwife to file such certificate.

In every case it shall be the duty of the father or mother of the child, the householder or owner of the premises where the birth occurred or the manager or superintendent of the public or private institution where the birth occurred, each in the order named, within ten days after the date of such birth, to report to the local registrar the fact of such birth. In such case and in case the physician, midwife, or person acting as midwife, in attendance upon the birth is unable, by diligent inquiry, to obtain any item or items of information contemplated in section fourteen of this act, it shall then be the duty of the local registrar to secure from the person so reporting, or from any other person having the required knowledge, such information as will enable him to prepare the certificate of birth herein contemplated, and it shall be the duty of the person reporting the birth or who may be interrogated in relation thereto to answer correctly and to the best of his knowledge all questions put to him by the local registrar which may be calculated to elicit any information needed to make a complete record of the birth as contemplated by said section fourteen, and it shall be the duty of the informant as to any statement made in accordance herewith to verify such statement by his signature, when requested so to do by the local registrar. [Amendment approved May 18, 1917; Stats. 1917, p. 722.]

§ 14. Items in certificate of birth. Certificate of physician or midwife. The certificate of birth shall contain the following items, which are

hereby declared necessary for the legal, social, and sanitary purposes subserved by registration records:

(1) Place of birth, including state, county, township or town, village or city. If in a city, the ward, street and house number; if in a hospital or other institution, the name of the same to be given, instead of the street and house number.

(2) Full name of child. If the child dies without a name, before the certificate is filed, enter the words "died unnamed." If the living child has not yet been named at the date of filing certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report, as hereinafter provided.

(3) Sex of child.

(4) Whether a twin, triplet, or other plural birth. A separate certificate shall be required for each child in case of plural births.

(5) For plural births, number of each child in order of birth.

(6) Date of birth, including the year, month, and day.

(7) Full name of father.

(8) Residence of father (giving city and state of residence).

(9) Color or race of father.

(10) Age of father at last birthday, in years.

(11) Birthplace of father; at least state or foreign country, if known.

(12) Occupation of father. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(13) Maiden name of mother.

(14) Residence of mother (giving city and state of residence).

(15) Color or race of mother.

(16) Age of mother at last birthday, in years.

(17) Birthplace of mother; at least state or foreign country, if known.

(18) Occupation of mother. The occupation to be reported if engaged in any remunerative employment, with the statement of (a) trade, profession, or particular kind of work; (b) general nature of industry, business or establishment in which employed (or employer).

(19) Number of children born to this mother, including present birth.

(20) Number of children of this mother living.

(21) The certification of attending physician or midwife as to attendance at birth, including statement of year, month, day (as given in item seven), and hour of birth, and whether the child was born alive or still-born. This certification shall be signed by the attending physician or midwife, with date of signature and address; if there is no physician or midwife in attendance, then by the father or mother of the child, householder, owner of the premises, or manager or superintendent of public or private institution where the birth occurred, or other competent person, whose duty it shall be to notify the local registrar of such birth, as required by section thirteen of this act.

(22) Exact date of filing in office of local registrar, attested by his official signature, and registered number of birth, as hereinafter provided. [Amendment approved May 8, 1917; Stats. 1917, p. 722.]

§ 18. **Forms and blanks. Records not to be changed.** The state registrar shall prepare and distribute all forms and blanks for use in registering, recording and preserving the returns, or in otherwise carrying

out the purposes of this act; and shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other forms or blanks shall be used than those prepared by the state registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. Whenever a certificate is returned by a local registrar other than the registrar of the district in which the deceased resided, in the case of a death, or in which the father and mother of a child reside, in the case of a birth certificate, if the place of residence is a city within this state and having at least two thousand five hundred inhabitants at the last federal census, the state registrar shall mail to the local registrar of such city of residence, a complete copy of the certificate. And all physicians, midwives, informants, undertakers, clergymen, or judges, and all other persons having knowledge of the facts, are hereby required to supply, upon the forms provided or upon the original certificate, such information as they may possess regarding any birth or death or marriage upon demand of the state registrar, in person, by mail, or through the local registrar; provided, that no certificate of birth or death or marriage, after its acceptance for registration by the local registrar, and no other record made in pursuance of this act, shall be altered or changed in any respect, except where supplemental information required for statistical purposes is furnished.

(a) **When facts not correctly stated. Preservation of certificates. Infectious diseases. Records of church associations, etc.** Whenever it may be alleged that the facts are not correctly stated in any certificate of birth, death, or marriage, already registered, the local registrar shall require an affidavit under oath to be made by the person asserting the fact, setting forth the changes necessary to make the record correct, and supported by the affidavit of one other credible person having knowledge of the facts. Having received such affidavits, the local registrar shall file them together with an amended certificate and he shall note the fact of the amendment with its date on the margin of the otherwise unaltered original certificate. He shall transmit the original certificate with the affidavits and amended certificate attached when making his regular monthly returns to the state registrar. He shall also retain copies for his files. If the correction relates to a certificate previously returned to the state registrar the local registrar shall forthwith transmit the affidavits to the state registrar. If the correction is first made in the state bureau of vital statistics the state registrar shall transmit a certified copy of the amended certificate to the local registrar.

The state registrar shall further arrange, bind and permanently preserve the certificates in a systematic manner and shall prepare and maintain a comprehensive and continuous card index of all births and deaths registered; said index to be arranged alphabetically, in the case of deaths, by the names of decedents, and in the case of births, by the names of fathers and maiden names of mothers, and in the case of marriages by the names of both grooms and brides. He shall inform all registrars what diseases are to be considered infectious, contagious, or communicable and dangerous to the public health, as decided by the

state board of health, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread. If any cemetery company or association, or any church or historical society or association, or any other company, society or association, or any individual, is in possession of any record of births or deaths which may be of value in establishing the genealogy of any resident of his state, such company, society, association or individual, may file such record or a duly authenticated transcript thereof with the state registrar, and it shall be the duty of the state registrar to preserve such record or transcript and to make a record and index thereof in such form as to facilitate the finding of any information contained therein. Such record and index shall be open to inspection by the public, subject to such reasonable conditions as the state registrar may prescribe. If any person desires a transcript of any record filed in accordance herewith, the state registrar shall furnish the same upon application, together with a certificate that it is a true copy of such record, as filed in his office. [Amendment approved May 18, 1917; Stats. 1917, p. 724.]

§ 21. Certified copies of records. Fee for searching files. The state or local registrar shall forthwith upon request supply to any applicant a certified copy of the record of any birth or death or marriage registered under provisions of this act, for the making and certification of which he shall be entitled to a fee of fifty cents, to be paid by the applicant. And any such copy of the record of a birth or death or marriage when properly certified by the state or local registrar to have been so registered within a period of one year from the date of the event, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files and records when no certified copy is made the state registrar or local registrar shall be entitled to a fee of fifty cents for each hour or fractional hour of time of search, such fee to be paid by the applicant. The state registrar shall keep a true and correct account of all fees by him received under these provisions, and such money so received by the state registrar shall be deposited with the state treasurer, who shall credit the amount to the fund provided and to be used for the payment of the traveling and contingent expenses of the state board of health, and the money so collected by the local registrar shall be paid by him into the county or city treasury, as the case may be; provided, that the local registrar shall, upon request of any parents or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment; and provided, further, that the United States census bureau may obtain, without expense to the state, transcripts of births and deaths without payment of the fees herein prescribed.

(b) **Petition to court to establish record. Order of court. Form.** If, upon such search it shall develop that for any cause any birth or death, or marriage, occurring in this state was not registered in conformity with the provisions of law in effect at the time when such birth or death or marriage occurred by the filing of the certificate therefor with the local registrar within a period of one year from the date of the event, any person beneficially interested in establishing of record the fact of such birth or death or marriage may petition the superior court

of the county in which such birth or death or marriage is alleged to have occurred for an order judicially establishing the fact of such birth or death or marriage. Such petition shall be verified and shall contain all the data necessary to enable the court, upon hearing the same, to determine the fact of such birth or death or marriage upon the proofs adduced in behalf of the petitioner at the hearing thereof. A copy of such petition shall be served upon the local registrar of vital statistics, and also upon the district attorney of the county in which such birth or death or marriage is alleged to have occurred, and either of said officials shall have the right in his discretion to appear at such hearing and oppose the making of such order. Such hearing shall be had at such time as the court may appoint, not less than ten days subsequent to the date of filing such petition, and notice thereof must be given by publication for the same time and in the same manner required by law to be given prior to the hearing of the petition for the admission to probate of any will, or the issuance of letters testamentary or of administration thereon.

If, upon such hearing, the proofs of the allegation of the petition are established, to the satisfaction of the court, the court may make an order determining that such birth, death or marriage did in fact occur in such county and at the time shown by the proofs adduced upon such hearing.

Such order must be made in the form and upon the blank prescribed and furnished by the state registrar and but one birth, death or marriage may be included therein. And said order shall become effective upon the filing of a certified copy thereof with the local registrar of vital statistics, and the delivery therewith for transmittal to the state registrar of a standard certificate containing such facts and signatures as are obtainable, and upon the filing of a certified copy of said order with the state registrar. [Amendment approved May 13, 1919; Stats. 1919, p. 448.]

This section was also amended in 1917. See Stats. 1917, p. 726.

§ 23. Local registrars to enforce act. Duty of state registrar. Under the supervision and direction of the state registrar, each local registrar is hereby charged with the strict and thorough enforcement of the provisions of this act in his registration district. He shall make an immediate report to the state registrar of any violation of this law coming to his knowledge, by observation or upon complaint of any person, or otherwise.

The state registrar is hereby charged with the thorough and efficient execution of the provisions of this act in every part of the state, and is hereby granted supervisory power over local registrars, deputy local registrars, and subregistrars, to the end that all of its requirements shall be uniformly complied with. The state registrar, either personally or by an accredited representative, shall have authority to investigate cases of irregularity or violation of law. When the state board of health or its secretary shall deem it necessary, it or he shall report cases of violation of any of the provisions of this act to the prosecuting attorney of the county, with a statement of the facts and circumstances; and when any such case is reported to him by the state board of health or its secretary, the prosecuting attorney shall forthwith initiate and

promptly follow up the necessary court proceedings against the person or corporation responsible for the alleged violation of law. And upon request of the state board of health or its secretary, the attorney general shall assist in the enforcement of the provisions of this act. [Amendment approved May 18, 1917; Stats. 1917, p. 727.]

TITLE 602a.

WAR.

ACT 4314.

An act to create a state council of defense to make investigations into the effect of the occurrence of war upon the civil and economical life of the people of the state of California; to recommend to the governor measures to provide for the public security, the better protection of public health, a fuller development of the economic resources of the state and the encouragement of military training; to impose upon public officers certain duties in connection herewith; and to make appropriation for the purposes of this act.

[Approved March 29, 1917. Stats. 1917, p. 24. In effect immediately.]

§ 1. State council of defense created. There is hereby created a council, known as the state council of defense to consist of not more than thirty-three members who shall be appointed by the governor, to serve at his pleasure, from among those holding public office under the state of California, from among the personnel of the army and navy of the United States and other branches of the national administration with the consent of federal authority, from members of the staff of the University of California and from qualified citizens of the state and nation.

§ 2. Duties. It shall be the duty of the state council of defense at once to take under consideration the effects of the occurrence of war upon the people of the state of California; to consider measures for public defense and security, for the protection of routes of communication, for the betterment and protection of public health, for the public care and assistance of individuals and classes upon whom the hardships occasioned by war would fall most heavily, for the fuller development of the resources of the state, particularly those from which are derived the supplies of food and other commodities upon which the conduct of war makes especial drain; to encourage the military training of the citizens of the state; to examine into measures to increase the public revenue to meet war demands and to effect the elimination of waste and extravagance; and to consider measures to be taken to meet the exigencies of all situations occasioned by war.

§ 3. Officers. The governor shall be ex-officio chairman of the state council of defense. He shall designate the vice chairman, and shall appoint an executive committee and such subcommittees as he shall deem advisable. He shall have power to employ such assistance and to make such expenditures as he may deem necessary to carry out the purposes of this act. He may, when he deems it expedient, dissolve the state council of defense or cause its activities to be suspended or terminated.

§ 4. Compensation. Members of the state council of defense shall serve without pay, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties hereunder; provided, however, that the vice-chairman shall devote his entire time to the work of the state council of defense and shall receive such compensation as the governor may determine.

§ 5. Headquarters. The headquarters of said council shall be in the state capitol, but the governor may establish branch offices elsewhere and may call meetings to be held at such times and places as he may deem expedient. It shall be the duty of every public officer, board, or commission of the state of California to render to the governor and to the state council of defense, at the request of the governor, all possible assistance and to make such investigations and supply such data as the governor may at any time require.

§ 6. Appropriation. The sum of one hundred thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to carry out the purposes of this act. The state controller is hereby authorized and directed to draw his warrants in favor of the governor from time to time in such sums as the governor may designate, and the state treasurer is hereby authorized and directed to pay the same. This appropriation is hereby exempted from the operation of the provisions of section six hundred seventy-two of the Political Code; provided, however, that no liability in excess of one hundred dollars shall be incurred without the approval of the governor; and provided, further, that the state council of defense shall submit to the legislature, through the governor, a report including as full a statement of the activities of the council as is consistent with the public interest, together with an account of the expenditures made by the council, or authorized by it, in as full detail as the public interest will permit.

§ 7. Urgency measure. Inasmuch as the President of the United States has called the congress to meet in special session to consider measures for the national defense and has summoned the national guard of the state of California, it is hereby declared that this act is necessary for the immediate preservation of the public peace and safety, and that under the provisions of section one of article four of the constitution an urgency exists, and this act shall take effect immediately.

ACT 4315.

An act to make available for the use of the United States war department suitable places in this state for the public defense, and for that purpose authorizing any county or municipal corporation now or hereafter organized to incur indebtedness, issue negotiable bonds, levy taxes to pay the principal and interest thereof, acquire by condemnation or otherwise land within the county or municipal corporation, and in consideration of the benefits to be derived therefrom by such county or municipal corporation to convey the same to the United States for the use of the war department thereof; conferring on such counties and municipal corporations the power of eminent domain for the purposes of this act and providing the procedure therefor; granting the consent of the state to such con-

veyance and ceding exclusive jurisdiction to the United States over the land so conveyed.

[Approved April 21, 1919. Stats. 1919, p. 125. In effect July 22, 1919.]

§ 1. Indebtedness to secure land for United States war department authorized. Whenever the board of supervisors of any county or the legislative body of any municipal corporation now or hereafter organized in this state shall consider it desirable or expedient to tender to the United States for the use of the war department thereof, a designated number of acres at such location or locations within any such county or municipal corporation as may be determined upon by the said board of supervisors or legislative body, and such board of supervisors or legislative body shall also determine that it is desirable for the general welfare and benefit of the people of such county or municipal corporation and for the interests of the county or municipal corporation to incur an indebtedness in an amount sufficient to acquire land in such county or municipal corporation aggregating approximately the number of acres so designated at such location or locations as may have been selected and designated by the said board of supervisors or legislative body and in consideration of the benefits to be derived therefrom by such county or municipal corporation, to convey all such lands to the United States to be used by the war department of the United States for its use, such county or municipal corporation is hereby authorized and empowered by and through its said board of supervisors or legislative body to incur an indebtedness evidenced by negotiable bonds of such county or municipal corporation for such purposes, in any amount not exceeding, together with all existing bonded indebtedness of such county or municipal corporation, five per cent of the taxable property of the county or municipal corporation, as shown by the last equalized assessment book thereof, whenever two-thirds of the qualified electors of the county or municipal corporation voting thereon shall assent thereto, at any election, either general or special, at which the proposal to incur such bonded indebtedness may be submitted to such electors in the manner provided by law.

§ 2. Bonds. The bonds authorized to be issued under the provisions of this act in the case of a county shall be issued in the manner provided for in section four thousand eighty-eight of the Political Code, and payment thereof, both principal and interest, shall be provided for by a tax levy in the same manner as is provided in said section for the payment of principal and interest of other bonds issued by any county, and said section, except as herein modified, is hereby specifically made applicable to all bonds at any time issued under the provisions of this act. The bonds authorized to be issued under the provisions of this act in the case of municipal corporations shall be issued in the manner provided for in an act entitled "An act authorizing the incurring of indebtedness by cities, townships and municipal corporations for municipal improvements, regulating the acquisition, construction and completion thereof," which became a law on February 25, 1901, without the approval of the governor, and the amendments thereto, and the payment thereof, both principal and interest, shall be provided for by a tax levy in the same manner as is provided in said act for the payment

of the principal and interest of other bonds issued by any such municipal corporation, and said act, except as herein modified is specifically made applicable to all bonds at any time issued under the provisions of this act.

§ 3. Right of eminent domain granted. The acquisition of land for the use thereof by the war department of the United States and all such military purposes as are now or may be then or thereafter authorized or provided by or under any law of the United States is hereby declared to be a public use, and the right of eminent domain is hereby granted and extended to every county and municipal corporation availing itself of the provisions of this act for every purpose of condemnation, appropriation or disposition intended by this act and such county or municipal corporation is hereby authorized and empowered to condemn and appropriate all lands and rights whatsoever necessary or convenient for carrying out the provisions of this act. Such right of eminent domain may be exercised on behalf of such public use in accordance with the provisions of Title VII, Part III of the Code of Civil Procedure of the state of California.

§ 4. Title to conveyed lands. Pursuant to the constitution and laws of the United States and especially to paragraph seventeen of section eight of article one of such constitution, the consent of the legislature of the state of California is hereby given to the United States to acquire, upon the conditions and for the purposes herein set forth, from any county or municipal corporation acting under the provisions of this act, title to all lands herein intended to be referred to; such title to be evidenced by a deed or deeds of such county or municipal corporation, signed by the chairman of said board of supervisors or the chairman of said legislative body and attested by the clerk of such county or municipal corporation under seal, and consent of the state of California is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever over such tracts or parcels of land so conveyed by it; subject, however, to the right of the state to have concurrent jurisdiction so far that all process, civil or criminal, issued under authority of the state may be executed by the proper officers thereof within such tract, upon any person or persons amenable to the same in like manner and with like effect as if such conveyance had not been made. The said board of supervisors or legislative body shall have the power to insert in every conveyance made under the authority of this act, such conditions subsequent as such board or legislative body shall deem necessary to insure the use of such lands by the United States government for the purposes herein mentioned and to carry out the provisions of this act.

ACT 4316.

An act to provide for depositing moneys of the Spanish-American war of 1898 account in the state treasury and their method of disbursement.

[Approved May 9, 1919. Stats. 1919, p. 514.]

§ 1. Deposit of moneys of Spanish-American war accounts. The state treasurer is authorized to deposit in the state treasury any and all moneys belonging to the Spanish-American War of 1898 account.

veyance and ceding exclusive jurisdiction to the United States over the land so conveyed.

[Approved April 21, 1919. Stats. 1919, p. 125. In effect July 22, 1919.]

§ 1. Indebtedness to secure land for United States war department authorized. Whenever the board of supervisors of any county or the legislative body of any municipal corporation now or hereafter organized in this state shall consider it desirable or expedient to tender to the United States for the use of the war department thereof, a designated number of acres at such location or locations within any such county or municipal corporation as may be determined upon by the said board of supervisors or legislative body, and such board of supervisors or legislative body shall also determine that it is desirable for the general welfare and benefit of the people of such county or municipal corporation and for the interests of the county or municipal corporation to incur an indebtedness in an amount sufficient to acquire land in such county or municipal corporation aggregating approximately the number of acres so designated at such location or locations as may have been selected and designated by the said board of supervisors or legislative body and in consideration of the benefits to be derived therefrom by such county or municipal corporation, to convey all such lands to the United States to be used by the war department of the United States for its use, such county or municipal corporation is hereby authorized and empowered by and through its said board of supervisors or legislative body to incur an indebtedness evidenced by negotiable bonds of such county or municipal corporation for such purposes, in any amount not exceeding, together with all existing bonded indebtedness of such county or municipal corporation, five per cent of the taxable property of the county or municipal corporation, as shown by the last equalized assessment book thereof, whenever two-thirds of the qualified electors of the county or municipal corporation voting thereon shall assent thereto, at any election, either general or special, at which the proposal to incur such bonded indebtedness may be submitted to such electors in the manner provided by law.

§ 2. Bonds. The bonds authorized to be issued under the provisions of this act in the case of a county shall be issued in the manner provided for in section four thousand eighty-eight of the Political Code, and payment thereof, both principal and interest, shall be provided for by a tax levy in the same manner as is provided in said section for the payment of principal and interest of other bonds issued by any county, and said section, except as herein modified, is hereby specifically made applicable to all bonds at any time issued under the provisions of this act. The bonds authorized to be issued under the provisions of this act in the case of municipal corporations shall be issued in the manner provided for in an act entitled "An act authorizing the incurring of indebtedness by cities, townships and municipal corporations for municipal improvements, regulating the acquisition, construction and completion thereof," which became a law on February 25, 1901, without the approval of the governor, and the amendments thereto, and the payment thereof, both principal and interest, shall be provided for by a tax levy in the same manner as is provided in said act for the payment

of the principal and interest of other bonds issued by any such municipal corporation, and said act, except as herein modified is specifically made applicable to all bonds at any time issued under the provisions of this act.

§ 3. Right of eminent domain granted. The acquisition of land for the use thereof by the war department of the United States and all such military purposes as are now or may be then or thereafter authorized or provided by or under any law of the United States is hereby declared to be a public use, and the right of eminent domain is hereby granted and extended to every county and municipal corporation availing itself of the provisions of this act for every purpose of condemnation, appropriation or disposition intended by this act and such county or municipal corporation is hereby authorized and empowered to condemn and appropriate all lands and rights whatsoever necessary or convenient for carrying out the provisions of this act. Such right of eminent domain may be exercised on behalf of such public use in accordance with the provisions of Title VII, Part III of the Code of Civil Procedure of the state of California.

§ 4. Title to conveyed lands. Pursuant to the constitution and laws of the United States and especially to paragraph seventeen of section eight of article one of such constitution, the consent of the legislature of the state of California is hereby given to the United States to acquire, upon the conditions and for the purposes herein set forth, from any county or municipal corporation acting under the provisions of this act, title to all lands herein intended to be referred to; such title to be evidenced by a deed or deeds of such county or municipal corporation, signed by the chairman of said board of supervisors or the chairman of said legislative body and attested by the clerk of such county or municipal corporation under seal, and consent of the state of California is hereby given to the exercise by the congress of the United States of exclusive legislation in all cases whatsoever over such tracts or parcels of land so conveyed by it; subject, however, to the right of the state to have concurrent jurisdiction so far that all process, civil or criminal, issued under authority of the state may be executed by the proper officers thereof within such tract, upon any person or persons amenable to the same in like manner and with like effect as if such conveyance had not been made. The said board of supervisors or legislative body shall have the power to insert in every conveyance made under the authority of this act, such conditions subsequent as such board or legislative body shall deem necessary to insure the use of such lands by the United States government for the purposes herein mentioned and to carry out the provisions of this act.

ACT 4316.

An act to provide for depositing moneys of the Spanish-American war of 1898 account in the state treasury and their method of disbursement.

[Approved May 9, 1919. Stats. 1919, p. 514.]

§ 1. Deposit of moneys of Spanish-American war accounts. The state treasurer is authorized to deposit in the state treasury any and all moneys belonging to the Spanish-American War of 1898 account.

§ 2. Disbursement. The state controller shall draw warrants against said fund and the state treasurer shall pay said warrants, on vouchers presented and approved by the adjutant-general and the governor of the state.

ACT 4316a.

An act to provide for a suitable memorial in the capitol extension buildings in Sacramento for the part taken by residents of California in the world war.

[Approved May 27, 1919. Stats. 1919, p. 1139.]

§ 1. Memorial room in capitol extension building. The state building commission as established by the provisions of chapter two hundred thirty-five of the statutes of 1913 is hereby authorized and directed, in completing plans for the capitol extension buildings in the city of Sacramento, to cause to be incorporated in such plans a room, apartment or such other structure or feature as may be deemed an appropriate memorial of the part taken by residents of California in the army and navy of the United States during the great world war, and the victory for world liberty in battles on land and sea and in the air; to perpetuate the memory of those who gave up their lives in the cause of their country, and the services and sacrifices of those who gave of their time and their means in the auxiliary activities of war services, and the noble record made by the people of this state in the moral and material support rendered the state and national government in every way during the war period.

TITLE 603.

WAREHOUSES.

ACT 4320.

An act to make uniform the law of warehouse receipts.

[Approved March 19, 1909. Stats. 1909, p. 437.]

Amended 1919; Stats. 1919, p. 398.

The amendment of 1919 follows:

§ 27. Lien on goods for lawful charges. Subject to the provisions of section thirty, a warehouseman shall have a lien on goods deposited by the owner or by the legal possessor of the property or on the proceeds thereof in his hands, for all lawful charges for storage and preservation of the goods; also for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing, cooping and other charges and expenses in relation to such goods; also for all reasonable charges and expenses for notice, and advertisements of sale, and for sale of the goods where default has been made in satisfying the warehouseman's lien. [Amendment approved May 11, 1919; Stats. 1919, p. 398.]

§ 28. Enforcement of lien. Subject to the provisions of section thirty, a warehouseman's lien may be enforced:

(a) Against all goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is asserted; and

(b) Against all goods belonging to others which have been deposited at any time by the person who is liable as debtor for the claims in regard to which the lien is asserted, if such person was in legal possession of the goods when they were deposited. [Amendment approved May 11, 1919; Stats. 1919, p. 398.]

ACT 4321.

An act defining "food commodities" and "food warehouseman"; declaring food warehousemen to be public utilities and subject to control and regulation by the railroad commission as specifically provided; prohibiting the storage of food commodities except in accordance with the provisions of this act; making unlawful certain discriminating and monopolizing practices by food warehousemen and those dealing with food warehousemen, except as provided by the railroad commission; requiring food warehousemen to file schedules showing certain rates, charges, and other matters with the railroad commission and to keep the same open to public inspection, and providing for the uniform operation of such rates and charges, and prohibiting the business of storing food commodities unless such schedules are filed and made public, and empowering the railroad commission to fix the rates, charges, rules and regulations of food warehousemen, to change the form of such schedules and forbidding, except as otherwise ordered by the railroad commission, changes in or departures from such schedules except on certain conditions, and forbidding acceptance of rates or charges differing from the rates or charges in such schedules by those dealing with food warehousemen, subject to exceptions by the railroad commission; declaring certain contracts illegal and void and forbidding recovery thereon; providing for applications and complaints and other procedure before the railroad commission and the courts in matters wherein authority is conferred by this act upon the commission; defining the duties of the attorney general upon the violation of certain provisions; providing for actions to enjoin violations of certain provisions and to recover damages for such violations; making the violation of certain provisions a misdemeanor; and providing penalties; and declaring the purpose and effect of this act.

[Approved May 5, 1919. Stats. 1919, p. 314. In effect July 22, 1919.]

§ 1. Title. "Food commodities." This act shall be known as the "food warehousemen act," and shall apply to the public utilities herein described. The term "food commodities" as used in this act shall be construed to mean all products, stuffs, preparations, substances, or articles which are customary or proper for food for human beings, and shall include meat and meat products, fruit, vegetables, fresh fish, shellfish, game, poultry, eggs, butter, cheese and milk.

§ 2. Definitions of terms. The term "commission" when used in this act means the railroad commission of the state of California. The term "commissioner" when used in this act means one of the members of the commission. The term "corporation" when used in this act, includes a corporation, a company, an association and a joint stock association. The term "person" when used in this act, includes an individual, a firm

and a copartnership. The term "food warehouseman" as used in this act shall be construed to mean and shall include every person, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever owning, controlling, operating, or managing any building, structure, warehouse, elevator or plant in which food commodities, regularly received from the public generally, are stored for compensation, including cold-storage plants and refrigerating plants, but not including private homes, hotels, restaurants or exclusively retail establishments or others not storing articles of food for other persons for compensation. Every person, or corporation controlling, operating, or managing any building, structure, warehouse, elevator, or plant as aforesaid, shall be deemed to be engaged in the storage of food commodities within the meaning of this act.

§ 3. Food warehouses declared public utilities. Every food warehouseman doing business in the state of California is hereby declared to be a public utility, and subject to the jurisdiction, control and regulation of the railroad commission of the state of California as hereinafter in this act provided.

No food warehousemen shall engage in the storage of food commodities in the state of California, except in accordance with the provisions of this act.

§ 4. Discrimination by warehousemen unlawful. Power of commission. It shall be unlawful for any food warehouseman, doing business in the state of California, to discriminate, attempt to discriminate between persons, firms or corporations offering food commodities for storage or desiring to avail themselves of the warehousing or storage facilities afforded by such food warehouseman; or to accept food commodities from any person, firm or corporation at rates or charges in excess of rates or charges exacted or received from other persons, firms or corporations for the same or substantially similar warehousing or storage service; or to grant, allow, or deduct from the rates or charges exacted or received for warehousing or storage service from any person, firm or corporation any rebate, discount, deduction, concession, refund, or remittance not granted and allowed to all other persons, firms, or corporations under the same or substantially similar circumstances and conditions; or to make or give, or attempt to make or give, any preference or advantage to any person, firm or corporation not made or given to every other person, firm or corporation; or by any scheme of rebates, discounts, deductions, concessions, refunds, remittances, collateral contracts, discriminating charges, discriminating rates, or in the service or facilities afforded, or by any other device whatsoever, discriminate or show preference, or attempt to discriminate or show preference, between persons, firms, or corporations offering food commodities for storage; or by any of the practices or devices aforesaid to monopolize, or attempt to monopolize, or combine, or conspire with others to monopolize in any locality the business of storing food commodities; and it shall likewise be unlawful for any person, firm or corporation to solicit, accept, receive or attempt to obtain from any food warehouseman any rebate, discount, deduction, concession, refund, or remittance, or to solicit, accept, receive or attempt to obtain from any food warehouseman, any preference, or advantage, either in rates or charges, or in service or facilities afforded

The railroad commission shall have full power to determine any fact or question arising under this section and is empowered after hearing by appropriate order to enforce the provisions thereof, and may by rule or order establish from time to time such exceptions from the operation of the prohibitions of this section as it may consider just and reasonable.

§ 5. Schedule of rates to be filed. Permission of commission to change. Refunds prohibited. Power of commission. Every food warehouseman doing business in the state of California shall file with the railroad commission within such time and in such form as the commission may designate and shall also print and keep open to public inspection at each and every building, structure, warehouse, elevator, or plant for the storing or warehousing of food commodities maintained by him in said state, schedules showing all rates and charges, which are in force for warehousing and storage services of every description, including sorting, handling, weighing, elevating, and packing charges, and all charges directly or indirectly connected with such services, together with all rules and regulations which in any manner affect or relate to rates or charges, and showing plainly when the same became effective, such rates to be uniform in their operation and to apply with equal force and effect to all persons, firms or corporations dealing with said food warehouseman. The railroad commission shall have power after hearing to fix and determine any such rate, charge, rule or regulation, and prescribe by order such changes in the form of the schedules referred to in this section as it may find to be just and reasonable. Unless the commission otherwise orders, no change shall be made by any food warehouseman in any rate or charge, or in any rules or regulations affecting rates or charges, except by permission of the railroad commission after thirty days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open to public inspection, as aforesaid, new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes go into effect. The commission, for good cause shown, may allow changes without requiring the thirty days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. No food warehouseman shall engage in the business of storing food commodities unless the rates and charges upon which the same are stored are filed and open to public inspection as aforesaid. No food warehouseman shall refund or remit in any manner or by any device, any portion of the rates or charges filed and open to public inspection as aforesaid, or demand, collect, or receive, directly or indirectly from any person, firm or corporation, any different sum for warehousing or storage services than the rates and charges filed and open to public inspection as aforesaid, or directly or indirectly make any charge for such services not shown by the schedule aforesaid; nor shall any person, firm, or corporation solicit, accept, receive, or attempt to obtain from any food warehouseman any rate or charge not filed and open to public inspection as aforesaid.

The railroad commission shall have full power and jurisdiction to determine any fact or question arising under this section and is hereby empowered after hearing by appropriate order to enforce the provisions thereof and may by rule or order establish from time to time such exceptions from the operation of the prohibitions aforesaid, as it may consider just and reasonable.

§ 6. Contracts in violation void. Every contract, expressed or implied, made by any person, firm or corporation in violation of the provisions of section four or section five of this act, is declared to be illegal and to be utterly void and no recovery thereon shall be had.

§ 7. Procedure as specified in public utilities act. In all respects in which the railroad commission has power and authority under the provisions of section four or section five of this act, applications and complaints on the commissions on motion or otherwise may be made and filed with the railroad commission, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review or mandate filed with the supreme court of the state of California, considered and disposed of by said court, in the manner, under the conditions and subject to the limitations and with the effect specified in the public utilities act.

§ 8. Action by attorney general to collect rebates, etc. The attorney general of the state of California is authorized and directed, whenever he has reasonable grounds to believe that any person, firm or corporation has knowingly accepted or received from any food warehouseman, directly or indirectly, any rebate, discount, deduction, concession, refund or remittance from the rates or charges filed and open to public inspection as in section five of this act required, to prosecute a civil action in the name of the people of the state of California in the proper court to collect three times the total sum of such rebates, discounts, deductions, concessions, refunds, or remittances so accepted or received within three years prior to the commencement of such action.

§ 9. Action to enjoin violations. Any person, firm or corporation may maintain an action to enjoin a continuance of any act or acts in violation of section four or section five of this act, or of any order, rule or regulation of the railroad commission made or enacted by said commission pursuant to the power and authority vested in said commission by said sections of this act, and, if injured thereby, for the recovery of damages in an amount equal to three times the amount of actual damages sustained. If in such action, the court shall find that the defendant is violating section four or section five of this act, or any order, rule, or regulation of the railroad commission, made or enacted by said commission pursuant to the power and authority vested in said commission by said sections of this act, it shall enjoin the defendant from a continuance of such violation, and it shall not be necessary to allege or prove actual damage to plaintiff in addition thereto.

§ 10. Penalty. Any person or persons, or corporation, who, or which shall violate section four or section five of this act, or any order, rule, or regulation of the railroad commission made or enacted by said com

mission pursuant to the power and authority vested in said commission by said sections of this act, or who shall procure, aid or abet any person, firm or corporation in any such violation, shall be guilty of a misdemeanor, and upon conviction thereof, shall, if a person, be punished by a fine of not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding six months or by both such fine and imprisonment, and, if a corporation, by a fine not exceeding three thousand dollars. In construing and enforcing the provisions of this act, the act, omission, or failure of any director, agent, employee, or other person acting for or employed by any person, firm or corporation, acting within the scope of his employment, shall in every case be also deemed to be the act, omission or failure of such person, firm, or corporation as well as that of such director, officer, agent, employee, or person.

§ 11. Constitutionality. If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses, or phrases be declared unconstitutional.

§ 12. Purpose of act. The legislature hereby declares that the purpose of this act is to safeguard the public against the creation and perpetuation of monopolies, and to foster and encourage competition, by prohibiting unfair and discriminating practices by which fair and honest competition is destroyed. The legislature hereby further declares that food warehousemen, as defined in section two of this act, are engaged in a business, tending to monopoly, and that by reason of such monopolistic tendency and by reason of its vital connection with the distribution of public necessities, such business is clothed with a public interest and subject to public regulation and control for the public welfare as a public utility, as in this act provided. This act shall be liberally construed that its beneficial purpose may be subserved. The remedies herein prescribed are cumulative. If any conflict shall arise between this act and the public utilities act, the latter shall prevail.

TITLE 607.

WATER COMMISSIONERS.

ACT 4340.

An act to regulate the use of water which is subject to such control by the state of California, and in that behalf creating a state water commission; specifying and providing for the appointment of the members of said commissions; fixing the terms of office and compensation of the members of said commission; fixing the powers, duties and authority of said commission and its members; providing for the filling of vacancies in the membership of said commission; providing for the removal from office of the appointed members of said commission; providing for the co-operation of courts with said commission; providing that certain courts shall take judicial notice of certain acts of the state water commission; specifying the duties of all persons summoned as witnesses before said commission or any

of its members; appropriating money for carrying out the provisions of this act; providing for the payment of the indebtedness and expenses of said commission, its members and employees; declaring what water is unappropriated; providing for the utilization of water and the works necessary to such utilization to the full capacity of streams or of such portion or portions of such capacity as the public good may require, declaring what water may be appropriated; declaring that the nonapplication for ten consecutive years of any portion of the waters of any stream to lands riparian to such stream shall be conclusive presumption that the use of such nonapplied water is not needed on said riparian lands for a useful or beneficial purpose; declaring that such nonapplied water shall be deemed to be in the use of the state and subject to appropriation; declaring the duties of those who desire to appropriate water; declaring the periods for which water may be appropriated and the conditions under which water may be appropriated; providing for the payment of fees and charges by the applicants for permission to appropriate water and by the appropriators of water; providing for the ascertainment and adjudication of water rights; providing for the bringing of actions by certain persons, or, upon the direction of the state water commission, by the attorney general, for the quieting of title to water rights; specifying certain duties of the claimants, possessors or users of water or water rights; declaring water rights forfeited under certain conditions; regulating the appropriation of water; excepting cities, cities and counties, municipal water districts, irrigation districts and lighting districts from certain provisions of this act; defining certain words and terms used in this act; repealing all acts or parts of acts in conflict with this act; declaring how this act shall be known; making legislative declaration concerning those parts of this act which may not be declared unconstitutional.

[Approved June 16, 1913., Stats. 1913, p. 1012.]

Amended 1917; Stats. 1917, pp. 194, 195, 231, 284, 746; 1919, pp. 511, 1193.

The amendments of 1917 and 1919 follow:

§ 1. Water commission created. Qualifications. Salaries. Pro tempore commissioners. Duty of executive member. Appeal from order of commission. For the purpose of carrying out the provisions of this act a state water commission consisting of five persons is hereby created and established. Two members of said commission shall be, ex officio, the governor of the state and the state engineer, respectively. Three members of said commission, one of whom shall be the executive member and the other two shall be associate members, shall be appointed by the governor for the term of four years; provided, however, that the members first appointed shall be appointed to hold office for the unexpired term of the members in office at the time this amendatory act takes effect. Such appointive commissioners shall be men of practical knowledge or experience in the application and use of waters for irrigation, mining and municipal purposes, and shall be so appointed that at least one thereof shall have had practical knowledge and experience in the use of water for agricultural purposes, and one thereof shall have

had practical knowledge and experience in the use of water for mining purposes, and one thereof shall have had practical knowledge and experience in the use of water for municipal purposes. The executive member shall be president of the commission. The executive member of said commission shall receive as compensation for his services the sum of five thousand dollars per annum. Each of the associate members of said commission shall receive as compensation for his services fifteen dollars per day while actually engaged in the duties of his office. All members of the commission shall receive their actual and necessary traveling expenses. No commissioner who is directly or indirectly interested in any matter before the commission shall sit with the commission during the hearing of such matter; nor shall he be detailed by the commission to investigate or report on any such matter; nor shall he take part in any determination of any such matter. But the governor shall have the power and authority, upon request of the commission, to appoint pro tempore some disinterested person to sit and act in the place and stead of such interested commissioner. Such pro tempore commissioner shall have compensation for the time of service equal to the compensation of a commissioner during such service and shall have the power and authority of the same, only in the matter for the investigation and determination of which he shall have been appointed and his connection with the commission shall cease and determine upon the completion of the investigation and determination for which he was appointed. But the commissioner in whose place and stead he sits shall have power, compensation and authority in all other cases. It shall be the duty of the executive member of said commission to consider and act upon all applications for permits to appropriate water under the provisions of the water commission act and to do all things required or proper relating to such applications and his acts and orders in such matters shall be deemed the acts and orders of said commission; provided, however, that any person, firm, association, or corporation interested in any such application may appeal from any order of said executive member granting or refusing to grant a permit or a license to appropriate by filing with said commission a notice of appeal within thirty days after notice of such order is given as provided in the water commission act. Such notice of appeal shall be sufficient if it sets forth or refers to with reasonable certainty the order appealed from and the grounds of dissatisfaction therewith. Upon the filing of notice of appeal the said water commission shall review all papers and proceedings in the matter in which the order appealed from was made, take such additional evidence as it may deem proper, and enter its order in such matter affirming, reversing, or modifying in any way the order of said executive member. [Amendment approved May 27, 1919; Stats. 1919, p. 1193.]

§ 11. Water declared unappropriated. Public waters. When action for condemnation is pending. Reservoirs may constitute single system. All water or the use of water which has never been appropriated, or which has been heretofore appropriated and which has not been in process, from the date of the initial act of appropriation, of being put, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, or which has not been put, or which has ceased to

be put to some useful or beneficial purpose, or which may hereafter be appropriated and ceased to be put, to the useful or beneficial purpose for which it was appropriated, or which in the future may be appropriated and not be, in the process of being put, from the date of the initial act of appropriation, to the useful or beneficial purpose for which it was appropriated, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, is hereby declared to be unappropriated. And all waters flowing in any river, stream, canyon, ravine or other natural channel, excepting so far as such waters have been or are being applied to useful and beneficial purposes upon, or in so far as such waters are or may be reasonably needed for useful, and beneficial purposes upon lands riparian thereto, or otherwise appropriated, is and are hereby declared to be public waters of the state of California and subject to appropriation in accordance with the provisions of this act. If any portion of the waters of any stream shall not be put to a useful or beneficial purpose to or upon lands riparian to such stream for any continuous period of ten consecutive years after the passage of this act, such nonapplication shall be deemed to be conclusive presumption that the use of such portions of the waters of such stream is not needed upon said riparian lands for any useful or beneficial purpose; and such portion of the waters of any stream so not applied, unless otherwise appropriated for a useful and beneficial purpose is hereby declared to be in the use of the state and subject to appropriation in accordance with the provisions of this act; provided, however, that where there is pending any action or proceeding to condemn any lands riparian to any stream or any rights, powers or privileges to use the waters of any stream upon lands riparian to such stream or to condemn rights essential to use the waters of any stream which action or proceeding was commenced prior to the sixteenth day of June, 1913, said period of ten consecutive years shall be exclusive of the period of time during which such action or proceeding is pending. In any case where a reservoir or reservoirs have been or shall hereafter under the provisions of this act be constructed or surveyed, laid out and proposed to be constructed for the storage of water for a system, which water is to be used at one or more points under appropriations of water heretofore or hereafter made, which appropriations and rights thereunder are now, or shall hereafter be held and owned by the person or corporation owning such reservoir site or sites and constructing such reservoir or reservoirs, such reservoir or reservoirs and appropriations and rights shall, in the discretion of the state water commissioner, constitute a single enterprise and unit, and work of constructing such reservoir or reservoirs, or any of them, or work on any one of such appropriations shall, in the discretion of said commissioner, be sufficient to maintain and preserve all such applications for appropriations and rights thereunder. [Amendment approved May 11, 1919; Stats. 1919, p. 513.]

§ 15. Use of unappropriated water. The state water commissioner shall allow, under the provisions of this act, the appropriation for beneficial purposes of unappropriated water unless, in the opinion of the said com-

mission, such appropriation would be detrimental to the public welfare. [Amendment approved April 25, 1917; Stats. 1917, p. 194.]

§ 15a. Appropriation of water for use in another state. The state water commission shall allow the appropriation of water in this state for beneficial use in another state only when, under the laws of the latter, water may be lawfully diverted therein for beneficial use in the state of California. Upon any stream flowing across the state boundary a right of appropriation having the point of diversion and the place of use in another state and recognized by the laws of that state, shall have the same force and effect as if the point of diversion and the place of use were in this state; provided, that the laws of that state give like force and effect to similar rights acquired in this state; provided, that nothing in this act be so construed as to apply to interstate lakes, or streams flowing in or out of such lakes. [New section added May 7, 1917; Stats. 1917, p. 284.]

§ 20. Terms and conditions of permits and licenses. City, etc., may purchase works. Determination of price. Grounds for revoking license. Findings of commission prima facie correct. Conditions of accepting permit. Cities first in right. City may become public utility. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; provided, that at any time after the expiration of twenty years after the granting of a license, the state or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property cannot agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said com-

mission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be prima facie correct until modified or set aside by a court of competent jurisdiction; provided, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; provided, however, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; and providing, further, that where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; and providing further, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the state of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; and provided, further, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corpora-

tion, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings. [Amendment approved May 19, 1917; Stats. 1917, p. 746.]

§ 20a. Water not used for three years. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water. [New section added May 19, 1917; Stats. 1917, p. 746.]

§ 23. Fee. For electrical power. For agricultural purposes. Every person, firm, association or corporation making application for a permit to appropriate water or the use of water under this act shall pay to the state water commission, at the time of filing said application, a filing fee in the sum of five dollars, and, upon the issue of a permit, the additional fee, if the purpose or use is for the generation of electricity or electrical or other power, of ten cents for each theoretical horse-power capable of being developed by the works up to and including one hundred theoretical horse-power, of five cents for each horse-power in excess of one hundred theoretical horse-power up to and including one thousand theoretical horse-power, and of one cent for each theoretical horse-power in excess of one thousand theoretical horse-power; also, if for agricultural purposes, of five cents for each acre of land to be irrigated by means of said appropriation to and including one hundred acres, of three cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and of two cents for each acre over one thousand acres. All fees shall forthwith be paid into the state treasury by the state water commission. No fee shall be required from any person, firm, association, or corporation exempt by any law of the state of California from the payment of such fee. [Amendment approved April 25, 1917; Stats. 1917, p. 195.]

§ 24. Water commission may act as referee. In case suit is brought in the superior court for determination of rights to water or the use of water, the case may, in the discretion of the court, be transferred to the state water commission for investigation, as referee. [Amendment Approved May 5, 1917; Stats. 1917, p. 231.]

§ 25. Determination of water rights by commission. Upon its own initiative or upon petition signed by one or more claimants to water or the use of water upon any stream, stream system, lake, or other body of water, all of which sources of supply are hereinafter referred to as "stream system," requesting the determination of rights, based upon prior appropriation, of the various claimants to the water of that stream system, it shall be the duty of the state water commission, if, upon investigation, it finds the facts and conditions are such as to justify, to enter an order granting said petition and to make proper arrangements to proceed with such determination. [Amendment approved May 5, 1917; Stats. 1917, p. 231.]

§ 26. Notice of order. Publication. As soon as practicable after the state water commission shall make and enter the order granting the said

mission, after due notice to the permittee, licensee or assigns of such permittee or licensee, prepare a notice setting aside the pendency of the permit or license and declare the pendency of the permit and open to further appropriation in the stream system. The commission shall begin this act. The findings and declarations of the commission shall be deemed to be prima facie correct until reversed, as in this act provided, of competent jurisdiction; provided, the findings shall be published for a period of set aside such finding or declaration in any part of said stream system licensee, his heirs, successors or assigns, in any newspaper of general circulation, May 5, 1917; Stats. 1917, p. 231.]

under the provisions of this act, the state water commission shall begin accept the same under the stream system, etc. Surveys and maps ever in excess of the act, the state water commission shall begin any time be assigned to the stream system and of the conduits issued under the provisions of the lands irrigated or irrigable therefrom, and required under the provisions of the data and information as may be essential to the any competent public of the water rights by appropriation. It shall require the rendering of data, information and measurements to writing, assigns or by the surveys and shall prepare maps from the observations of this act in accordance with such uniform rules and regulations or purchase, which surveys and maps shall show with substantial the state of the stream or streams; the location of each condition distribution water therefrom, land irrigated and capable of being irrigated of the river, conduit, and the kind of culture upon the irrigated land of any shall be prepared as the surveys and observations progress, act. completed, it shall be filed and made of record in the office for the state water commission. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 20. Notice of time for filing proofs. Publication. Upon the completion of such measurements and maps, and the filing of said observations, the state water commission shall prepare a notice setting forth the date, prior to which the proofs, to be furnished by claimants upon forms supplied by the state water commission and more specifically referred to in the next section hereof, as to the rights by appropriation of the waters of said stream system, shall be filed; provided, however, that the date set, prior to which said proofs must be filed, shall not be less than sixty days from the date of the last publication of said notice as hereinafter provided. The notice shall be deemed to be an order of the state water commission as to its contents, and it shall be published by the state water commission for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. At or near the time of the first publication of said notice it shall be the duty of the state water commission to send by registered mail to each claimant to rights by appropriation of the waters of said stream system, in so far as such claimant can be reasonably ascertained at his last known place of address, a notice equivalent in terms to the said published notice. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 29. Forms to be sent claimant. The state water commission shall, in addition, inclose with the notice to be mailed as aforesaid, blank

WATER COMMISSIONERS. Act 4340, §§ 30, 31

appropriation, upon which said claimant shall present
evidence necessary for the determination of his right by
means of said stream system, the said statement to

the address of the claimant.
the land or use on which the claim for appropriation

the determination of such right and a description of works
of construction.

the beginning of construction.

when completed.

the date of beginning and completion of enlargements.

the dimensions of the ditch as originally constructed and enlarged.

the date when water was first used for irrigation or other bene-

ficial purposes, and if used for irrigation, the amount of land irrigated

in each year, the amount in subsequent years, with the dates of irriga-

tion and the area and the location of the lands which are intended to

be irrigated.

(i) The character of the soil and the kind of crops cultivated, and
such other facts as will show the extent and nature of the right and a
compliance with the law in acquiring the same, as may be required by
the state water commission. Each claimant shall be required to certify
to his statements, under oath. [Amendment approved May 5, 1917;
Stats. 1917, p. 232.]

§ 30. Determination of right on failure to make proof. After the date
fixed for the filing of proofs, no proofs shall be received or filed with
the state water commission; provided, however, that the state water
commission may, for cause shown, in its discretion, extend the time in
which proofs may be filed. Upon neglect or refusal of any person to
make proof of his claim to rights by appropriation of the waters of such
stream system, as required by this act, prior to the expiration of the
period fixed by the state water commission, during which proofs may
be filed, the state water commission shall determine the right by appro-
priation of such person on such evidence as it may obtain or may have
on file in its office in the way of maps, plats, surveys and transcripts;
and exceptions to such determination may be filed in court as herein-
after provided. [Amendment approved May 5, 1917; Stats. 1917, p. 233.]

§ 31. Petition to intervene in proceedings. Any claimant of a right
by appropriation of the water of any stream system upon whom no ser-
vice of notice shall have been had of the pendency of proceedings for
the determination of the rights by appropriation of the waters of said
stream system, and who shall have had no actual knowledge or notice
of the pendency of said proceedings, may at any time prior to the expira-
tion of three months after the entry of the determination of the state
water commission, as provided in section thirteen of this act, file a peti-
tion to intervene in said proceedings. Such petition shall be under oath
and shall contain, among other things, all matters required by this act
of claimants who have been duly served with notice of said proceedings,
and also a statement that the intervener had no actual knowledge or
notice of the pendency of said proceedings. Upon the filing of said
petition in intervention, the petitioner shall be allowed to intervene and

petition or selecting the stream system upon which the determination of water rights by appropriation is to begin, it shall prepare a notice setting forth the fact of the entry of said order and of the pendency of the said proceedings, the date when the state water commission shall begin said examination, and that all claimants to rights by appropriation of the waters of said stream system are required, as in this act provided, to make proof of their claims. The notice shall be published for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. [Amendment approved May 5, 1917; Stats. 1917, p. 231.]

§ 27. Investigation of flow of stream system, etc. Surveys and maps. At the time set in said notice, the state water commission shall begin an investigation of the flow of the stream system and of the conduits diverting water, and of the lands irrigated or irrigable therefrom, and shall gather such other data and information as may be essential to the proper determination of the water rights by appropriation. It shall reduce its observations, data, information and measurements to writing. It shall execute surveys and shall prepare maps from the observations of such surveys in accordance with such uniform rules and regulations as it may adopt; which surveys and maps shall show with substantial accuracy the course of the stream or streams; the location of each conduit diverting water therefrom, land irrigated and capable of being irrigated by each conduit, and the kind of culture upon the irrigated land. The maps shall be prepared as the surveys and observations progress, and, when completed, it shall be filed and made of record in the office of the state water commission. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 28. Notice of time for filing proofs. Publication. Upon the completion of such measurements and maps, and the filing of said observations, data, information and measurements, the state water commission shall prepare a notice setting forth the date, prior to which the proofs, to be furnished by claimants upon forms supplied by the state water commission and more specifically referred to in the next section hereof, as to the rights by appropriation of the waters of said stream system, shall be filed; provided, however, that the date set, prior to which said proofs must be filed, shall not be less than sixty days from the date of the last publication of said notice as hereinafter provided. The notice shall be deemed to be an order of the state water commission as to its contents, and it shall be published by the state water commission for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. At or near the time of the first publication of said notice it shall be the duty of the state water commission to send by registered mail to each claimant to rights by appropriation of the waters of said stream system, in so far as such claimant can be reasonably ascertained at his last known place of address, a notice equivalent in terms to the said published notice. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 29. Forms to be sent claimant. The state water commission shall, in addition, inclose with the notice to be mailed as aforesaid, blank

forms, proofs of appropriation, upon which said claimant shall present in writing all particulars necessary for the determination of his right by appropriation of the waters of said stream system, the said statement to include the following:

- (a) The name and postoffice address of the claimant.
- (b) The nature of the right or use on which the claim for appropriation is based.
- (c) The date of the initiation of such right and a description of works of diversion and distribution.
- (d) The date of beginning of construction.
- (e) The date when completed.
- (f) The dates of beginning and completion of enlargements.
- (g) The dimensions of the ditch as originally constructed and enlarged.
- (h) The date when water was first used for irrigation or other beneficial purposes, and if used for irrigation, the amount of land irrigated the first year, the amount in subsequent years, with the dates of irrigation and the area and the location of the lands which are intended to be irrigated.
- (i) The character of the soil and the kind of crops cultivated, and such other facts as will show the extent and nature of the right and a compliance with the law in acquiring the same, as may be required by the state water commission. Each claimant shall be required to certify to his statements, under oath. [Amendment approved May 5, 1917; Stats. 1917, p. 232.]

§ 30. Determination of right on failure to make proof. After the date fixed for the filing of proofs, no proofs shall be received or filed with the state water commission; provided, however, that the state water commission may, for cause shown, in its discretion, extend the time in which proofs may be filed. Upon neglect or refusal of any person to make proof of his claim to rights by appropriation of the waters of such stream system, as required by this act, prior to the expiration of the period fixed by the state water commission, during which proofs may be filed, the state water commission shall determine the right by appropriation of such person on such evidence as it may obtain or may have on file in its office in the way of maps, plats, surveys and transcripts; and exceptions to such determination may be filed in court as herein-after provided. [Amendment approved May 5, 1917; Stats. 1917, p. 233.]

§ 31. Petition to intervene in proceedings. Any claimant of a right by appropriation of the water of any stream system upon whom no service of notice shall have been had of the pendency of proceedings for the determination of the rights by appropriation of the waters of said stream system, and who shall have had no actual knowledge or notice of the pendency of said proceedings, may at any time prior to the expiration of three months after the entry of the determination of the state water commission, as provided in section thirteen of this act, file a petition to intervene in said proceedings. Such petition shall be under oath and shall contain, among other things, all matters required by this act of claimants who have been duly served with notice of said proceedings, and also a statement that the intervener had no actual knowledge or notice of the pendency of said proceedings. Upon the filing of said petition in intervention, the petitioner shall be allowed to intervene and

thereafter shall have all the rights and be subject to all the duties of the claimants who have been duly served. [Amendment approved May 5, 1917; Stats. 1917, p. 233.]

§ 32. Fees collected from claimants. At the time of submission of proof of appropriation, the state water commission shall collect from such claimants, on the basis of the statements in the proofs, a fee of fifteen cents for each acre of irrigated or irrigable lands up to and including one hundred acres, ten cents for each acre in excess of one hundred acres and up to and including one thousand acres, and five cents per acre for each acre in excess of one thousand acres; also twenty-five cents for each theoretical horse-power up to and including one hundred horse-power, fifteen cents for each theoretical horse-power in excess of one hundred horse-power and up to and including one thousand horse-power, and five cents for each theoretical horse-power in excess of one thousand horse-power; also five (5) dollars for each cubic foot per second, or fraction thereof, claimed for any purpose other than irrigation or power; the minimum fee, however, for any claimant to be five (5) dollars. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, into the treasury of the state. [Amendment approved May 5, 1917; Stats. 1917, p. 234.]

§ 33. Printed abstract of proofs. Inspection. As soon as practicable after the expiration of the period fixed in which proofs may be filed, the state water commission shall assemble all proofs which have been filed, and prepare and certify an abstract of all of the said proofs, which shall be printed in the state printing office. As soon as practicable the state water commission shall prepare a notice fixing and setting a time and place, reasonably convenient to the claimants, when and where the evidence taken by or filed with it shall be open to the inspection of all interested persons, said period of inspection to be not less than ten (10) days, which notice shall be deemed to be an order of the state water commission as to the matters contained therein. A copy of said notice, together with a printed copy of the said abstract of proofs, shall be sent by registered mail, at least fifteen (15) days prior to the first day of such period of inspection, to each claimant who has appeared and filed proof as herein provided. A representative of the state water commission shall be present at the time and place designated in said notice, and allow, during said period, any person interested to inspect such evidence and proofs as have been filed in accordance with this act. [Amendment approved May 5, 1917; Stats. 1917, p. 234.]

§ 34. Contest of statements and proofs of claims. Should any claimant desire to contest any of the statements and proofs of claims filed with the state water commission by any other claimant to the waters of the stream system, he shall, within fifteen (15) days after said evidence and proofs shall have been opened to public inspection, or within such further time as for good cause shown may be allowed by the state water commission upon application made prior to the expiration of said fifteen (15) days, in writing, notify the state water commission, stating with reasonable certainty the grounds of the proposed contest, which statement shall be verified by the affidavit of the contestant, his agent or

attorney. The statements or proofs of the person whose rights are contested and the verified statement of the contestant shall be deemed sufficient to constitute a proper cause for such contest. [Amendment approved May 5, 1917; Stats. 1917, p. 234.]

§ 35. Hearing of contest. Costs. Within ten (10) days after the receipt of the notice of contest the state water commission shall notify by registered mail the contestant and the claimant whose rights are contested to appear before it at a time and place specified in said notice, and that at said time and place said contest will be heard; provided, that said time shall not be less than fifteen (15) days nor more than sixty (60) days from the date of the mailing of the notice of the commission. The state water commission shall have power to adjourn hearings of contests from time to time upon reasonable notice to all parties in interest, and to issue subpoenas for and compel the attendance of witnesses to testify before it and to produce papers, books, maps, and other documents. The costs of taking testimony at a hearing shall be borne by the parties thereto as follows: each party shall pay for the direct examination of his own witness and the cross-examination of opponent's witness and shall share equally for that part of the examination directed by the representative of the commission. One copy of the transcript of testimony taken at the hearing shall be furnished to the commission and the cost thereof borne equally by the parties. [Amendment approved May 5, 1917; Stats. 1917, p. 235.]

§ 36. Order of determination. As soon as practicable after the hearing of contests, it shall be the duty of the state water commission to make, and cause to be entered of record in its office, an order determining and establishing the several rights by appropriation of the waters of said stream; provided, however, that within sixty (60) days after the entry of an order establishing water rights, the state water commission may, for good cause shown, reopen the proceedings and grant a rehearing. Such order and determination shall be prepared, and after certification by the state water commission, printed in the state printing office. A copy of said order of determination shall be sent by registered mail to each person who has filed proof of claim, and to each person who has become interested through intervention or as a contestant under the provisions of section eight or section eleven of this act. [Amendment approved May 5, 1917; Stats. 1917, p. 235.]

§ 36a. Filing of order, etc., with clerk of superior court. Order setting time for hearing. As soon as practicable, after the entry of the order of determination, a certified copy thereof, together with the original evidence and transcript of testimony filed with, or taken before the state water commission, as aforesaid, duly certified by it, shall be filed with the clerk of the superior court of the county in which said stream system, or any part thereof, is situated. Upon the filing of the certified copy of said order, evidence, and transcript with the clerk of the court in which the proceedings are to be had, the state water commission shall procure an order from said court setting a time for hearing. The clerk of such court shall immediately furnish the state water commission with a certified copy of said order. It shall be the duty of the state water commission immediately thereupon to mail a copy of such certified order

of the court, by registered mail, addressed to each known party in interest at his last known place of residence, and to cause the same to be published at least once a week for four consecutive weeks in some newspaper of general circulation published in each county in which such stream system or any part thereof is located, and the state water commission shall file with the clerk of the court proof of such service by registered mail and by publication. Such service by registered mail and by publication shall be deemed full and sufficient notice to all parties in interest of the date and purpose of such hearing. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36b. Filing of notice of exceptions. Decree affirming order. Hearing of exceptions. When state a party. At least ten days prior to the day set for hearing, all parties in interest who are aggrieved or dissatisfied with the order of determination of the state water commission shall file with the clerk of said court notice of exceptions to the order of determination of the state water commission, which notice shall state briefly the exceptions taken, the reasons therefor, and the prayer for relief, and a copy thereof shall be transmitted by registered mail at least ten (10) days prior to such hearing, to the state water commission and to each claimant, who was an adverse party to any contest wherein such exceptor was a party in the proceedings. The order of determination by the state water commission and the statements or claims of claimants and exceptions made to the order of determination shall constitute the pleadings but the court may allow such additional or amended pleadings as may be necessary to a final determination of the proceeding. If no exceptions shall have been filed with the clerk of the court as aforesaid, then on the day set for the hearing, on motion of the state water commission, or its attorney, the court shall enter a decree affirming said order of determination. On the day set for hearing all parties in interest who have filed notices of exceptions as aforesaid shall appear in person, or by counsel, and it shall be the duty of the court to hear the same or set the time for hearing, until such exceptions are disposed of, and all proceedings thereunder shall be as nearly as may be in accordance with the rules governing civil actions. Whenever in the judgment of the court the state is a necessary party to the action, the court shall make an order to that effect and thereupon a copy of all pleadings and proceedings on file with the court in said matter shall be served upon the attorney general who shall represent the state therein. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36c. Decree determining right of all persons involved. Appeals. For further information on any subject in controversy, the court may employ one or more qualified persons to investigate and report thereon under oath, subject to examination by any party in interest as to his competency to give expert testimony thereon. The court may take additional evidence on any issue and may, if necessary, refer the case for such further evidence to be taken by the state water commission as it may direct, and may require a further determination by it. After the hearing, the court shall enter a decree determining the right of all persons involved in such proceeding. Said decree shall in every case declare as to the water right by appropriation adjudged to each party, the extent, priority, amount, purpose of use, point of diversion, and place

of use of said water; and as to water used for irrigation, such decree shall also declare the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority. Upon the hearing the court may assess and adjudge against any party such costs as it may deem just. Appeals from such decree may be taken to the supreme court by the state water commission or any party in interest, in the same manner and with the same effect as in civil cases. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36d. Decree filed with county recorder. Certificate to claimant. A certified copy of the decree of the superior court shall be prepared by the clerk thereof, without charge, and filed for record in the office of the county recorder of each county in which any part of the stream system is situated and also in the office of the state water commission. It shall be the duty of the state water commission to issue to each claimant represented in such determination a certificate to be signed by the president of the state water commission, and attested under seal of the secretary of said commission, setting forth the name and postoffice address of the owner of the right; the priority of the date, extent and purpose of such right; and, if such water be for irrigation purposes, a description of the legal subdivisions of land to which said water is appurtenant. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36e. Claimant failing to appear forfeits rights. Whenever proceedings shall be instituted for the determination of rights by appropriation of water, it shall be the duty of all claimants interested therein and having notice thereof as in this act provided, to appear and submit proof of their respective claims at the time and in the manner required by law; and any such claimant who shall fail to appear in such proceedings and submit proof of his claim shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream system, embraced in such proceedings, and shall be held to have forfeited all rights by appropriation to said water theretofore claimed by him on such stream system, unless entitled to relief under the laws of this state; provided, that such proceedings shall result in a determination by the state water commission and a decree by the superior court determining the rights on such stream. Such decree shall be conclusive as to the rights by appropriation of all existing claimants upon the stream system lawfully embraced in the determination. [New section added May 5, 1917; Stats. 1917, p. 236.]

§ 36f. Determination of rights initiated prior to December 19, 1914. Review of findings. The state water commission shall have authority and power in making a determination as to the rights by appropriation of the waters of any stream system, to fix a time limit for the completion of all appropriations of water from such stream, where such rights of appropriations were initiated prior to December 19, 1914, and since prosecuted with reasonable diligence, and such appropriators having been duly notified as provided in this act, must appear and submit their proofs of claim, in accordance with section twenty-eight of this act, or they shall be deemed and held to be in default, and to have abandoned or to have no right, title or interest in or to the waters of such stream. In

determining rights of such appropriators, the state water commission shall prescribe such a reasonable time for the completion of such appropriations, and the application of the water appropriated to a beneficial use, as will enable such appropriators acting in good faith and with due diligence to complete the same. The findings of the state water commission shall provide for the submission of proof or evidence as to the completion of such appropriation and the amount of water actually applied to beneficial use upon the expiration of such time limit, and shall, in accordance with such proof, enter supplemental findings, establishing and determining such rights of appropriation, in so far as the same shall have been completed; and certificates of water right shall be issued in accordance with such supplemental findings and order of determination of said commission; but this section shall not be construed to confer any rights of appropriation upon parties who shall have abandoned their said appropriations or failed to use due diligence in the application of the water to a beneficial use and in the completion of their appropriations; and all such appropriators, who shall fail to complete their said appropriations within the limit of time fixed by the state water commission in said findings, or such further time granted upon application made prior to the expiration of such time limit, as the state water commission shall find equitable and just, shall be deemed to have abandoned their rights of appropriation, and rights acquired by virtue thereof waived, and such appropriators shall be deemed and held to have no right, title or interest in or to the waters of such stream by virtue of their said appropriations. The findings and determination of the state water commission made under the provisions of this section may be reviewed in the manner prescribed by section thirty-six b of this act. [New section added May 5, 1917; Stats. 1917, p. 236.]

TITLE 608.

WATER COMPANIES.

ACT 4348b.

An act to prevent the supply of water dangerous to health for domestic purposes and to provide for the installation of sanitary water systems.

[Approved June 13, 1913. Stats. 1913, p. 793.]

Amended 1915, p. 1282; 1917, p. 1562.

The amendment of 1917 follows:

§ 1. Unlawful to supply polluted water. It shall be unlawful for any person, firm, corporation, public utility, municipality or other public body or institution to furnish or supply or to continue to furnish or supply water used or intended to be used for human consumption or for domestic uses or purposes which is impure, unwholesome, unpotable, polluted, or dangerous to health, to any person in any county, city and county, municipal corporation, village, district, community, hotel, temporary or permanent resort, institution or industrial camp. [Amendment approved June 1, 1917; Stats. 1917, p. 1562.]

§ 2. Persons desiring to furnish water to file petition. Investigation of works. Exemption. Hearing. Whenever any person, firm, corpora-

tion, public utility, municipality or other public body or institution shall desire to furnish or supply or to continue to furnish or supply water for domestic uses or purposes to any person in any county, city and county, municipal corporation, village, district, community, hotel, temporary or permanent resort, institution or industrial camp, or shall desire to install, add to, modify or alter any of the plant, works, system or sources of supply, it or he shall file as herein provided with the state board of health a petition for permission so to do, together with complete plans and specifications and a statement containing a general description and history of the existing or proposed water supply system of proposed changes therein showing the geographical location thereof with relation to the source of the water supply and all the sanitary and health conditions surrounding and affecting said supply and the works, system and plant, such plans, specifications and general statement to be in such form and to cover such matters as the state board of health shall prescribe. Thereupon a thorough investigation of the proposed or existing works, system, plant, water supply and all other circumstances and conditions by it deemed to be material must be made by the state board of health; and provided, however, that no person, firm or corporation supplying water for domestic purposes or use on his or its private property upon which there is no industrial camp, hotel, temporary or permanent resort using said water, or supplying less than two hundred service connections, shall be required to apply for a permit under the provisions of this section, except upon formal complaint filed with the state board of health.

As a part of such investigation, and after ten days' notice by mail to the petitioner, a hearing or hearings may be had before said board or an examiner appointed by it for the purpose. At such hearing or hearings witnesses who testify shall be sworn by the person conducting the hearing, and evidence, oral and documentary, may be received, a record of which shall be made and filed with said board. Upon the completion of such investigation, said board:

(a) **When petition shall be denied. Appointment of person to take charge of plant. Temporary permit.** If it shall determine, as a fact, that the water being furnished or to be furnished or supplied is such that under all the circumstances and conditions it is impure, unwholesome or unpotable, or may constitute a menace or danger to the health or lives of human beings, or that under all the circumstances and conditions the existing or proposed works, system, plant or water supply, or proposed modifications therein, are unhealthful or insanitary, or not suited to the production and delivery of healthful, pure and wholesome water at all times, it shall deny the prayer of such petitioner, and said board shall order the petitioner to make such changes as it deems necessary to secure a continuous supply of pure, wholesome, potable and healthful water. Said board may order the appointing of a competent person, to be approved by the state board of health and paid by said petitioner, who shall take charge of and operate such plant or system so as to secure the results demanded by the state board of health; and it may order such repair, alteration or addition to the existing system, plant and works that the water furnished or supplied shall at all times be pure, wholesome, potable and shall not endanger the lives or health of human beings;

and said board may order such changes of source of the water supply or installation of purification and refining works and such other measures as shall insure a continuous supply of pure, wholesome and potable water which shall not endanger the lives and health of human beings; which orders shall designate the period within which the required changes are to be made; provided, however, that a temporary permit may be issued by the state board of health for said period to permit the petitioner to comply with such order or orders.

(b) When petition shall be granted. Permits revocable. Report may be required. Persons without permit may be enjoined. Public nuisance. Penalty for violation. If it shall determine, as a fact, that the water being furnished or supplied to such human beings is such, that under all the circumstances and conditions, it is pure, wholesome and potable and does not endanger the lives or health of human beings, it shall grant to petitioner a permit authorizing petitioner to furnish or continue to furnish or supply such water to such human beings; provided, however, that all permits issued hereunder shall be revocable or subject to suspension by said board at any time that it shall determine, as a fact, that the water being supplied or furnished is or may become impure, unwholesome or unpotable or does or will endanger the lives or health of human beings. The state board of health and its inspectors shall at any and all reasonable times have full power and authority to, and shall be permitted to, enter into and upon any and all places, property, inclosures and structures for the purpose of making and to make examinations and investigations to determine whether any provision of this act is being violated. The holder of any permit granted by said board under the provisions of this act may at any time by order of said board be required to furnish to said board, upon demand, a complete report upon the condition and operation of the water supply, plant, works or system owned, operated or controlled by it, which report shall be made by some competent person designated for the purpose by said board, and at the sole cost and expense of the holder of the permit. Any person, firm, corporation, public utility, municipality or other public body or institution who shall furnish or supply or continue to furnish or supply water used or intended to be used for human consumption or for domestic uses or purposes, or shall install additions to, modifications or alterations in, any of the existing plant, works, system, or sources of supply without having an unrevoked permit from the state board of health so to do, as in this act provided, may be enjoined from so doing by any court of competent jurisdiction, at the suit of any person or persons, firm, corporation, municipal or other public corporation whose supply of water for human consumption or for domestic uses or purposes is taken, or received from, or supplied or furnished by any such water furnishing or distributing person, firm, corporation, public utility or municipality or other public body or institution, or it or he may be enjoined at the suit of the state board of health in the same manner. Anything done, maintained or suffered in violation of any of the provisions of this act shall be deemed to be a public nuisance dangerous to health and may be summarily abated in the manner provided by law and it shall be the duty of all and every public officer or officers, body or bodies lawfully empowered so to do to immediately abate the same.

Every person, firm, corporation, public utility, municipality, or other public body or institution, or officer, employee or agent thereof upon whom the duty to act is cast, and every person who shall violate any provision or part thereof of this act, or who shall fail to obey, observe or comply with any direction, order, requirement or demand or any part or provision thereof of the state board of health, or who procures, aids, or abets any such person, firm, corporation, public utility, municipality, or other public body or institution, or officer or employee or agent thereof, in any failure to obey or comply with the provisions of this act or the orders of the state board of health as provided in this act, shall become liable for and forfeit to the state of California the penal sum of not more than one thousand dollars for each separate offense. The continued existence of any violation of this act for each and every day beyond the time stipulated for compliance with any of its provisions or of any order of the state board of health as provided herein shall constitute a separate and distinct offense. All penalties are to be recovered by the state in civil action brought by the state of California and such penalties when collected shall be paid into the general fund of the state treasury.

Every officer, agent or employee of any person, firm, corporation, public utility, municipality, or other public body or institution or person who shall violate or fail to comply with any of the provisions of this act or the order of the state board of health or any part thereof, or who procures, aids or abets in any failure to observe and comply with any such provision, order, or part thereof, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year or by both such fine or imprisonment, for each offense. Each day's violation of this provision shall constitute a separate and distinct offense.

TITLE 609.

WATER DISTRICTS.

ACT 4349.

An act to provide for the incorporation and organization and management of county water districts, and to provide for the acquisition of water rights or construction thereby of waterworks and for the acquisition of all property necessary therefor, and also to provide for the distribution and sale of water by said districts.

[Approved June 10, 1913. Stats. 1913, p. 1049.]

Amended 1915, p. 26; 1917, p. 225; 1919, p. 816.

The amendments of 1917 and 1919 follow:

§ 12. Powers of district. Any county water district incorporated as herein provided, shall have power:

1. **Perpetual succession.** To have perpetual succession;
2. **Sue and be sued.** To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. **Adopt seal.** To adopt a seal and alter it at pleasure;

4. **Hold property.** To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the district, necessary to the full exercise of its powers;

5. **Acquire waterworks.** To acquire, by purchase, lease or otherwise, water rights, waterworks, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights and privileges, useful or necessary to convey, supply, store, or otherwise, make use of water for irrigation, power, or other useful purpose, and to operate and maintain such water rights, waterworks, canals, conduits, reservoirs, storage sites, watersheds, works, machinery, lands, rights, and privileges, for the uses aforesaid, for the benefit of the district;

6. **Store water.** To store water for the benefit of the district; and to conserve water for future use and to appropriate, acquire and preserve water and water rights and for this purpose to sue, intervene and compromise, in the name of the district, and assume the costs of litigation involving the ownership of waters or water rights within the district and those used and useful for the purposes of the district or of any of the lands situated therein; to maintain and defend actions to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters being used for irrigation of lands within the district or which are a benefit essentially common to the lands within the district or its inhabitants; and to maintain and defend actions to prevent any such interference with the aforesaid waters as may endanger the inhabitants or lands of the district;

7. **Lease waterworks.** To lease of and from any person, firm, or public or private corporation, with the privilege of purchase, or otherwise, existing water rights, waterworks, canal, or reservoir systems; and to carry on and maintain the same; also to sell water, or the use thereof, for irrigation, power, or other useful purposes, and whenever there is a surplus, sell, or otherwise, dispose of the same, to municipalities, or towns, or to consumers, located within or without the boundaries of the district;

8. **Right of eminent domain.** To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use, to take any property necessary to supply the district or any portion thereof with water, whether such property be already devoted to the same use or otherwise, and may condemn any existing water rights, canals, reservoirs, storage sites, watersheds, waterworks or systems, or any portion thereof owned by any person, firm or corporation; provided, that property and water rights of municipal corporations shall not be subject to the provisions of this section. In proceedings relative to the exercise of such right, the district shall have the same rights, powers and privileges as a municipal corporation;

9. **Borrow money.** To borrow money and incur indebtedness and to issue bonds or other evidences of such indebtedness; also to refund or retire any indebtedness or lien that may exist against the district or property thereof;

10. **Levy taxes.** To cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of this act in the manner herein provided;

11. **Make contracts.** To make contracts, to employ labor and to do all acts necessary for the full exercise of the foregoing powers. [Amendment approved May 23, 1919; Stats. 1919, p. 816.]

§ 28. **Exclusion of territory. Petition. Contents. Duties of secretary. Hearing. Order excluding lands. Directors may institute proceedings for exclusion. Hearing. Referendum.** Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars, to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be returned to the petitioner. Upon the filing of such petition with the secretary of the water district he shall call a meeting of the board of directors of the district at a time not less than twenty-five days nor more than fifty days after the filing of the petition and cause a notice of the filing of such petition to be published for at least two weeks in some newspaper of general circulation within said district, if there be one, and if not, in some newspaper of general circulation published in the county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; provided, that the board may adjourn the hearing to a more convenient meeting place within the district. Any land owner or taxpayer within the district shall have the right to appear at said hearing, either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer in-

cluded in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county in which the district is situated and the record of such certified copy shall be deemed prima facie evidence of the exclusion from the district of the lands purporting to be excluded thereby.

The board of directors of any county water district formed under the provisions of this act may itself initiate the proceedings for the exclusion from the district of any land or lands which it may not be for the best interests of the district to be included, or which may not be benefited in any manner by their continued inclusion therein. Such proceedings shall be initiated by the board of directors by the passage of a resolution requiring all persons interested to appear and show cause before the board of directors, at a time and place specified, why such lands, describing them, should not be excluded from the district and fixing a time and place for such hearing and directing the secretary of the district to give notice of the passage of such resolution and of such hearing. Upon the passage of such resolution the secretary of the district shall give notice thereof and of the time and place of such hearing in the manner hereinbefore prescribed for notice of hearing upon petition by a land owner or land owners, and thereafter all proceedings shall be had in the manner and with the effect herein provided for proceedings upon a petition by a land owner or land owners. The time of hearing fixed by the board of directors by its resolution hereinbefore mentioned shall be not less than twenty-five days nor more than fifty days after the passage of such resolution and the place of hearing so fixed shall be a convenient place within the district; provided, that the final action of the board of directors under this section shall be subject to the referendum by the electors of the water district according to section twenty-four of this act. [New section added May 4, 1917; Stats. 1917, p. 225.]

ACT 4349a.

An act providing for the organization of water districts by the board of supervisors of the different counties of the state upon petition therefor by the land owners; providing for the joint government and control thereof by the land owners thereof and the board of supervisors of the county in which the same are formed; providing for the duties in connection therewith of the county officials of each county in which any of the lands contained in said district are located; providing for the acquisition and construction by said district of irrigation works, for the irrigation of the lands embraced therein and for the distribution thereby of water for irrigation purposes; providing for the payment of the debts thereof by a tax levied on the lands embraced therein; providing for the issuance and sale of bonds thereby; providing that said bonds may be investigated by an appointive board of three hydraulic engineers; providing for the approval of said bonds by the state superintendent of banks in case said investigation is favorably reported and that thereafter said bonds may be lawfully purchased, or received in pledge as security for any money or deposits or for the performance

of any act, by banks, banking institutions, insurance companies, trust companies, guardians, executors, administrators and special administrators; providing in certain cases for the transfer of districts from the supervision of one county board of supervisors to another; and providing for the dissolution of said districts for non-user of corporate power.

[Approved June 13, 1913. Stats. 1913, p. 815.]

Amended 1917, p. 1408.

The amendment of 1917 follows:

§ 35. County assessment-roll may be adopted. The board of directors of any district hereafter organized hereunder may at their option adopt the assessment-roll of the county or counties in which the land of the district is contained in so far as said assessment-roll affects the lands in the district; and file with the clerk of the board of supervisors a certified copy of such assessment-roll, in lieu of the assessment-book mentioned in section eight of this act. [New section added May 31, 1917; Stats. 1917, p. 1409.]

§ 36. Sale of water. The board of directors of any district hereafter organized hereunder shall have the power to sell water to owners of land in the district and to fix rates for the sale of water, and such rates may vary in different months and in different localities of the district to correspond to the cost and value of the service, and to collect for all water sold and to use so much of the proceeds of the sale of water as may be necessary to defray the ordinary operating expenses of the district and any funds derived from the sale of water, in excess of the amount necessary for operating expenses, shall be paid to the treasurer of the county in which said district is located and applied upon the payment of interest on bonds or to create a sinking fund. [New section added May 31, 1917; Stats. 1917, p. 1409.]

TITLE 610.

WATERING RESORTS.

ACT 4349e.

An act providing for the sanitation, healthfulness and cleanliness and safety of swimming-pools, public bathhouses, swimming and bathing places; regulating the granting and revocation of permits therefor from the state board of health; providing for the inspection of such places; declaring places and things in violation of this act to be nuisances dangerous to health and providing for the abatement of the same; making violations of this act misdemeanors; and providing for the punishment of the same.

[Approved April 6, 1917. Stats. 1917, p. 70. In effect July 27, 1917.]

§ 1. Swimming-pools under supervision of state board of health. The state board of health shall have supervision over the sanitation, healthfulness and cleanliness and safety of swimming-pools, bathhouses, public swimming and bathing places and all related appurtenances and is hereby empowered to make and enforce such rules and regulations pertaining thereto as it shall deem proper.

§ 2. Permit to construct or operate swimming pool. It shall be unlawful for any person, persons, firm, corporation, institution or municipality in any district, town, city, county, or city and county, to construct or to add to or modify, or to operate or to continue to operate any swimming-pool, public bathhouse, bathing or swimming place, or any structure intended to be used for swimming or bathing purposes without an unrevoked permit so to do from the state board of health. This permit shall be obtained in the following manner: any person, persons, firm, corporation, institution or municipality desiring to construct, add to or modify, or to operate and maintain any swimming-pool, public bathhouse, bathing or swimming places or structures intended to be used for swimming or bathing purposes within the state of California shall file application for permission so to do with the state board of health, which application shall be accompanied by detailed maps, drawings, specifications and description of the structure, its appurtenances and operation, description of the source or sources of water supply, amount and quality of water available and intended to be used, method and manner of water purification, treatment, disinfection, heating, regulating and cleaning; life-saving apparatus, and measures to insure safety of bathers; measures to insure personal cleanliness of bathers; method and manner of washing, disinfecting, drying and storing bathing apparel and towels, and all other information and statistics that may be required by the state board of health; whereupon, the state board of health shall cause an investigation to be made of the proposed or existing pool or public bathing places and if it shall determine as a fact that the same is or may reasonably be expected to become unclean or insanitary or may constitute a menace to public health, it shall deny the application for permit; if it shall determine as a fact that the same is or may reasonably be expected to be conducted continuously in a clean and sanitary manner and will not constitute a menace to public health, it shall grant the application for permit under such restrictions as it shall deem proper.

§ 3. Authority to inspect. For the purpose of this act the state board of health or its inspectors shall at any and all reasonable times have full power and authority to, and shall be permitted to enter upon any and all parts of the premises of such bathing and swimming places to make examination and investigation to determine the sanitary condition of such places and whether the provisions of this act or the rules and regulations of the state board of health pertaining thereto are being violated. The state board of health may from time to time at its discretion publish the reports of such inspections in its monthly bulletin.

§ 4. Revocation of permit. Any permit granted by the state board of health as provided in this act shall be revocable or subject to suspension at any time by formal action of the state board of health if it shall determine as a fact that the swimming or bathing place or places are being conducted in a manner insanitary, unclean or dangerous to public health.

§ 5. Swimming-pools operated contrary to act nuisances. Any swimming-pool, public swimming or bathing place or places, constructed, operated or maintained contrary to the provisions of this act are hereby declared to be public nuisances, dangerous to health. Such nuisances

may be abated or enjoined in an action brought by the local or state board of health or they may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.

§ 6. Penalty. Any person, firm or corporation, whether as principal or agent, employer or employee, who violates any of the provisions of this act shall be guilty of a misdemeanor, and each day that conditions or actions, in violation of this act, shall continue, shall be deemed to be a separate and distinct offense, and for each offense, upon conviction, he shall be punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

TITLE 611.

WATERS.

ACT 4351.

An act to preserve and maintain the lakes, ponds, brooks, creeks, rivers, and streams of this state, and to prevent the waters thereof from being carried by pipes, conduits, ditches, tunnels or canals into other states, for use therein. [Approved March 3, 1911. Stats. 1911, p. 271.]

Repealed 1917; Stats. 1917, p. 284.

ACT 4368e.

An act to promote the utilization of the water of streams in this state and for that purpose authorizing the storage of the same underground and the damming of streams and the flowage of lands in effecting such storage for beneficial use.

[Approved May 23, 1919. Stats. 1919, p. 826. In effect July 23, 1919.]

§ 1. Storage of water underground declared beneficial use. The storing of water underground by the owner of the right to the use thereof, and the damming of streams and the flowing of water on lands necessary to the accomplishment of such storage, if the water is to be later withdrawn by pumps, tunnels, or other suitable means for irrigation, domestic or other beneficial uses within the territory served by the owners of the water right, with water for irrigation, domestic or other beneficial uses are hereby declared to be reasonable, economic, and beneficial methods of taking and applying such water, if the water so taken is from time to time being put to the beneficial uses for which it was appropriated.

§ 2. Previous appropriations validated. Each appropriation heretofore made or consummated in the manner and for the purposes hereby authorized is hereby recognized and validated to the same extent and with the same force as if made or consummated pursuant to the provisions hereof, so far as the same is possible without injury to existing rights.

§ 3. Application of act. None of the provisions hereof shall apply to the use of artesian well water or affect riparian rights in any way.

TITLE 612.

WATSONVILLE.

ACT 4370.

Charter of. [Stats. 1903, p. 647.]

Amended 1919; Stats. 1919, p. 1448.

TITLE 614.

WEIGHTS AND MEASURES.

ACT 4385.

An act to establish a standard of weights and measures in the state of California; to regulate weights and measures and weighing and measuring instruments and devices and providing for the inspection and sealing thereof; to prevent the use and sale of false weights and measures and weighing and measuring instruments and devices; providing for the inspection, measurement and weighing of goods, commodities, wares, packages and amounts of commodities kept for sale or in process of delivery; to prevent the sale of goods, wares and merchandise by false weights and measures; to provide penalties for the violation of the provisions of this act; for the admission in evidence of copies of the state's standard of weights and measures; providing for the appointment of officers to enforce and carry into effect the provisions of this act, including a state superintendent of weights and measures and his deputy, sealers of weights and measures and their deputies; defining the powers and duties of such officers; and making an appropriation to carry this act into effect.

[Approved June 16, 1913. Stats. 1913, p. 1086.]

Amended 1915, p. 1312; 1917, p. 1647.

The amendment of 1917 follows:

§ 2. Term, etc., of state superintendent of weights and measures. The term of office of state superintendent of weights and measures shall be four years, or until his successor shall have been appointed and qualified, but he shall always be subject to removal at the pleasure of the governor. The salary of state superintendent of weights and measures shall be four thousand dollars per annum, payable in the same manner as other state officers are paid. Before entering upon his duties he shall execute a bond to the state in the sum of five thousand dollars, conditioned upon the faithful performance of his duties. [Amendment approved June 1, 1917; Stats. 1917, p. 1648.]

§ 6. Standards. The standards referred to in the preceding section shall be kept by the state superintendent in a safe and suitable place in his office from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them at least once in ten years to the national bureau of standards for certification. Upon demand the secretary of state shall deliver to the state superintendent all standards now under the control and in the possession of the secretary of state in his capacity of ex-officio state sealer of weights and measures. The state superintendent shall thereupon submit such standards received from the secretary of the state to

the national bureau of standards for certification, and he shall replace such standards as are incorrect and purchase such additional standards as shall be necessary to complete and make up a complete standard of weights and measures as required by this act. He shall also purchase such apparatus as shall be found necessary to a proper prosecution of the work of the office. The state superintendent of weights and measures may establish tolerances and specifications for commercial weighing and measuring apparatus for use in the state of California similar to the tolerances and specifications recommended by the national bureau of standards, and he may establish a standard net weight, or net measure, or net count of any commodity, produce or article except any manufactured commodity consisting of four or more staple ingredients, and prescribe such tolerances for same as he may in his best judgment deem necessary for the proper protection of the public. Any person violating such standards or tolerances shall be guilty of a misdemeanor. [Amendment approved June 1, 1917; Stats. 1917, p. 1648.]

§ 17. Appointment of sealers. In counties of second class. Counties in which deputies appointed by state superintendent. The legislative body of any county or consolidated city and county of the first to the thirty-fifth classes, both inclusive, and the legislative body of any city or town may appoint a sealer of weights and measures, fix his compensation and provide for the appointment by the sealer of such number of deputies as the said legislative bodies may deem necessary and expedient. Such sealer shall receive as compensation the sum of one hundred fifty dollars per month, or at the rate of one hundred fifty dollars per month for each month or part thereof actually employed in the service of such county, or city and county, or city and town. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties; and such deputies shall each receive as compensation the sum of five dollars per day for each day actually employed in the service of such county, or city and county, or city and town. They shall be allowed their traveling expenses actually and necessarily incurred in the performance of their duties. The term of office of sealer of weights and measures appointed under the provisions of this section shall be four years. He shall be subject to removal by the power appointing him. Deputies appointed under the provisions of this section by a sealer of a county, city and county, or city, or town, shall be subject to removal by the sealer.

In counties of the second class whose charters provide for a department of weights and measures, the appointment of a sealer and deputies, the number of such deputies and the term of office thereof shall be as provided in said charter; provided, that the sealer shall receive for compensation the sum of three thousand dollars per annum, and one deputy, to be known as chief deputy, shall receive as compensation the sum of two thousand four hundred dollars per annum. Deputies shall receive as compensation the sum of one thousand eight hundred dollars per annum, each payable in the same manner as the salaries of other county officers are paid. In counties of the third class the sealer shall receive as compensation the sum of one thousand eight hundred dollars per annum, and deputies shall each receive as compensation the sum of one

thousand five hundred dollars per annum, payable in the same manner as the salaries of other county officers are paid.

In all counties other than those of the first to the thirty-fifth classes, both inclusive, no county sealer or deputies shall be appointed by the legislative body thereof, but the state superintendent of weights and measures shall assign to such counties, or groups of such counties, such deputy superintendents as may be necessary, but not more than one to each of such counties. Such deputies shall have jurisdiction over such county, or group of counties, as the state superintendent may designate, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. They shall have all the powers and perform the duties of a sealer of weights and measures. They shall be paid by the county wherein employed, five dollars a day for each day employed therein, which shall not exceed one hundred twenty days in any one county in any one year, and they shall also receive from such county their actual traveling expenses. The terms of office of all sealers and deputy sealers in all counties other than those of the first to the thirty-fifth classes, both inclusive, shall terminate when this section becomes effective. [Amendment approved June 1, 1917; Stats. 1917, p. 1649.]

§ 32. Penalty for using false weights and measures. Any person who, by himself, or his employee or agent, or as the employee or agent of another, shall use, in the buying or selling of any commodity, or retain in his possession a false weight or measure or weighing or measuring instrument, or shall offer or expose for sale, or sell, except as heretofore specifically allowed in section twenty-seven of this act, or use or retain in his possession any weight or measure or weighing or measuring instrument in any county, city town, or city and county in which there has been appointed a sealer of weights and measures in accordance with the provisions of this act, which has not been sealed by a sealer within one year, or who shall use or dispose of any condemned weight or measure, or weighing or measuring instrument contrary to law, or any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer or expose for sale or use or have in his possession for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure, and any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer, or expose for sale any commodity, produce, article or thing in a less quantity than he represents it to be or contain, shall be guilty of a misdemeanor. Possession of any false weight or measure or weighing or measuring instruments or records thereof shall be prima facie evidence of the fact that they were intended to be used in the violation of law. [Amendment approved June 1, 1917; Stats. 1917, p. 1650.]

§ 32a. Penalty for selling commodity at other than true net weight. No person shall by himself or his employee or agent, or as the employee or agent of another sell or offer or expose for sale any commodity, produce, article or thing at, by, or according to gross weight or measure, or at, by, as, of, or according to any weight, measure or count which is greater than the true net weight, measure or count thereof, or which is less than the standard net weight, standard net measure or standard net count, includ-

ing tolerances, as such standards and tolerances are now or may hereafter be established pursuant to the provisions of this act. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. [New section added June 1, 1917; Stats. 1917, p. 1650.]

§ 43. Title. This act when cited or amended may be designated as the "weights and measures act." [Amendment approved June 1, 1917; Stats. 1917, p. 1650.]

ACT 4386.

An act defining public weighmaster; describing his duties; providing for rules and regulations governing the performance of his duties; prescribing a bond and fixing the amount thereof; and providing penalties for any violation of the provisions of this act.

[Approved June 8, 1915. Stats. 1915, p. 1288.]

Amended 1919, p. 723.

The amendment of 1919 follows:

§ 1. Public weighmaster. Bond. Exceptions. All persons, firms, corporations, copartners or individuals engaged in the business of public weighing for hire, or any person, firm or corporation, who shall weigh or measure any commodity, produce, or article, and issue therefor a weight certificate which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce or article, is based, shall be known as a public weighmaster, and shall file a bond with the state superintendent of weights and measures in the sum of one thousand dollars for the faithful performance of his duties, and shall obtain from the state superintendent of weights and measures a seal for the stamping of weight certificates hereinafter provided for, which shall only be in such form as such superintendent may prescribe; provided, that nothing in this act shall apply to any scales, or to the owner or lessee thereof, which are situated wholly outside of any incorporated city or town, except where said scales are being used in the weighing of any commodity which has been or is being purchased by the owner or lessee thereof, which are being used in the weighing of any commodity intended for storage for which a storage charge is made.

(a) **Seals.** The said seals shall be the property of the state and shall be forfeited and returned to the state superintendent of weights and measures upon termination of the performance of the duties herein prescribed as being the duties of a public weighmaster. Such seal shall be of a form and design prescribed by the state superintendent and furnished by him at the expense of the weighmaster. Said seal shall be a recognized authority of accuracy when applied to weight certificates. [Amendment approved May 18, 1919; Stats. 1919, p. 723.]

§ 5. False or incorrect statements. Any person, firm, or corporation, who shall request the public weighmaster, or any person employed by him to weigh any product, commodity, or article falsely or incorrectly, or who shall request a false or incorrect state certificate of weight and measure, or any person issuing a state certificate of weights and measures who is not a public weighmaster as provided for in this act, shall

be guilty of a misdemeanor. [Amendment approved May 18, 1919; Stats. 1919, p. 723.]

§ 6. Reweighing in case of doubt. Deputy weighmasters. When doubt or differences arise as to the correctness of the net or gross weight of any amount or part of any commodity, produce, or article for which a state certificate of weights and measures has been issued by a public weighmaster, the owner, agent, or consignee may, upon complaint to the state superintendent of weights and measures, or his deputy, have said amount or part of the amount of any commodity, produce, or article, reweighed by the state superintendent of weights and measures, or a public weighmaster designated by him, upon depositing a sufficient sum of money to defray the actual cost of reweigh with the state superintendent of weights and measures. If, on reweighing, a difference in the original weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster responsible for the issuance of such faulty state certificate of weights and measures. All public weighmasters employing or designating any person to act for them as deputy public weighmaster, shall be responsible for all acts performed by such person, and the public weighmaster shall forward to the state superintendent of weights and measures the name and address of persons so appointed. [Amendment approved May 18, 1919; Stats. 1919, p. 724.]

§ 7. Lots shall be piled separately. All amounts, lots, shipments, or consignments of products, after having been weighed, shall be piled or stored separately, as near as can be, or in some manner marked in order that said amounts, lots, shipments, or consignments may be distinguished from each of a like kind. When any product is sold subject to public weighmaster weights, such weight shall be the true net weight of the product. Net weight within the meaning of this act shall be the correct or actual weight of the commodity excluding the weight of the container. [Amendment approved May 18, 1919; Stats. 1919, p. 725.]

§ 7a. Penalty. Any person violating any of the provisions of this act shall be guilty of a misdemeanor. [New section added May 18, 1919; Stats. 1919, p. 725.]

TITLE 619.

WHITTIER STATE SCHOOL.

ACT 4414.

An act authorizing the board of trustees of the Whittier State School to maintain a department for the clinical diagnosis of inmates of the school and other state institutions, and to inquire into the causes and consequences of delinquency and mental deficiency, and related problems.

[Approved May 11, 1917. Stats. 1917, p. 422. In effect July 27, 1917.]

§ 1. Department of clinical diagnosis at Whittier State School. The board of trustees of the Whittier State School is hereby authorized and

empowered to maintain on the property of the school, a department for the clinical diagnosis of the inmates of the school, and of such other state institutions as may, from time to time, request assistance from said department, such request to be approved by the state board of control. This department shall also carry on research into the causes and consequences of delinquency and mental deficiency, and shall inquire into social, education and psychological problems relating thereto, and for that purpose may make such investigations and inquiries in the said institutions, when so requested, and elsewhere as may be deemed advantageous. The state board of control may apportion the expenses of the said department, among the different institutions receiving the benefit of the work of the department, in such manner as it may deem proper.

§ 2. Clinical psychologist and assistants. The said department shall be under the direction of a clinical psychologist, subject to the control of the superintendent of the said school. The said psychologist shall be given a sufficient staff of trained assistants that the intelligence level of each inmate may be established through the standardized psychological tests, supplemented by personal and family history and data from such other lines of investigation as may seem advisable, and that such other work may be done as may be undertaken by the department. The said psychologist and assistants shall be employed by the said superintendent, with the approval of the said board of trustees and at compensation satisfactory to it.

ACT 4414a.

An act empowering the board of trustees of the Whittier State School to sell all or any portion of the property heretofore acquired for the use of the Whittier State School, and to appropriate the proceeds for the purpose of re-establishing the said school elsewhere.

[Approved May 27, 1919. Stats. 1919, p. 1282. In effect July 27, 1919.]

§ 1. Authorization for sale of property of Whittier State School. Purchase of new site. Assistance from University of California. Expenses of investigations. Plans for development of property purchased. The board of trustees of the Whittier State School, subject to the approval of the state board of control, is hereby authorized and empowered to sell all or any portion of the property heretofore acquired for the use of the Whittier State School, being part of the Rancho Paso de Bartolo Viejo, and part also of the southeast quarter of section twenty and the northwest quarter of section twenty-eight, township two south, range eleven west, San Bernardino base and meridian, containing in all two hundred four and three hundred eighty-nine thousandths acres more or less, and now used and occupied by the said school, and also that certain tract in the city of Whittier known as "the old reservoir site" which is more particularly described as follows: Commencing at the southwest corner of lot five in block "C" of Pickering Land and Water Company subdivision and running north parallel with Greenleaf avenue two hundred feet to a point; thence running east at right angles and parallel with Hadley street two hundred feet to a point; thence running south at right angles and parallel with Greenleaf avenue two hundred feet to a point; thence running west at right angles two hundred

feet to the place of beginning. Such sale shall be made only after said property shall have been appraised by three disinterested persons appointed by the board of trustees, and after publication for not less than thirty days in three newspapers of general circulation, published in the county of Los Angeles, which notice shall describe the property to be sold, and shall set forth the terms of sale, and the date on or before which bids therefor will be received, and where such bids will be received; and said board of trustees shall have the right to reject any and all bids, and call for new bids by like publication of notice.

The proceeds from such sale or sales shall be paid into the state treasury to the credit of the contingent fund of the Whittier State School, all or any part of which may be expended with the approval of the state board of control in the purchase of a new site for said school and for the making of improvements, and the erection of buildings thereon; provided, however, that the Whittier State School shall not be discontinued at its present location unless another location is secured for it elsewhere in the state. The said site shall be selected by a site selecting committee composed of the superintendent and trustees of the Whittier State School, the state engineer, a member named by the board of trustees of the Preston School of Industry and a member named by the state board of charities and corrections. The said committee, if they consider it advisable, and subject to the approval of the state board of control, may also purchase water rights, or make provision for the development of water for the use of said lands. The state department of engineering shall, at the request of the said committee, examine into the matter of water, light, power and sanitation and the engineering problems involved in connection with any site or sites the board may investigate with a view to purchasing and shall report thereon to the said committee with special regard to the suitability of such site or sites for the purposes of the institution.

The University of California shall render the said committee such reasonable assistance as the committee may desire in determining the quality and character of the soil of such site or sites for agricultural, horticultural and other purposes and its suitability for the purposes of the institution.

The said committee, the said department of engineering, and the said university shall be entitled to receive their necessary expenses in connection with such investigations and the selection and purchase of said site.

The said committee may also prepare plans for the development for state school purposes of such property as may be purchased and for buildings to be erected thereon.

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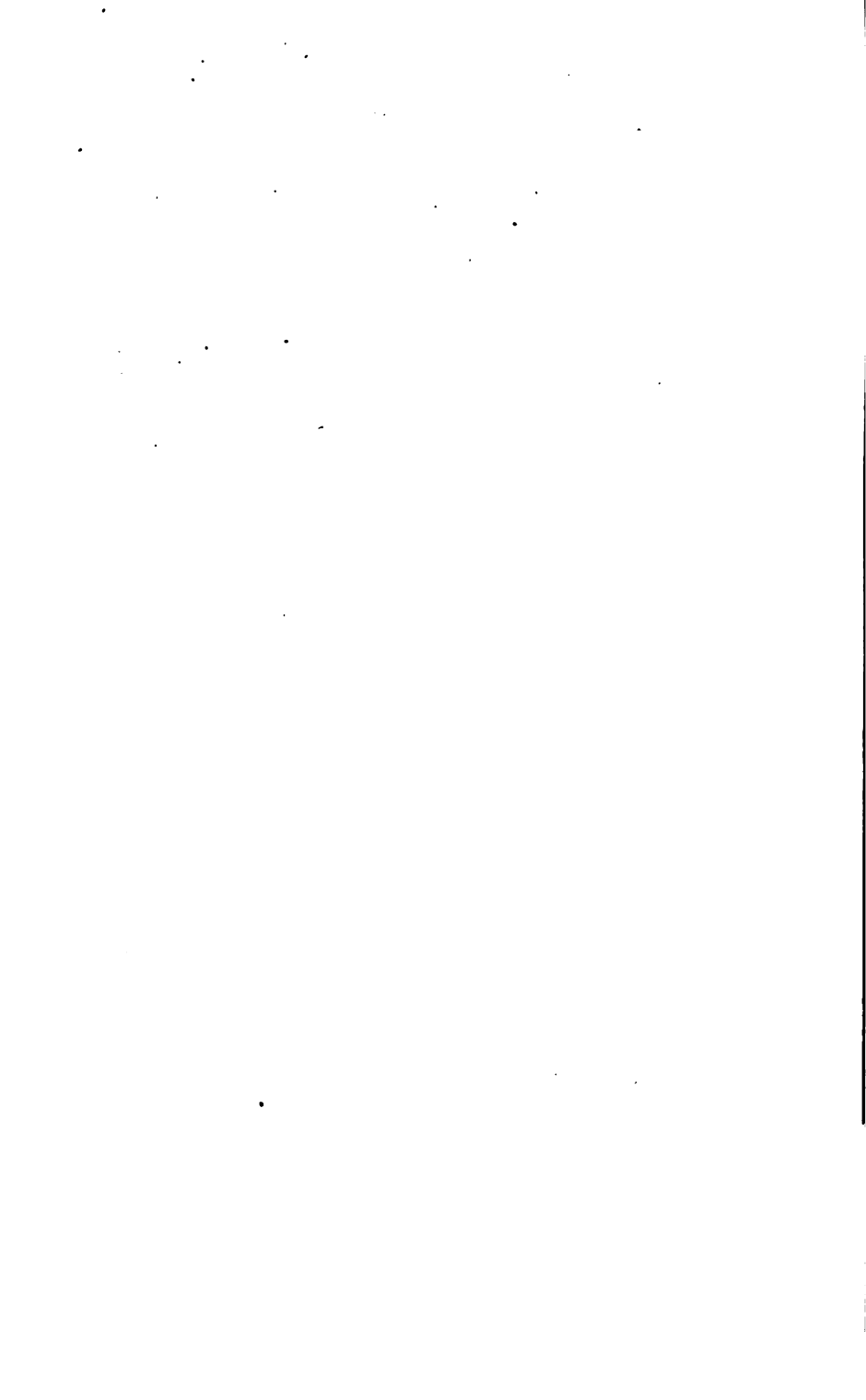
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